

## Chapter 141 RETIREMENT\*

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\***Cross references:** Any ordinance prescribing the number, classification or compensation of any county officers or employees saved from repeal, § 1-20(12); compensation, ch. 29.

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### **Sec. 141-1. Establishment of retirement system.**

The county employees' retirement system established effective December 1, 1944, is hereby continued and restated under authority of the Home Rule Charter for the county and Section 12a of Act No. 156 of the Public Acts of Michigan of 1851 (MCL 46.12a, MSA 5.333(1)), as amended.

(Ord. No. 94-747, § 1.01, eff. 12-2-94)

### **Sec. 141-2. Effect of collective bargaining agreements.**

A conflict between the provisions of the retirement chapter and the provisions of a collective bargaining agreement shall be resolved, to the extent of the conflict, in accordance with the collective bargaining agreement.

(Ord. No. 94-747, § 1.03, eff. 12-2-94)

### **Sec. 141-3. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accumulated member contributions* means the balance in the individual's account in the reserve for accumulated member contributions.

*Average final compensation* means the average compensation paid a member determined in accordance with the benefit plan applicable to the member's coverage group.

*Compensation* means the salary and wages paid a member for personal services rendered the county while a member of the retirement system. Salary and wages shall include only those items of remuneration which are specifically stated to be included in the benefit plan specified for the member's coverage group.

*County* means the County of Wayne, State of Michigan, including its offices, boards and departments.

*Coverage group* means a group of individuals for the purpose of determining the benefits provided the individuals under this chapter.

*Employer account* means the balance in the individual's account in the reserve for defined contribution employer contributions.

*Member account* means the balance in the individual's account in the reserve for member accounts.

*Pension* means a series of monthly payments by the retirement system. Payment may be for a temporary period or throughout the future life of a retired member or survivor pension beneficiary.

*Refund beneficiary* means the individuals named by a member, former member, vested former member or retired member for the purpose of being paid accumulated member contributions, member account and employer account in the event of the death of the member, former member, vested former member or retired member as provided in this chapter.

*Retired member* means an individual who is being paid a pension on account of the individual's membership in the retirement system.

*Survivor pension beneficiary* means an individual who is being paid or who is designated to be paid a pension in the event of the death of a member, vested former member or retired member as provided in this chapter.

*Vested former member* means a former member who meets the requirements of a vested termination eligibility program.

*Worker's compensation benefit* means weekly or other regular periodic payments and redemptions under the Michigan worker's compensation statute and settlements of claims for a worker's compensation benefit, on account of an injury or disease resulting from county employment. Amounts paid for loss of a specific body part or for bona fide medical expenses shall not be considered a worker's compensation benefit.

(Ord. No. 94-747, §§ 2.01--2.13, eff. 12-2-94)

**Cross references:** Definitions generally, § 1-2.

**Sec. 141-4. Membership of retirement system.**

- (a) *Inclusion; membership form.*

(1) An individual who is employed by the county shall be a member of the retirement system unless employed in an excluded position described in subsection (b) of this section.

(2) Bailiffs who are eligible for membership pursuant to Act No. 171 of the Public Acts of Michigan of 1962 (MCL 600.7651), as amended, or Act No. 198 of the Public Acts of Michigan of 1963 (MCL 600.2576), as amended.

(3) A member shall file a completed membership form with the retirement system within ten days of last becoming a member of the retirement system.

(b) *Positions excluded from membership.* Excluded positions are:

(1) Positions which are compensated on a basis not subject to withholding of federal income tax or FICA tax.

(2) A position held by an individual employed by the county under an employment contract, unless the individual is specifically included in membership in the retirement system pursuant to their employment contract.

(3) A position held by a retired member.

(4) A position which is temporary or seasonal as defined in the county personnel and salary plan.

(5) The position of appointed aide to a member of the county board of commissioners, except where the appointed aide is already a member of the retirement system, or where the individual is specifically included in membership in the retirement system pursuant to their employment contract, and that contract has been approved by the chairperson of the county commission.

(c) *Termination of membership.* An individual shall cease to be a member upon termination of employment by the county, or upon becoming employed in an excluded position.

(Ord. No. 94-747, §§ 3.01--3.03, eff. 12-2-94; Ord. No. 2000-536, § 1, eff. 9-7-00; Ord. No. 2002-1147, § 1, eff. 1-1-03)

**Sec. 141-5. Credited service.**

(a) *Conditions for crediting service.* Personal service rendered the county while a member shall be credited to the member's individual credited service account in accordance with the rules of the retirement commission. Service shall be credited

to the nearest 1/12 year. In no case shall more than one year of service be credited on account of all service rendered by a member in a calendar year. A member who renders ten or more days of service in a calendar month shall be credited with service for that month. The retirement commission may credit a full year of service to a member who renders at least 10/12 of a year of credited service during a calendar year.

(b) *Forfeiture of credited service.*

(1) Credited service shall be forfeited upon termination of membership unless the former member is a vested former member.

(2) Credited service of a vested former member for service rendered during a period of required defined benefit member contributions shall be forfeited upon withdrawal from the retirement system of the vested former member's accumulated member contributions. If as a result of the withdrawal the vested former member has insufficient credited service remaining for vested former member status, the vested former member shall become a former member and all credited service shall be forfeited.

(3) Credited service of a vested former member for service rendered during a period of required defined contribution member contributions shall be forfeited upon withdrawal of the vested former member's member account. If as a result of the withdrawal the vested former member has insufficient credited service remaining for vested former member status, the vested former member shall become a former member and all credited service shall be forfeited.

(c) *Forfeited contributory credited service; reinstatement program 1.* A member may reinstate forfeited credited service for service rendered during a period of required defined benefit or defined contribution member contributions by satisfying each of the following conditions:

(1) The member pays the retirement system the total amount previously withdrawn, plus compound interest from the dates of withdrawal to the dates of repayment at rates established by the retirement commission.

(2) Repayment is initiated and completed within the time periods established by the retirement commission. The time period for completion of repayment shall not be less than one year following the date of resumption of membership.

(d) *Forfeited noncontributory credited service; reinstatement program 1.* A member of a defined benefit plan shall have forfeited credited service for service rendered during a period in which the member was not required to contribute to

the retirement system reinstated upon acquiring three years of credited service after resumption of membership.

(Ord. No. 94-747, §§ 4.01, 4.02, 5.01, 6.01, eff. 12-2-94)

**Sec. 141-6. Military service; credited service.**

(a) *Credit for intervening military service.* A member who leaves the employ of the county to serve in any armed service of the United States, during time of declared war or period of national emergency or compulsory military service recognized by the retirement commission, shall be granted up to six years of credited service for periods of active duty lasting 30 or more days, if each of the following conditions are satisfied:

- (1) The period of military service has not and cannot be used under another retirement system for the purpose of obtaining or increasing a benefit from that retirement system.
- (2) No more than six years of credited service shall be granted on account of all military service of the member.
- (3) The member returns to county employment in a position entailing membership in the retirement system within one year from the date military service terminates, or within 90 days of discharge from a hospital if found by the retirement commission to have been hospitalized on the date military service terminates on account of an injury or disease resulting from the military service.

(b) *Credit for nonintervening military service; purchase program 1.* A member who has served in any armed service of the United States, during time of declared war or period of national emergency or compulsory military service recognized by the retirement commission, shall be granted up to six years of credited service for periods of active duty lasting 30 or more days, if each of the following conditions are satisfied:

- (1) The period of military service has not and cannot be credited under the intervening military service provisions of subsection (a) of this section.
- (2) The period of military service has not and cannot be used under another retirement system for the purpose of obtaining or increasing a benefit from that retirement system.
- (3) The member pays the retirement system 50 percent of the increase in the actuarial present value of retirement system benefits, as determined by the retirement system, resulting from the purchase of credited service.

(4) Credited service shall be purchased in one-month increments. Twelve months of purchased service are required for one year of credited service.

(5) Military service purchase program 1 is specified for the member's coverage group.

(c) *Credit for nonintervening military service; purchase program 2.* A member who has served in any armed service of the United States, during time of declared war or period of national emergency or compulsory military service recognized by the retirement commission, shall be granted up to six years of credited service for periods of active duty lasting 30 or more days, if each of the following conditions are satisfied:

(1) The period of military service has not and cannot be credited under the intervening military service provisions of subsection (a) of this section.

(2) The period of military service has not and cannot be used under another retirement system for the purpose of obtaining or increasing a benefit from that retirement system.

(3) The member pays the retirement system 100 percent of the increase in the actuarial present value of retirement system benefits, as determined by the retirement system, resulting from the purchase of credited service.

(4) Credited service shall be purchased in one-month increments. Twelve months of purchased service are required for one year of credited service.

(5) Military service purchase program 2 is specified for the member's coverage group.

(Ord. No. 94-747, §§ 7.01--7.03, eff. 12-2-94)

**Sec. 141-7. Coverage groups.**

(a) *Included groups.* The coverage groups are:

(1) Members of a bargaining unit certified by the state employees relations commission (one group for each bargaining unit).

(2) Executive group employees, as certified by the county executive.

(3) Exempt employees who are not executive group employees, as certified by the county executive.

(4) Bailiffs who are members of the retirement system pursuant to Act No. 171 of the Public Acts of Michigan of 1962 (MCL 600.7651, MSA 27A.7651).

(5) Bailiffs who are members of the retirement system pursuant to Act No. 198 of the Public Acts of Michigan of 1963 (MCL 600.2576, MSA 27A.2576).

(6) Members employed by the legislative branch of the county, as certified by the board of commissioners.

(7) Members who are not included in one of the preceding classifications.

(b) *Choice of retirement plan.* Unless otherwise specified in a collective bargaining agreement or employee benefits plan, all new employees hired and former employees re-employed, re-instated or rehired shall become members of the county's hybrid plan #5.

(c) *Change in benefit plan.* A pension amount shall be determined for each benefit plan under which the member or vested former member has credited service. The amount of pension attributable to each benefit plan is equal to a fraction of the amount of pension calculated as if all credited service was under the benefit plan. The numerator of the fraction is the individual's credited service under the benefit plan. The denominator of the fraction is the individual's total credited service. Retirement system provisions used to calculate pension amounts shall be those applicable on the date of termination of membership.

(Ord. No. 94-747, §§ 8.01, 8.02, eff. 12-2-94; Ord. No. 2003-124, § 1(1), eff. 3-20-03)

#### **Sec. 141-8. Changes in specified benefits for a coverage group.**

The terms and conditions governing a change in the benefits specified for a coverage group shall be as contained in the collective bargaining agreement or other document authorizing the change. A certified copy of the agreement or document shall be filed with the retirement system within ten days of its effective date by the county executive.

(Ord. No. 94-747, § 9.01, eff. 12-2-94)

#### **Sec. 141-9. Normal retirement.**

The basic conditions for normal retirement shall be as follows:

(1) A member or vested former member may retire normally upon completion of the following requirements:

- a. A written application for normal retirement, in the form prescribed by the retirement system, has been filed with the retirement system not less than 30 days nor more than 90 days prior to the date the pension is to commence.
- b. Membership is terminated prior to the selected date of retirement.
- c. The member or vested former member meets the requirements for normal retirement, prior to the selected date of retirement, a service and/or age requirement for normal retirement eligibility specified in the benefit plan applicable to the member's or vested former member's coverage group or the special temporary early retirement provisions of an applicable collective bargaining agreement.

(2) The amount of a normal retirement pension is determined in accordance with the member's or vested former member's coverage group and benefit plan.

(Ord. No. 94-747, § 10.01, eff. 12-2-94)

**Sec. 141-10. Defined benefit plan 1.**

- (a) *Compensation.* Compensation shall include, to the extent not excluded by a collective bargaining agreement or resolution of the county board of commissioners, base salary and wages, overtime, premium pay, cost-of-living payments, holiday pay, annual leave, payment for annual leave and sick leave banks. Compensation shall also include salary or wages deferred because of participation in a plan operated pursuant to section 457 of the Internal Revenue Code and reductions in salary or wages due to participation in a plan operated pursuant to section 125 of the Internal Revenue Code.
- (b) *Average final compensation.* Average final compensation is 1/60 of the aggregate amount of compensation paid a member during the five years of credited service in which the aggregate amount of compensation is greatest. If the member has less than five years of credited service, average final compensation is the aggregate amount of compensation paid the member divided by the member's credited service. For a coverage group which has collectively bargained this final average compensation or is granted the benefit in an approved benefit package, average final compensation is one-quarter of the aggregate amount of compensation paid a member during the four years of credited service in which the aggregate amount of compensation is greatest. If the member has less than four years of credited service, average final compensation is the aggregate amount of compensation paid the member divided by the member's credited service.

(c) *Normal retirement service and/or age requirement.*

(1) For a coverage group which has collectively bargained this service and age requirement or has had it made applicable by a resolution of the county commission, either:

- a. Twenty-five or more years of credited service; or
- b. Five or more years of credited service and age 60 years or older.

(2) For a coverage group which has collectively bargained this service and age requirement or has it made applicable by a resolution of the county commission:

- a. Twenty-five or more years of credited service and age 50 years or older; or
- b. Five or more years of credited service and age 60 years or older; or
- c. Thirty years of credited service regardless of age.

(3) For all other coverage groups, the service and age requirement for normal retirement is either:

- a. Twenty-five or more years of credited service and age 50 years or older; or
- b. Five or more years of credited service and age 60 years or older.

(Ord. No. 94-747, §§ 11.01--11.03, eff. 12-2-94; Ord. No. 2000-536, § 1, eff. 9-7-00; Ord. No. 2003-124, § 1(2), eff. 3-20-03)

**Sec. 141-11. Normal retirement pension amount.**

(a) The amount of a normal retirement pension under form of payment option SL (straight life), subject to the limitation prescribed in subsection (b) and the offsets prescribed in subsections (c) and (d), is:

(1) For a coverage group which has collectively bargained this formula or which has this formula made applicable by a resolution of the Wayne County Commission, 2.5 percent of average final compensation multiplied by credited service.

(2) For a coverage group which has collectively bargained this formula or which has this formula made applicable by a resolution of the Wayne County Commission, the sum of: (i) 2.0 percent of average final compensation multiplied by credited service but by not more than 20 years, and (ii) 2.5 percent of average final compensation multiplied by credited service in excess of 20 years, if any.

(3) For a coverage group which has collectively bargained this formula or which has this formula made applicable by a resolution of the Wayne County Commission, 2.65 percent of average final compensation multiplied by credited service.

(4) For members of the common pleas court bailiffs coverage group, the greater of: (i) 2.5 percent of average final compensation multiplied by credited service, or (ii) 100 percent of the annual compensation paid during the fiscal year preceding retirement.

(5) For all other coverage groups, 2.0 percent of average final compensation multiplied by credited service.

(6) All retired bailiffs from common pleas court or their survivor beneficiaries, as of the date of the adoption of these amendments shall have their retirement benefit recalculated with a factor of 2.5 percent, which increase shall not exceed \$400.00 per month, to be effective on the first of the month following the adoption of these amendments.

(Ord. No. 94-747, § 11.04, eff. 12-2-94; Ord. No. 97-728, § 2, eff. 12-18-97; Ord. No. 2000-536, § 1, eff. 9-7-00)

**Sec. 141-12. Vested termination service requirement.**

The service requirement for vested termination of membership is eight or more years of credited service.

(Ord. No. 94-747, § 11.05, eff. 12-2-94)

**Sec. 141-13. Disability retirement service requirement.**

(a) The service requirement for disability retirement is ten or more years of credited service. The service requirement is waived if the retirement commission finds the disability to be the natural and proximate result of actual performance of duty in the employ of the county and worker's compensation is paid on account of the same disability; or

(b) For a coverage group which has collectively bargained this disability eligibility or is granted the benefit in an approved benefit package, the service

requirement for disability retirement is eight or more years of credited service. The service requirement is waived if the retirement commission finds the disability to be the natural and proximate result of actual performance of duty in the employ of the county and worker's compensation is paid on account of the same disability.

(Ord. No. 94-747, § 11.06, eff. 12-2-94; Ord. No. 2000-536, § 1, eff. 9-7-00)

**Sec. 141-14. Disability retirement pension amount.**

(a) The amount of a disability retirement pension, subject to the further offset prescribed in subsection (b) of this section and the provisions of subsection (c) of this section, is the member's accrued normal retirement pension determined in accordance with section 141-11.

(b) Effective April 1, 2002, the amount of county financed pension prior to the retired member's satisfaction of a service and age requirement for a normal retirement shall not exceed the difference between 100 percent of index annualized average final compensation and the sum of (i) one-half of annual earnings from gainful occupation, business or employment following disability retirement, and (ii) disability paid to the retired member under the federal social security program. Indexed average final compensation for any calendar year means average final compensation times the Consumer Price Index (U.S. average for all urban consumers) for the month of September in the preceding calendar year divided by the Consumer Price Index for the month of September in the year preceding retirement. Cost of living increases in the amount of disability benefits paid the retired member under the social security program shall be disregarded. The retirement system shall calculate the initial amount of disability pension of the premise that the retired member is being paid federal social security disability benefits for a single person with average monthly earnings equal to the retired member's average final compensation. The retired member may submit evidence, satisfactory to the retirement system, of receipt of a lessor amount of social security disability pension or denial of social security disability pension and the amount of pension shall be recalculated taking the lessor amount or denial into account. The retirement system shall periodically request substantiated income information from disability retired members who are subject to the provisions of this section. Failure to provide the requested information within 90 days shall cause suspension of payment of the pension for the period of non-compliance.

(c) If the retirement commission finds the disability to be the natural and proximate result of actual performance of duty in the employ of the county and worker's compensation is paid on account of the same disability, the disability pension shall be calculated using an imputed credited service equal to the sum of: (i) the member's actual credited service, and (ii) the period, if any, between the date of disability retirement and the date the member would attain age 60 years and shall not be less than \$400.00 per month.

(d) The disability retirement effective date shall be paid from the more recent of: (1) the date of the disability, (2) the date which is six months prior to the date the application for the disability retirement was filed with the retirement board of commissioners, and (3) the date the participant last received a county financed income (normal pay, long term disability benefits, worker's compensation benefits, etc.)

(Ord. No. 94-747, § 11.07, eff. 12-2-94; Ord. No. 2000-536, § 1, eff. 9-7-00; Ord. No. 2003-124, § 1(3), eff. 3-20-03)

**Sec. 141-15. Pre-retirement death; service and/or age requirement for automatic pension to spouse or children.**

The service and age requirement for an automatic pension to a surviving spouse or children under the provisions of section 141-27 in the event of the death of a member or vested former member is:

- (1) Ten or more years of credited service;
- (2) Five or more years of credited service and age 60 years or older; or
- (3) Any amount of credited service if the member died from a personal injury or disease which the retirement commission finds to have been the natural and proximate result of the member's actual performance of duty as a county employee and worker's compensation is paid on account of the same injury or disease.

(Ord. No. 94-747, § 11.08, eff. 12-2-94)

**Sec. 141-16. Pre-retirement death; amount of automatic pension to spouse or children.**

The amount of pension of a spouse is the deceased member's accrued normal retirement pension under form of payment option 2 (life payments with 100 percent continuation to survivor pension beneficiary). If the member died from a personal injury or disease which the retirement commission finds to have been the natural and proximate result of the member's actual performance of duty as a county employee and worker's compensation is paid on account of the same injury or disease, the amount of pension shall not be less than \$400.00 per month.

The amount of pension of an eligible child is an equal share with each other eligible child of 50 percent of the deceased member's accrued normal retirement pension.

(Ord. No. 94-747, § 11.09, eff. 12-2-94)

**Sec. 141-17. Pre-retirement death; service and/or age requirement for pension to elective survivor pension beneficiary.**

The service and requirement for a pension to an elective survivor pension beneficiary under the provisions of section 141-28 is that the deceased member meets a service and age requirement for normal retirement.

(Ord. No. 94-747, § 11.10, eff. 12-2-94)

**Sec. 141-18. Pre-retirement death; amount of pension to elective survivor pension beneficiary.**

The amount of pension is the deceased member's accrued normal retirement pension under form of payment option 2 (life payments with 100 percent continuation to survivor pension beneficiary).

(Ord. No. 94-747, § 11.11, eff. 12-2-94)

**Sec. 141-19. Member contribution rates.**

Member contributions to the retirement system shall be made in accordance with the contribution rate schedule, from among the following schedules, made applicable to the member's coverage group by collective bargaining agreement or resolution of the county board of commissioners:

- (1) 4.25 percent of the first \$13,500.00 of annual compensation plus 6.25 percent of annual compensation in excess of \$13,500.00;
- (2) 3.67 percent of the first \$13,500.00 of annual compensation plus 5.67 percent of annual compensation in excess of \$13,500.00;
- (3) 3.0 percent of the first \$13,500.00 of annual compensation plus 5.0 percent of annual compensation in excess of \$13,500.00;
- (4) The following rates based on credited service:  
Less than nine years--Six percent of annual compensation;  
Nine years but less than 13 years--Four percent of annual compensation;  
Thirteen years but less than 17 years--Three percent of annual compensation;  
Seventeen or more years--Two percent of annual compensation.
- (5) Three percent of the first \$4,200.00 of annual compensation plus 5.0 percent of annual compensation in excess of \$4,200.00.

(6) 5.0 percent of annual compensation.

(Ord. No. 94-747, § 11.12, eff. 12-2-94; Ord. No. 2000-536, § 1, eff. 9-7-00)

**Sec. 141-20. Defined benefit plan 2.**

(a) *Compensation.* Compensation shall include, to the extent not excluded by a collective bargaining agreement or resolution of the county board of commissioners, base salary and wages, overtime, premium pay, cost-of-living payments and holiday pay. Compensation shall also include salary or wages deferred because of participation in a plan operated pursuant to section 457 of the Internal Revenue Code and reductions in salary or wages due to participation in a plan operated pursuant to section 125 of the Internal Revenue Code.

(b) *Average final compensation.* Average final compensation is 1/60 of the aggregate amount of compensation paid a member during the five years of credited service in which the aggregate amount of compensation is greatest. If the member has less than five years of credited service, average final compensation is the aggregate amount of compensation paid the member divided by the member's credited service. For a coverage group which has collectively bargained this final average compensation or is granted the benefit in an approved benefit package, average final compensation is one-quarter of the aggregate amount of compensation paid a member during the four years of credited service in which the aggregate amount of compensation is greatest. If the member has less than four years of credited service, average final compensation is the aggregate amount of compensation paid the member divided by the member's credited service.

(c) *Normal retirement service and/or age requirement.* The service and age requirement for normal retirement is either:

- (1) Twenty-five or more years of credited service and age 55 years or older;
- (2) Twenty or more years of credited service and age 60 years or older;  
or
- (3) Eight or more years of credited service and age 65 years or older.

(d) *Normal retirement pension amount.*

- (1) The amount of a normal retirement pension under form of payment option SL (straight life), subject to the limitation prescribed in subsection (d)(2) of this section and the offsets prescribed in subsections (d)(3) and (4) of this section, is the sum of (i) 1.0 percent of average final compensation multiplied by credited service but by not more than 20

years, and (ii) 1.25 percent of average final compensation multiplied by credited service in excess of 20 years.

(2) The amount of county-financed pension shall not exceed 75 percent of average final compensation.

(3) The amount of county-financed pension shall be reduced by the monthly equivalent, as determined by the retirement system, of any worker's compensation benefit paid on account of prior county employment.

(4) The amount of county-financed pension shall be reduced by the monthly equivalent, as determined by the retirement system, of any unemployment benefit paid on account of prior county employment.

(e) *Vested termination service requirement.* The service requirement for vested termination of membership is eight or more years of credited service.

(f) *The service requirement for disability retirement is ten or more years of credited service.* The service requirement is waived if the retirement commission finds the disability to be the natural and proximate result of actual performance of duty in the employ of the county and worker's compensation is paid on account of the same disability; or for a coverage group which has collectively bargained this disability eligibility or is granted the benefit in an approved benefit package, the service requirement for disability retirement is eight or more years of credited service. The service requirement is waived if the retirement commission finds the disability to be the natural and proximate result of actual performance of duty in the employ of the county and worker's compensation is paid on account of the same disability.

(g) *Disability retirement pension amount.* The amount of a disability retirement pension, subject to the further offset prescribed in subsection (g)(1) of this section and the provisions of subsection (g)(2) of this section, is the member's accrued normal retirement pension determined in accordance with subsection (d) of this section.

(1) The amount of county-financed pension prior to the retired member's satisfaction of a service and/or age requirement for normal retirement shall not exceed the difference between 100 percent of annualized average final compensation and the sum of (i) annual earnings from gainful occupation, business or employment following disability retirement, and (ii) disability benefits paid the retired member under the federal social security program. Cost-of-living increases in the amount of disability benefits paid the retired member under the federal social security program shall be disregarded. The retirement system shall calculate the initial amount of disability pension on the premise that the retired member

is being paid federal social security disability benefits for a single person with average monthly earnings equal to the retired member's average final compensation. The retired member may submit evidence, satisfactory to the retirement system, of receipt of a lesser amount of social security disability pension or denial of a social security disability pension and the amount of pension shall be recalculated taking the lesser amount or denial into account. The retirement system shall periodically request substantiated income information from disability retired members who are subject to the provisions of this section. Failure to provide the requested information within 90 days shall cause suspension of payment of the pension for the period of noncompliance.

(2) If the retirement commission finds the disability to be the natural and proximate result of actual performance of duty in the employ of the county and worker's compensation is paid on account of the same disability:

a. The disability pension shall be calculated using imputed credited service equal to the sum of: (i) the member's actual credited service, and (ii) the period, if any, between the date of disability retirement and the date the member would attain age 60 years; or

b. For a coverage group which has collectively bargained for this benefit, the amount of a duty disability retirement pension is equivalent to 75 percent of the employee's final average compensation. The same offsets that apply to a duty disability from plan 1 shall apply here.

(h) *Pre-retirement death; service and/or age requirement for automatic pension to spouse or children.* The service and age requirement for an automatic pension to a surviving spouse or children under the provisions of section 141-27 in the event of the death of a member or vested former member is:

(1) Ten or more years of credited service;

(2) Eight or more years of credited service and age 65 years or older; or

(3) Any amount of credited service if the member died from a personal injury or disease which the retirement commission finds to have been the natural and proximate result of the member's actual performance of duty as a county employee and worker's compensation is paid on account of the same injury or disease.

(i) *Pre-retirement death; amount of automatic pension to spouse or children.* The amount of pension of a spouse is the deceased member's accrued normal

retirement pension under form of payment option 2 (life payments with 100 percent continuation to survivor pension beneficiary). The amount of pension of an eligible child is an equal share with each other eligible child of 50 percent of the deceased member's accrued normal retirement pension.

(j) *Pre-retirement death; service and/or age requirement for pension to elective survivor pension beneficiary.* The service and age requirement for a pension to an elective survivor pension beneficiary under the provisions of section 141-28 is that the deceased member meets a service and/or age requirement for normal retirement.

(k) *Pre-retirement death; amount of pension to elective survivor pension beneficiary.* The amount of pension is the deceased member's accrued normal retirement pension under form of payment option 2 (life payments with 100 percent continuation to survivor pension beneficiary).

(l) *Member contribution rates.* Members are not required to contribute to the retirement system.

(Ord. No. 94-747, §§ 12.01--12.12, eff. 12-2-94; Ord. No. 2000-536, § 1, eff. 9-7-00)

#### **Sec. 141-21. Defined contribution plan 4.**

(a) *Compensation.* Compensation shall include, to the extent not excluded by a collective bargaining agreement or resolution of the county board of commissioners, base salary and wages, overtime, premium pay, cost-of-living payments and holiday pay. Compensation shall also include salary or wages deferred because of participation in a plan operated pursuant to section 457 of the Internal Revenue Code and reductions in salary or wages due to participation in a plan operated pursuant to section 125 of the Internal Revenue Code.

(b) *Normal retirement service and/or age requirement.* The service and age requirement for normal retirement is either:

- (1) Twenty-five or more years of credited service; or
- (2) Twenty-five or more years of credited service and age 55 or older;  
or
- (3) Twenty or more years of credited service and age 60 years or older;  
or
- (4) Eight or more years of credited service and age 65 years or older.

(c) *Normal retirement pension amount.* The amount of a normal retirement pension is the actuarial equivalent determined in accordance with the rules of the

retirement commission, of the sum of the balances in the individual's member account and employer account. The retirement commission may pay the pension from the retirement system or purchase an annuity.

(d) *Vested termination service requirement.* The service requirement for vested termination of membership is two or more years of credited service for the executive coverage group. The service requirement for vested termination of membership is three years of credited service for all other coverage groups. The service requirement is waived if the county executive provides a written certification that the termination is involuntary.

(e) The service requirement for disability retirement is:

(1) Ten or more years of credited service. The service requirement is waived if the retirement commission finds the disability to be the natural and proximate result of actual performance of duty in the employ of the county and worker's compensation is paid on account of the same disability; or

(2) For a coverage group which has collectively bargained this disability eligibility or is granted the benefit in an approved benefit package, the service requirement for disability retirement is eight or more years of credited service. The service requirement is waived if the retirement commission finds the disability to be the natural and proximate result of actual performance of duty in the employ of the county and worker's compensation is paid on account of the same disability.

(f) The amount of a disability retirement pension is:

(1) The actuarial equivalent, determined in accordance with the rules of the retirement commission, of the sum of the vested balances in the individual's member account and employer account. The retirement commission may pay the pension from the retirement system or purchase an annuity; or

(2) For a coverage group which has collectively bargained for this benefit, the amount of a duty disability retirement pension is equivalent to 75 percent of the employee's final average compensation. The same offsets that apply to a duty disability from plan 1 shall apply here. Additionally, the entire vested participant account shall be transferred to the retirement system reserve for pension payments as well as any non-vested funds.

(g) *Pre-retirement death; service requirement for pension to designated survivor pension beneficiary.* The service requirement for payment of a pension to a designated survivor pension beneficiary under the provisions of section 141-28 in the event of the death of a member or vested former member is ten years of

credited service. The service requirement is waived if the member died from a personal injury or disease which the retirement commission finds to have been the natural and proximate result of the member's actual performance of duty as a county employee and worker's compensation is paid on account of the same injury or disease.

(h) *Pre-retirement death; amount of pension to designated survivor pension beneficiary.* The amount of pension is the actuarial equivalent, determined in accordance with the rules of the retirement commission, of the survivor pension beneficiary's stipulated share of the sum of the vested balances in the individual's member account and employer account. The retirement commission may pay the pension from the retirement system or purchase an annuity.

(i) *Member contribution rates.* Member contributions to the retirement system shall be made in accordance with the contribution rate schedule, from among the following schedules, made applicable to the member's coverage group by collective bargaining agreement or resolution of the county board of commissioners:

- (1) The rate selected by the member from the following available rates:
  - a. 1.0 percent of compensation; or
  - b. 1.5 percent of compensation; or
  - c. 2.0 percent of compensation; or
  - d. 2.5 percent of compensation; or
  - e. 3.0 percent of compensation.

A member's contributions shall stop for a calendar year when the member has contributed a total \$1,500.00 unless specifically increased by a collectively bargained agreement or benefit package. Contributions shall resume with the first full pay period in the next calendar year.

- (2) 2.5 percent of compensation.

- (3) The rate selected by the member from the following available rates:
  - a. 1.0 percent of compensation; or
  - b. 1.5 percent of compensation; or
  - c. 2.0 percent of compensation; or
  - d. 2.5 percent of compensation; or
  - e. 3.0 percent of compensation.

(j) *County contribution rates.* County contributions to the retirement system shall be made in accordance with the contribution rate schedule, from among the following schedules, made applicable to the member's coverage group by

collective bargaining agreement or resolution of the county board of commissioners:

- (1) \$4.00 for each \$1.00 contributed by the member.
- (2) \$5.00 for each \$1.00 contributed by the member.

In no case shall the aggregate amount of contribution on behalf of a member exceed the maximum contribution permitted under the provisions of the Internal Revenue Code applicable to the retirement system.

(Ord. No. 94-747, §§ 14.01--14.10, eff. 12-2-94; Ord. No. 2000-536, § 1, eff. 9-7-00; Ord. No. 2003-124, § 1(4), eff. 3-20-03)

**Sec. 141-22. Defined benefit plan 3.**

(a) *Compensation.* Compensation shall include, to the extent not excluded by a collective bargaining agreement or resolution of the county board of commissioners, base salary and wages, overtime, premium pay, cost-of-living payments, holiday pay, and payments for up to 320 hours of unused sick leave and 120 hours of unused vacation banks. Compensation shall also include salary or wages deferred because of participation in a plan operated pursuant to section 457 of the Internal Revenue Code and reductions in salary or wages due to participation in a plan operated pursuant to section 125 of the Internal Revenue Code.

(b) *Average final compensation.* Average final compensation is 1/60 of the aggregate amount of compensation paid a member during the five years of credited service in which the aggregate amount of compensation is greatest. If the member has less than five years of credited service, average final compensation is the aggregate amount of compensation paid the member divided by the member's credited service. For a coverage group which has collectively bargained this final average compensation or is granted the benefit in an approved benefit package, average final compensation is 1/4 of the aggregate amount of compensation paid a member during the four years of credited service in which the aggregate amount of compensation is greatest. If the member has less than four years of credited service, average final compensation is the aggregate amount of compensation paid the member divided by the member's credited service

(c) *Normal retirement service and/or age requirement.* The service and age requirement for normal retirement is either:

- (1) Twenty-five or more years of credited service and age 55 years or older;
- (2) Twenty or more years of credited service and age 60 years or older;  
or

- (3) Five or more years of credited service and age 65 years or older.
- (d) *Normal retirement pension amount.*
- (1) The amount of a normal retirement pension under form of payment option SL (straight life), subject to the limitation prescribed in subsection (d)(2) of this section and the offsets prescribed in subsections (d)(3) and (4) of this section, is the sum of (i) 1.5 percent of average final compensation multiplied by credited service but by not more than 20 years, and (ii) 2.0 percent of average final compensation multiplied by up to five years of credited service in excess of 20 years; and (iii) 2.5 percent of average final compensation multiplied by credited service in excess of 25 years.
- (2) The amount of county-financed pension shall not exceed 75 percent of average final compensation.
- (3) The amount of county-financed pension shall be reduced by the monthly equivalent, as determined by the retirement system, of any worker's compensation benefit paid on account of prior county employment.
- (4) The amount of county-financed pension shall be reduced by the monthly equivalent, as determined by the retirement system, of any unemployment benefit paid on account of prior county employment.
- (e) *Vested termination service requirement.* The service requirement for vested termination of membership is eight or more years of credited service.
- (f) *Duty disability retirement pension amount.* For a coverage group which has collectively bargained for this benefit, the amount of a duty disability retirement pension is equivalent to 75 percent of the employee's final average compensation. The same offsets that apply to a duty disability from plan 1 shall apply here.
- (g) *Pre-retirement death; amount of automatic pension to spouse or children.* The amount of pension of a spouse is the deceased member's accrued normal retirement pension under form of payment option 2 (life payments with 100 percent continuation to survivor pension beneficiary). The amount of pension of an eligible child is an equal share with each other eligible child of 50 percent of the deceased member's accrued normal retirement pension.
- (h) *Pre-retirement death; service and/or age requirement for pension to elective survivor pension beneficiary.* The service and age requirement for a pension to an elective survivor pension beneficiary under the provisions of section

141-28 is that the deceased member meets a service and age requirement for normal retirement.

(i) *Pre-retirement death; amount of pension to elective survivor pension beneficiary.* The amount of pension is the deceased member's accrued normal retirement pension under form of payment option 2 (life payments with 100 percent continuation to survivor pension beneficiary).

(j) *Member contribution rates.* The rate of member contribution to the retirement system is three percent of annual compensation.

(Ord. No. 94-747, §§ 13.01--13.10, eff. 12-2-94; Ord. No. 2000-536, § 1, eff. 9-7-00)

**Sec. 141-22.1. Hybrid plan 5.**

(a) *Compensation.* Compensation shall include, to the extent not excluded by a collective bargaining agreement or resolution of the county commission, base salary and wages, overtime, premium pay, cost-of-living payments and holiday pay. Compensation shall also include salary or wages deferred because of participation in a plan operated pursuant to section 457 of the Internal Revenue Code and reductions in salary or wages due to participation in a plan operated pursuant to section 125 of the Internal Revenue Code.

(b) *Normal retirement service and/or age requirement.* The service and age requirement for normal retirement is either:

- (1) Thirty or more years of credited service;
- (2) Twenty-five or more years of credited service and age 55; or
- (3) Twenty or more years of credited service and age 60 years or older;  
or
- (4) Eight or more years of credited service and age 65 years or older.

(c) *Normal retirement pension amount.*

(1) *Defined benefit pension.* The amount of a normal retirement pension under form of payment option SL (straight life), subject to the limitation prescribed in subsection (3) and the offsets prescribed in subsections (3) and (4), is:

For a coverage group which has collectively bargained this formula or which has this formula made applicable by a resolution of the Wayne County Commission, the sum of (i) 1.25 percent of average final compensation multiplied by credited service but by not more than 20

years, and (ii) 1.50 percent of average final compensation multiplied by credited service in excess of 20 years, if any.

(2) *Defined contribution pension.* The amount of a normal retirement pension is the actuarial equivalent determined in accordance with the rules of the retirement commission, of the sum of the balances in the individual's member account and employer account. The retirement commission may pay the pension from the retirement system or purchase an annuity.

The amount of county financed pension shall not exceed 75 percent of average final compensation reduced by the monthly equivalent, as determined by the retirement system, of any worker's compensation benefit paid on account of prior county employment.

The amount of county financed pension shall be reduced by the monthly equivalent, as determined by the retirement system, of any unemployment benefit paid on account of prior county employment.

(3) *Vested termination service requirement.*

(a) *Defined contribution benefit.* The service requirement for vested termination of membership is two or more years of credited service for the executive coverage group. The service requirement for vested termination of membership is three years of credited service for all other coverage groups. The service requirement is waived if the county executive provides a written certification that the termination is involuntary.

(b) *Defined benefit.* The service requirement for vested termination of membership is eight or more years of credited service.

(4) *The service requirement for disability retirement is:*

(a) Ten or more years of credited service. The service requirement is waived if the retirement commission finds the disability to be the natural and proximate result of actual performance of duty in the employ of the county and worker's compensation is paid on account of the same disability; or

(b) For a coverage group, which has collectively bargained this disability eligibility or is granted the benefit in an approved benefit package, the service requirement for disability retirement is eight or more years of credited service. The service requirement is waived if the retirement commission finds the disability to be the natural and proximate result of actual performance of duty in the

employ of the county and worker's compensation is paid on account of the same disability.

(5) *The amount of a disability retirement pension is:*

(a) The member's accrued normal retirement pension shall be determined in accordance with subsection (c)(1)(a) above. If the retirement commission finds the disability to be the natural and proximate result of actual performance of duty in the employ of the county and worker's compensation is paid on account of the same disability, the disability pension shall be calculated using imputed credited service equal to the sum of: (i) the member's actual credited service, and (ii) the period, if any, between the date of disability retirement and the date the member would attain age 60 years. The same offsets that apply to a duty disability from Plan 1 shall apply here; and

(b) The actuarial equivalent, determined in accordance with the rules of the retirement commission, of the sum of the vested balances in the individual's member account and employer account. The retirement commission may pay the pension from the retirement system or purchase an annuity.

(6) *Pre-retirement death; service requirement for pension to designated survivor pension beneficiary.* The service requirement for payment of a pension to a designated survivor pension beneficiary under the provisions of section 141-28 in the event of the death of a member or vested former member is ten years of credited service. The service requirement is waived if the member died from a personal injury or disease which the retirement commission finds to have been the natural and proximate result of the member's actual performance of duty as a county employee and worker's compensation is paid on account of the same injury or disease.

(7) *Pre-retirement death; amount of pension to designated survivor pension beneficiary.* The amount of pension is the actuarial equivalent, determined in accordance with the rules of the retirement commission, of the survivor pension beneficiary's stipulated share of the sum of the vested balances in the individual's member account and employer account. The retirement commission may pay the pension from the retirement system or purchase an annuity.

(8) *Member contribution rates.* Member contributions to the retirement system shall be made in accordance with the contribution rate schedule made applicable to the member's coverage group by collective bargaining agreement or resolution of the county commission:

(a) Defined benefit. Members are not required to contribute towards their defined benefit plan.

(b) Defined contribution plan. Members are required to contribute three percent of included earnings.

(9) *County contribution rates.* County contributions to the retirement system shall be made in accordance with the contribution rate schedule made applicable to the member's coverage group by collective bargaining agreement or resolution of the county commission:

(a) \$1.00 for each \$1.00 contributed by the member.

(b) In no case shall the aggregate amount of contribution on behalf of a member exceed the maximum contribution permitted under the provisions of the Internal Revenue Code applicable to the retirement system.

(Ord. No. 2003-124, § 1(5), eff. 3-20-03)

**Sec. 141-23. Vested termination of membership.**

The basic conditions for vested termination of membership shall be as follows:

(1) A member who ceases to be a member for a reason other than death or retirement shall become a vested former member if the member meets the service requirement for vested termination specified by the member's coverage group and benefit plan. A vested former member may retire upon meeting the service and age requirements for normal retirement specified by the member's coverage group and benefit plan. The amount of pension shall be the member's accrued normal retirement pension amount at time of termination of membership. Determination of the member's accrued normal retirement pension shall be made in accordance with the retirement provisions of this chapter in effect on the date membership terminates. Changes in this chapter effective subsequent to the date membership terminates shall not be considered.

(2) Withdrawal of accumulated member contributions by a vested former member shall cause the forfeiture of credited service attributable to periods of service for which the vested former member was required to make defined benefit member contributions. All rights in and to the portion of the defined benefit pension attributable to the forfeited credited service shall be forfeited.

(Ord. No. 94-747, § 19.01, eff. 12-2-94)

**Sec. 141-24. General requirements for disability retirement.**

- (a) The retirement commission may retire a member on account of disability if each of the following conditions are satisfied:
- (1) A written application for disability retirement, in the form prescribed by the retirement system, has been filed with the retirement system by the member or the member's department head;
  - (2) Membership is terminated prior to the selected date of retirement;
  - (3) The member meets the service requirements for disability retirement specified by the member's coverage group and benefit plan;
  - (4) The member is medically examined by or under the direction of the medical director;
  - (5) The medical director certifies that (i) the member is mentally or physically incapacitated for continued employment by the county, (ii) the incapacity is likely to be permanent, and (iii) the member should be retired on account of the incapacity.
- (b) The amount of a disability retirement pension is determined in accordance with the disability pension amount program specified by the member's coverage group and benefit plan.

(Ord. No. 94-747, § 20.01, eff. 12-2-94)

**Sec. 141-25. Reexamination, suspension and termination of disability retirement.**

- (a) The retirement system may require a disability retired member to undergo periodic medical or other reevaluation if the member has not met an age and service requirement for normal retirement specified by the coverage group and benefit plan applicable to the disability retired member immediately prior to retirement.
- (b) The retirement commission may suspend payment of a disability pension if the disability retired member refuses to submit to reevaluation. If the refusal continues for one year, the retirement commission shall revoke the disability retired member's rights in and to the disability pension.
- (c) A disability pension shall be terminated if the medical director reports that the disability retired member is no longer disabled to the extent required for disability retirement as required by the retired member's coverage group and benefit plan at time of disability retirement.

(Ord. No. 94-747, § 20.02, eff. 12-2-94)

**Sec. 141-26. Status of terminated disability retired member.**

- (a) The membership status of a terminated disability retired member who is returned to county employment shall be governed by section 141-4(a) and (b). Upon reacquisition of membership, the credited service of the member at time of disability retirement shall be restored. Credited service shall not be granted for the period of disability retirement unless the member was paid worker's compensation benefits, on account of the same incapacity, during the period of disability retirement. In no case shall credited service be granted for time on disability retirement after reaching age 60 years.
- (b) A terminated disability retired member who does not reacquire membership shall have actual credited service at time of disability retirement restored if the restoration enables the individual to be a vested former member.

(Ord. No. 94-747, § 20.03, eff. 12-2-94)

**Sec. 141-27. Survivor pensions; pre-retirement death; automatic beneficiary.**

Payments to the spouse or children of deceased member shall be as follows:

- (1) A pre-retirement death survivor pension shall be paid to the surviving spouse or surviving children of a deceased member who does not have an elective pre-retirement death survivor pension beneficiary designation in effect pursuant to section 141-28, if the member meets a service and age requirement for an automatic pre-retirement death survivor pension specified by the member's coverage group and benefit plan and was a county employee at time of death.
- (2) The amount of survivor pension shall be determined in accordance with the deceased member's coverage group and benefit plan at time of death.
- (3) A vested former member who dies prior to retirement shall be considered to have been a member at the time of death, for the exclusive purpose of determining the eligibility of a surviving spouse or surviving child for the benefits provided by this section. The following conditions shall apply in addition to those specified elsewhere in this chapter for this benefit:
  - a. The requirement that the vested former member be a county employee at time of death is waived; and

- b. Payment of a survivor pension shall not commence prior to the first day of the calendar month following the date the vested former member would have satisfied a service and age requirement for normal retirement, notwithstanding that an otherwise eligible beneficiary is thereby deprived of a survivor pension; and
  - c. Eligibility and pension amount shall be determined using the vested former member's coverage group and benefit plan at time of actual termination of membership rather than at time of death.
- (4) A survivor pension shall be paid to the surviving spouse of a deceased member subject to the following conditions:
- a. The deceased member was married to the surviving spouse at time of death.
  - b. A spouse's survivor pension shall terminate at the end of the month in which the spouse dies.
- (5) A survivor pension shall be paid to a surviving child of a deceased member subject to the following conditions:
- a. Payment shall not be made for any month for which a surviving spouse is paid a survivor pension.
  - b. The child is unmarried and is under age 18 years.
  - c. A surviving child's survivor pension shall terminate at the end of the month in which the child marries, attains age 18 years, or dies; except as provided in subsection (4) of this section.
- (6) The retirement commission may continue a child's survivor pension beyond age 18 years if the medical director certifies to the retirement commission that the child is mentally or physically incapable of self support.

(Ord. No. 94-747, § 21.01, eff. 12-2-94)

**Sec. 141-28. Survivor pensions; pre-retirement death; elective beneficiary.**

Optional form of payment 2; election and designation of survivor pension beneficiary.

- (1) A survivor pension shall be paid for life to designated survivor pension beneficiary of a deceased member who has elected form of payment option 2 and designated a survivor pension beneficiary pursuant to section 141-33(a) if the member meets a service and age requirement

specified by the member's coverage group and benefit plan at time of death.

(2) The amount of survivor pension shall be determined in accordance with the survivor pension amount program specified by the deceased member's coverage group and benefit plan at time of death.

(3) Members covered by benefit plan 4 may designate multiple survivor pension beneficiaries, and optional forms of payment may be elected with respect to benefit plan 4 benefits, in both instances to the extent provided by retirement commission rules.

(4) The designated survivor pension beneficiary shall be eligible for a survivor pension if each of the following conditions are met:

a. The designated survivor pension beneficiary has an insurable interest in the life of the member; and

b. The member was a county employee at time of death.

c.

(Ord. No. 94-747, §§ 22.01, 22.02, eff. 12-2-94)

**Sec. 141-29. Survivor pensions; post-retirement death; automatic beneficiary.**

Payments to the spouse or children of deceased disability retired member shall be as follows:

(1) An automatic survivor pension shall be paid to the surviving spouse or surviving children of a deceased disability retired member who is being paid under form of payment SL, if the disability retired member meets the requirements of subsection (3) of this section.

(2) The amount of survivor pension shall be 50 percent of the deceased disability retired member's pension at time of death.

(3) The deceased disability retired member has not attained age 60 years at time of death. The disability retired member was married to the surviving spouse at time of death and the date of death is after December 31, 1989. A spouse's survivor pension shall terminate at the end of the month in which the spouse dies. The operation of any final order arising out of a divorce proceeding shall be recognized only to the extent that the total aggregate actuarial present value of the survivor pensions is not increased.

(4) A survivor pension shall be paid to a surviving child of a deceased disability retired member subject to the following conditions:

- a. Payment shall not be made for any month for which a surviving spouse is paid a survivor pension.
  - b. The child is unmarried and is under age 18 years.
  - c. A surviving child's survivor pension shall terminate at the end of the month in which the child marries, attains age 18 years, or dies; except as provided in subsection (5) of this section.
- (5) The retirement commission may continue a child's survivor pension beyond age 18 years if the medical director certifies to the retirement commission that the child is mentally or physically incapable of self support.

(Ord. No. 94-747, § 23.01, eff. 12-2-94)

**Sec. 141-30. Survivor pensions; post-retirement death; elective form of payment option and designation of survivor pension beneficiary.**

Election of form of payment option; designation of survivor pension beneficiary. A retiring member or vested former member may elect to have pension payments made under a form of payment option provided in section 141-31 and, if applicable, name a survivor pension beneficiary. The election and naming of survivor pension beneficiary shall be made on a form furnished by and filed with the retirement system prior to the date the first pension payment is made. An election of form of payment option may not be changed after the date the first pension payment is made. Payment shall be made under form of payment option SL if there is not a timely election of another form of payment option. A disability retired member may elect a form of payment option at any time prior to the disability retired member's 60th birthday.

(Ord. No. 94-747, § 24.01, eff. 12-2-94)

**Sec. 141-31. Form of payment options.**

- (a) The amount of pension under each form of payment option shall have the same actuarial present value as the amount of pension under form of payment option SL. A named survivor beneficiary shall not be changed after the date the first pension payment is made if form of payment option 2 or form of payment option 3 is elected. A named survivor beneficiary shall have an insurable interest in the life of the retired member on the date the first pension payment is made. Form of payment AP (accelerated payment) may be selected in conjunction with one of the other forms of payment, except form of payment option LS (lump sum) and such other forms of payment as the retirement commission may designate.

(b) Form of payment option SL (life payment to the retired member). The retired member is paid the amount of pension determined according to the pension amount program specified by the retired member's coverage group and benefit plan. For members of the common pleas court bailiffs coverage group who retire after November 30, 1997, pension payments shall continue to a surviving spouse to whom the member was married at the time of retirement in an amount equal to one-half the amount paid to the retired member. If a member of the common pleas court bailiff coverage group does not have a survivor beneficiary, their straight life benefit shall be increased by an amount equivalent to the average cost for providing a 50 percent survivor option. For all other coverage groups all pension payments and benefits stop upon the death of the retired member.

(c) Form of payment option 1 (life payment to the retired member with guaranteed minimum number of payments). The retired member is paid a reduced pension for life. The reduced pension is paid to the named survivor pension beneficiary, until the guaranteed minimum number of payments have been made, if the retired member dies before the minimum number of payments have been made and is survived by a named survivor beneficiary. If no named survivor pension beneficiary survives, the actuarial present value of the remaining guaranteed minimum number of payments shall be paid to the estate of the deceased retired member. If a named survivor pension beneficiary dies after commencing to be paid but before the guaranteed minimum number of payments have been made, the actuarial present value of the remaining guaranteed number of payments shall be paid to the estate of the deceased named survivor pension beneficiary. More than one survivor pension beneficiary may be named, in which case they shall be paid the pension in the shares designated by the retired member. The guaranteed minimum number of payments shall be either 60, 120, 180 or 240, as selected by the retired member at the time of election of form of payment option 1. The selected guaranteed minimum number of payments may not be changed after the date the first pension payment is made.

(d) Form of payment option 2 (life payments to retired member with full continuation to survivor pension beneficiary). The retired member is paid a reduced pension for life under form of payment option 2. Upon the death of the retired member during the lifetime of the named survivor pension beneficiary, the named survivor pension beneficiary is paid the full amount of the reduced pension until death. Upon the death of the named survivor pension beneficiary during the lifetime of the retired member the amount of pension shall be changed to the amount that would have been payable had the retired member elected form of payment option SL at time of retirement.

(e) Form of payment option 3 (life payments to retired member with one-half continuation to survivor pension beneficiary). The retired

member is paid a reduced pension for life under form of payment option 3. Upon the death of the retired member during the lifetime of the named survivor pension beneficiary, the named survivor pension beneficiary is paid one-half the amount of the reduced pension until death. Upon the death of the named survivor pension beneficiary during the lifetime of the retired member the amount of pension shall be changed to the amount that would have been payable had the retired member elected form of payment option SL at time of retirement.

(f) Form of payment option AP (accelerated payments until specified age and reduced payments thereafter). The retired member is paid an increased pension to the adjustment date and a decreased pension thereafter under form of payment option AP. The adjustment date shall be the first day of the calendar month following the date the participant could be paid a social security old-age benefit without reduction for early retirement. The increased pension payable to the adjustment age shall be the amount selected by the retiring member from the array of available amounts satisfying the following restrictions:

(1) The minimum amount of pension payable after the adjustment date is 50 percent of the amount of pension under form of payment option SL; and

(2) The maximum amount of increased pension payable to the adjustment date is 200 percent of the amount of pension under form of payment SL.

(g) From and after November 2, 1989, a pension having an effective date prior to October 5, 1978, and being paid under form of payment option 2 or form of payment option 3, shall be administered in accordance with the provisions of subsections (d) and (e) of this section rather than form of payment provisions in effect on the effective date of the pension. If the date of death of the named survivor pension beneficiary precedes the effective date of this section, the change in the amount of pension shall occur the first day of the month following the effective date of this chapter. Retroactive payment shall not be made for the period, if any, between the date of death of the named survivor pension beneficiary and the first day of the month following the effective date of this section.

(h) Form of payment option LS (lump sum). Form of payment option LS is a lump-sum payment equal to the balance of the member's or vested former member's member account and employer account. This form of payment option is only available with respect to benefits under benefit plan 4.

- (i) Such other forms of payment as the retirement commission may offer from time to time with respect to benefits under benefit plan 4.

(Ord. No. 94-747, § 25.01, eff. 12-2-94; Ord. No. 97-728, § 3, eff. 12-18-97)

**Sec. 141-32. Inflation equity programs.**

- (a) The retirement commission shall establish a reserve for inflation equity effective November 30, 1985.
- (b) The retirement commission shall credit the reserve with the following amount at the end of each fiscal year: a portion of the excess, if any, of the rate of return on the actuarial value of retirement system defined benefit assets over the rate established for this purpose by the retirement commission, multiplied by the actuarial present value of pensions being paid retired members and survivor allowance beneficiaries, both as reported in the annual actuarial valuation. The retirement commission shall establish the portion of the excess rate of return used in this calculation.
- (c) The retirement commission may, not more frequently than once per year, distribute to retired members and survivor beneficiaries a percentage of the balance in the reserve for inflation equity. The retirement commission may also use a portion of the distribution to provide a minimum permanent pension. The percentage of the balance to distribute shall be selected by the retirement commission.
- (d) The retirement commission may restrict the distribution and/or the minimum permanent pension to retired members and survivor beneficiaries having a pension effective date prior to dates selected from time to time by the retirement commission.
- (d) The formula for the distribution shall be as from time to time determined by the retirement commission and shall take into account the period of retirement and period of credited service.

(Ord. No. 94-747, § 26.01, eff. 12-2-94; Ord. No. 2000-536, § 1, eff. 9-7-00)

**Sec. 141-33. General provisions applicable to pension payments.**

- (a) *Guaranteed minimum aggregate payout.* If all pension payments permanently terminate before there has been paid an aggregate amount equal to the sum of the former member's accumulated member contributions, and member account the difference between the amount of accumulated member contributions and the aggregate amount of pension payments shall be paid to the former

member's refund beneficiary. If no refund beneficiary survives the former member, the difference shall be paid to the former member's estate.

(b) *Pensions; commencement and duration.*

(1) Effective January 1, 1987, an early, normal or disability pension shall commence the first day of the calendar month following retirement. A pre-retirement survivor pension shall commence the first day of the calendar month following the date of the death resulting in the survivor pension. A post-retirement survivor pension shall commence the first day of the calendar month following the date of the death resulting in the survivor pension.

(2) Termination of payment of a pension shall occur at the end of the calendar month in which the event causing termination occurs. Payment shall be made for the full month of termination.

(3) A change in the amount of a pension shall occur the first day of the calendar month following the date of the event causing the change.

(4) A pension being paid a survivor pension beneficiary, which would terminate upon remarriage of the survivor pension beneficiary under the provisions of the retirement ordinance in effect at the time the pension was granted, shall not be terminated if remarriage which would cause termination occurs after December 31, 1989.

(c) *Denial of claim for benefits; appeal to retirement commission.* A benefit claimant shall be notified in writing, within 30 days, of denial of a claim for a benefit. The notification shall give the reason for the denial. A claimant may appeal the denial and request a hearing before the retirement commission. The appeal shall be in writing filed with the retirement system within 90 days of the date of the notification of denial. The appeal shall contain a statement of the claimant's reasons for claiming the denial to be improper. The retirement system shall schedule a hearing of the appeal before the retirement commission within 60 days of receipt of the appeal.

(d) *Reciprocal retirement act applicable (Act 88).* The retirement system is a reciprocal retirement system under the reciprocal retirement act, Act No. 88 of the Public Acts of Michigan of 1961 (MCL 38.1101 et seq., MSA 4.1601 et seq.), as amended.

(e) *Use of other governmental service.* In no case shall service and compensation from the other governmental entity be used in determining the amount of any benefit under the Retirement System unless the credited service has been transferred between a preceding reciprocal unit and the succeeding reciprocal unit pursuant to section 38.1106 of Public Act 88 of 1961 as amended.

(f) *Transfer to another governmental entity.* A member of the retirement system who is transferred to the employ of another governmental entity because a function of the county is transferred to the other governmental entity may use service with the other governmental entity to meet service requirements of the retirement system, if the following conditions are met:

(1) The member becomes a member of the retirement system of the other governmental entity.

(2) The member does not withdraw the member's accumulated member contributions, member account or employer account from the retirement system.

(Ord. No. 94-747, §§ 27.01--27.06, eff. 12-2-94; Ord. No. 2000-536, § 1, eff. 9-7-00)

**Sec. 141-34. Member contributions; refunds; amount of.**

(a) *General provisions.* The county shall cause the member contributions specified by the member's coverage group and benefit program to be deducted from the compensation of the member. The deducted member contributions shall be paid to the retirement system within five working days and shall be credited to the member's individual account in the reserve for accumulated member contributions or the reserve for member accounts. Continuation of employment by the member shall constitute consent to the deduction of the member contribution.

(b) *Refunds of accumulated member contributions.* An individual's accumulated member contributions shall be paid to the individual upon meeting each of the following conditions:

(1) The individual applies to the retirement system for payment;

(2) The individual does not meet an age and service eligibility requirement for normal retirement;

(3) Membership in the retirement system has been terminated for at least ten days.

If an individual dies and no pension is or will become payable on account of the death, the individual's accumulated member contributions shall be paid to the refund beneficiary on file with the retirement system. If no refund beneficiary survives the individual or if a refund beneficiary is not on file with the retirement system, the accumulated member contributions shall be paid to the individual's estate.

(c) *Refunds of member accounts.*

(1) An individual's member account and vested employer account shall be paid to the individual upon meeting each of the following conditions:

- a. The individual applies to the retirement system for payment;
- b. Membership in the retirement system has been terminated for at least ten days.

(2) If an individual dies and no pension is or will become payable on account of the death, the individual's member account and vested employer account shall be paid to the refund beneficiary on file with the retirement system. If no refund beneficiary survives the individual or if a refund beneficiary is not on file with the retirement system, the member account shall be paid to the individual's estate.

(Ord. No. 94-747, §§ 28.01--28.03, eff. 12-2-94)

**Sec. 141-35. Retirement commission.**

(a) *Composition.*

(1) The retirement commission shall consist of the following eight individual trustees:

- a. The chairperson of the county commission.
- b. The county executive or the individual designated by the executive to serve in the executive's place. The designation shall be in writing and filed with the retirement commission.
- c. Four members of the retirement system, who are residents of the county, to be elected by the members of the retirement system. Each member trustee shall be from a different county department, as provided in the county Charter on January 1, 1987, that is: the county commission; prosecuting attorney; sheriff; county clerk; county treasurer; register of deeds; corporation counsel; personnel; management and budget; health; public works; office of public services; and senior citizens. Employees of all other county agencies shall be considered collectively to be employees of one additional county department for the purposes of this provision. This restriction upon eligibility to serve as a trustee shall not be affected by changes made in the organization and administration of executive departments by an executive reorganization plan. The elections shall be conducted in accordance with procedures adopted by the retirement commission.

d. Two retired members, who are residents of the county, to be elected by the retired members and beneficiaries. The elections shall be conducted in accordance with procedures adopted by the retirement commission.

(2) Retirement commission trustees shall serve without compensation for their service as a retirement commissioner but shall be reimbursed by the retirement system for their actual and necessary expenses incurred in the performance of the duties of retirement commissioner. Absence from work on account of retirement commission duties is authorized and shall be treated so that the individual suffers no loss of pay or benefits.

(b) *Term of office; oath of office; vacancies.*

(1) The term of office of the elected member trustees shall be four years, one such term of office to expire at the end of each calendar year. The term office of the elected retired member trustees shall be four years, one such term to expire at the end of each even-numbered calendar year.

(2) Each trustee shall, prior to taking office, take an oath of office administered by the county clerk.

(3) A vacancy shall occur on the retirement commission if a member elected trustee ceases to be a member or becomes employed in a county department in which is employed another member elected trustee or ceases to be a county resident or resigns.

(4) A vacancy shall occur on the retirement commission if a retired member trustee ceases to be a retired member or ceases to be a county resident or resigns.

(5) A vacancy shall be filled within 90 days, for the unexpired term, in the same manner as the position was previously filled.

(c) *Meetings.* The retirement commission shall schedule sufficient meetings to effectively carry out its duties and shall designate the time and place of each meeting. The retirement commission shall adopt rules of procedure. The retirement commission shall select from its membership a chairperson and a vice-chairperson.

(d) *Quorum; record of proceedings.* Four trustees shall constitute a quorum at any meeting of the retirement commission. At least four concurring votes shall be required for a valid action by the retirement commission. The retirement commission shall keep a written record of its proceedings.

(e) *Executive secretary.* The retirement commission shall appoint an executive secretary. The executive secretary shall be the secretary of the retirement

commission and shall be the administrative officer of the retirement commission. The duties of the executive secretary shall be established by the retirement commission.

(f) *Employees of retirement commission; employment of outside services.*

(1) The retirement commission may employ persons in the county classified service.

(2) The corporation counsel shall be the legal advisor to the retirement commission.

(3) The retirement commission shall designate an actuary who shall advise the board on the actuarial operation of the retirement system and on such other subjects as the retirement system may determine. "Actuary" shall mean a member of the American Academy of Actuaries or an individual who has demonstrated the educational background necessary to effectively render actuarial advice to the retirement system and who has at least five years of relevant public employee retirement system actuarial experience. A partnership or corporation may be designated as actuary if the duties of actuary are performed by or under the direct supervision of an individual who meets the preceding requirements.

(4) The retirement commission shall employ a medical director who is licensed by the State of Michigan to engage in the practice of medicine.

(5) The retirement commission is authorized and empowered to employ such other persons and services as it requires to effectively carry out its duties.

(g) *Reports.*

(1) The retirement commission shall prepare an annual report for each fiscal year. The annual report shall contain information about the financial, actuarial and other activities of the retirement system during the fiscal year. A copy of the annual report shall be furnished the county commission within 300 days of the end of the fiscal year.

(2) A summary of the annual report shall be made available to the members, vested former members, retired members and beneficiaries of the retirement system.

(h) *Investment authority.* The retirement commission is the trustee of the assets of the retirement system. The retirement commission has the authority to invest and reinvest the assets of the retirement system subject to all terms, conditions, limitations and restrictions imposed by the state on the investments of public employee retirement systems. The retirement commission may employ

investment counsel to advise the board in the making and disposition of investments. In exercising its discretionary authority with respect to the management of the assets of the retirement system, the retirement commission shall exercise the care, skill, prudence, and diligence, under the circumstances then prevailing, that an individual of prudence acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and similar objectives.

(i) *Use of retirement system assets; prohibited actions.*

(1) The assets of the retirement system shall be held and invested for the sole purpose of meeting the obligations of the retirement system and shall be used for no other purpose.

(2) Members of the retirement commission and its employees are prohibited from:

a. Having a beneficial interest, direct or indirect, in an investment of the retirement system.

b. Borrowing from the retirement system.

c. Receiving any pay or emolument from any individual or organization, other than compensation for personal services or reimbursement of authorized expenses paid by the retirement system, providing services to the retirement system.

(3) No payment shall be made unless it has been authorized in advance by a specific or continuing resolution of the retirement commission. Authorized payments shall be made by county voucher signed by two persons designated by the retirement commission. An attested copy of the resolution designating the persons and specimen signatures shall be filed with the county treasurer.

(Ord. No. 94-747, §§ 29.01--29.09, eff. 12-2-94)

**Sec. 141-36. Financial objective; contribution certification.**

(a) *Financial objective.*

(1) The financial objective of the retirement system is to receive contributions each fiscal year which, as a percentage of member payroll, are designed to remain level from year to year and are sufficient to (i) fund the actuarial cost allocated to the current year by the actuarial cost method, and (ii) fund unfunded actuarial costs allocated to prior years by the actuarial cost method as follows:

- a. Over not more than 35 years for amounts existing December 1, 1982.
- b. Over not more than 25 years for amounts arising from benefit changes effective after November 30, 1982.
- c. Over not more than 15 years for amounts arising from experience losses or gains during retirement system fiscal years ending after November 30, 1981.

(2) Contribution requirements for defined benefits shall be determined by annual actuarial valuation. The actuarial cost method shall be one which produces a contribution requirement not less than the contribution requirement produced by the individual entry-age normal cost method.

(3) The excess of actual contributions made for periods after November 30, 1981, over the minimum required by subsections (a)(1) and (2) of this section may be used to reduce contributions required for subsequent fiscal years.

(4) Contribution requirements of the county for defined contribution benefits shall be in accordance with the county contribution program specified for a member's coverage group. The contribution requirement may be actuarially discounted for anticipated forfeitures.

- (b) *Certification of contribution requirement.* The retirement commission shall certify to the county executive the amount of annual contribution needed to meet the financial objective.

(Ord. No. 94-747, §§ 30.01, 30.02, eff. 12-2-94)

**Sec. 141-37. Reserve accounting.**

- (a) *Reserve for accumulated member contributions.*

(1) The reserve for accumulated member contributions is the account in which is accumulated the defined benefit contributions deducted from the compensation of members or otherwise paid to the retirement system by the member or on the member's behalf, and which shall be charged with refunds of accumulated member contributions and transfers of accumulated member contributions as provided in this chapter.

(2) A member's accumulated member contributions shall be transferred from the reserve for accumulated member contributions to the reserve for pension payments if a pension becomes payable on account of the member's retirement or death. At the expiration of a period of four years

from the date a member ceases to be a member and does not become a vested former member, the individual's accumulated member contributions unclaimed by the individual or the individual's legal representative shall be transferred to the reserve for undistributed investment income.

(b) *Reserve for member accounts.*

(1) The reserve for accumulated member accounts is the account in which is accumulated the defined contribution contributions deducted from the compensation of members or otherwise paid to the retirement system by the member or on the member's behalf, and which shall be charged with refunds of member accounts and transfers of member accounts as provided in this chapter.

(2) A member's member account shall be transferred from the reserve for accumulated member contributions to the reserve for pension payments if a pension becomes payable on account of the member's retirement or death. At the expiration of a period of four years from the date a member ceases to be a member and does not become a vested former member, the individual's member account unclaimed by the individual or the individual's legal representative shall be transferred to the reserve for undistributed investment income.

(c) *Reserve for pension payments.*

(1) The reserve for pension payments is the account which is charged for all pension payments and refunds of accumulated member contributions and member accounts which have been transferred to this account. If a disability pension is terminated and the individual becomes a member or a vested former member, any excess of the accumulated member contributions or member account transferred to this account as a result of the disability retirement over the aggregate amount of pension paid shall be transferred to the reserve for member contributions or the reserve for member accounts.

(2) Each year following receipt of the report of the annual actuarial valuation, the balance in the reserve for pension payments shall be set equal to the actuarial present value of pensions being paid retired members and beneficiaries by a transfer to or from the reserve for defined benefit employer contributions or the reserve for defined contribution employer contributions. The pending transfer shall be taken into account by the actuary when making the actuarial valuation.

(d) *Reserve for defined benefit employer contributions.* The reserve for defined benefit employer contributions is the account to which is credited defined benefit

county contributions and other revenues from public sources and from which shall be made transfers to the reserve for pension payments and to the reserve for undistributed investment income.

(e) *Reserve for defined contribution employer contributions.* The reserve for defined contribution employer contributions is the account to which is credited defined contribution county contributions and from which shall be made transfers to the reserve for pension payments and to the reserve for undistributed investment income.

(f) *Reserve for undistributed investment income and administrative expenses.*

(1) The reserve for undistributed investment income is the account to which is credited all interest, dividends, and other income from retirement system assets; all gifts and bequests; all unclaimed accumulated member contributions, member accounts and pensions; and, all other monies received by the retirement system the disposition of which is not specifically provided. There shall be transferred from the reserve account all amounts required to credit interest to the other reserve accounts and pay the expenses of operating the retirement system.

(2) The county shall provide the retirement system with the county services and facilities customarily furnished other county departments and employees. The cost of the services and facilities shall be paid for by the county.

(3) Separate subaccounts shall be maintained for defined benefit and defined contribution equity.

(4) Whenever the retirement commission determines the balance in the defined benefit subaccount is more than sufficient to cover current charges, the excess of any part thereof may be used to fund contingency reserves or meet special requirements of the other reserve accounts. Whenever the balance in the subaccount is insufficient to cover current charges, the amount of the insufficiency shall be transferred to the subaccount from the reserve for employer contributions.

(g) *Asset segregation.* The descriptions of the reserve accounts shall be interpreted to refer to the accounting records of the retirement system and not to the segregation of assets by reserve account. The retirement commission may segregate assets attributable to defined contribution benefits. The retirement commission shall segregate assets attributable to the participation of bailiffs in accordance with Act No. 198 of the Public Acts of Michigan of 1963 (MCL 600.2576, MSA 27A.2576), as amended.

(h) *Interest credited to reserve accounts.*

(1) The retirement commission shall at least annually credit interest on the individual balances in the reserve for accumulated member contributions, the reserve for member accounts and the reserve for defined contribution employer contributions, and on the balances in the reserve for pension payments and the reserve for defined benefit employer contributions. The amount of interest so credited shall be charged to the reserve for undistributed investment income.

(2) The retirement commission shall determine the rate or rates of interest to be used in the crediting of interest.

(Ord. No. 94-747, §§ 31.01--31.08, eff. 12-2-94; Ord. No. 97-728, § 1, eff. 12-18-97)

**Sec. 141-38. Assignments prohibited.**

(a) The right of an individual to a pension, to refund of accumulated member contributions or the member account, the employer account, the pension itself, or any other right accrued or accruing to any individual, and the assets of the retirement system, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or other process of law except an eligible domestic relations order (EDRO) which meets the requirements as specified by Michigan statute for such an order, or a domestic relations order (DRO) which does not increase the financial or administrative obligation of the county or the retirement system, and shall be unassignable except as otherwise specifically provided by the retirement ordinance.

(b) The retirement system may make member loans to members covered by a defined contribution program of benefits. Loans shall be made pursuant to a loan program adopted by the board of trustees. The loan program shall limit loans to those which will not be considered a distribution to the member under applicable provisions of the Internal Revenue Code. The loan program shall be established in writing by the retirement commission in compliance with the applicable provisions of the Internal Revenue Code and Regulations.

The member loan program shall be contained in a separate written document which, when properly executed by the board of trustees, is hereby incorporated by reference and made a part of the retirement system. The member loan program may be modified or amended in writing from time to time without the necessity of amending this subsection. The cost of administering the loan program shall be funded by the county.

(Ord. No. 94-747, § 32.01, eff. 12-2-94; Ord. No. 2000-536, § 1, eff. 9-7-00)

**Sec. 141-39. Deductions for certain benefits authorized.**

If a retired member or beneficiary is covered by a group life insurance or group medical insurance or prepayment plan sponsored or participated in by the county, the retired member or beneficiary may authorize the retirement system to deduct from pension payments any required payments in consideration of the coverage.

(Ord. No. 94-747, § 32.02, eff. 12-2-94)

**Sec. 141-40. Subrogation; right of setoff.**

- (a) If an individual becomes entitled to a pension or other benefit payable by the retirement system as a result of an accident or injury caused by the act of a third party, the county shall be subrogated to the rights of the individual against the third party to the extent of county-financed benefits which the retirement system pays or becomes liable for payment.
- (b) The retirement system shall have the right of setoff to recover overpayments made by the retirement system and to satisfy any claim arising from embezzlement or fraud committed by a member, retired member, vested former member, beneficiary or other individual having a claim to benefits.

(Ord. No. 94-747, § 32.03, eff. 12-2-94)

**Sec. 141-41. Correction of errors.**

The retirement system shall correct errors in records and actions of the retirement system. The retirement system shall seek to recover overpayments and shall make up underpayments. Recovery of overpayments may be accomplished by reducing the amount of future payments so that the actuarial present value of actual payments to the recipient is equal to the actuarial present value of payments to which the recipient is correctly entitled. However, overpayments which have occurred as the result of retirement system administrative errors and were not caused by erroneous information provided by the recipient/agent of the recipient or as the result of an intentional tort on the part of the recipient or on the part of any retirement system staff, shall be recovered for a period not to exceed two years of overpayments.

However, overpayments which have occurred as the result of retirement system administrative errors and were not caused by erroneous information provided by the recipient/agent of the recipient or as the result of an intentional tort on the part of the recipient or on the part of any retirement system staff, shall be recovered for a period not to exceed two years of overpayments.

(Ord. No. 94-747, § 32.04, eff. 12-2-94; Ord. No. 98-335, § 1, eff. 6-2-98; Ord. No. 2000-536, § 1, eff. 9-7-00)

**Sec. 141-42. Internal Revenue Code qualification.**

(a) The retirement system is intended and has been administered to be a qualified pension plan under 401 of the Internal Revenue Code, as amended (IRC or Code), or successor provisions of law, including the Tax Reform Act of 1986 (TRA 86); the Technical and Miscellaneous Revenue Act of 1988 (TAMRA); the Unemployment Compensation Amendments of 1992 (UCA); the Omnibus Budget Reconciliation Act of 1993 (OBRA); the Uniformed Service Employment and Reemployment Rights Act of 1994 (USERRA); the Uruguay Round Agreements Act of 1994 (GATT); the Small Business Job Protection Act of 1996 (SBJPA 96); the Taxpayer Relief Act of 1997 (TRA 97); the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98); the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), and other applicable laws, regulations and administrative authority. The retirement system is a governmental plan under IRC 414(d) and is administered for the exclusive benefit of the plans participants and their beneficiaries. The retirement system trust is an exempt organization under IRC 501. The retirement commission may adopt such additional provisions to the retirement system as are necessary to fulfill this intent.

(b) Limitations on benefits and contributions. The amount of annual benefits and contributions credited a member in any given year shall be subject to the following limitations:

(1) *Defined benefit plans.* The maximum permissible annual pension benefit with respect to any member shall be in accordance with IRC 415(b) which provides that such annual pension benefit shall not exceed \$90,000.00, as adjusted for inflation, which for 2002 is \$160,000.00 (the dollar limit).

a. Special dollar limitations. If the benefit is payable prior to age 62, the dollar limitation shall be reduced to the actuarial equivalent of a benefit commencing at age 62. In the case of any full-time police or fire employee, who is a qualified participant as defined in IRC § 415(b)(2)(G), there is no reduction in the dollar limitation. If the benefit is not payable until after age 65, the dollar limitation shall be increased to the actuarial equivalent of a benefit commencing at age 65.

b. In the case of an employee who has less than ten years of participation in the plan, the dollar limitation shall be reduced 1/10 for each year of participation in accordance with IRC 415(b)(5).

(2) *Defined contribution plans.*

a. For limitation years beginning after December 31, 1986 the term "annual addition" means, for purposes of this section, the sum, credited to a participant's account for any limitation year, of:

1. Employer contributions;
2. Employee contributions; and
3. Forfeitures.

b. Annual additions that may be contributed or allocated to a participant's account for a limitation year will not exceed the lesser of:

1. 100 percent of participants compensation, within the meaning of IRC § 415(c)(3), or
2. \$40,000.00, as adjusted for increases in the cost of living pursuant to IRC § 415(d).

c. Valuation of investments. Investments of the plan shall be valued as of the last day of each plan year in accordance in the methods consistently followed and uniformly applied to determine fair market value and in accordance with the requirements of Revenue Ruling 80-155. Contributions to the plan, along with earnings thereon, shall be distributed in accordance with the terms of the plan.

(3) *Excess benefit payment.* The retirement system shall not pay any benefit that would exceed the benefit limitations for governmental plans as set forth in IRC 415 and regulations, as amended.

(4) *Compensation.* As defined by IRC § 415(c)(3)(D) and Treas. Reg. 1.415-2(d)(2)(i), compensation means amounts actually paid to the employee during the limitation year, including: wages, salary, professional fees, percentage of profits, commissions, tips and bonuses paid or made available to the member during the limitation year for personal services actually rendered in the course of employment, any elective deferral, and any amount which is contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of IRC 125 or 457.

(c) Distributions. With respect to distributions under the plan made for calendar years beginning on or after January 1, 2001, the plan will apply the minimum distribution requirements of IRC 401(a)(9) in accordance with the regulations under IRC 401(a)(9) that were proposed in January 2001, notwithstanding any provision in the plan to the contrary. This amendment shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations under 401(a)(9) or such other date as may be specified in guidance published by the Internal Revenue Service. Pursuant to IRC 401(a)(9)(A)(ii), a members interest in the trust must begin to be distributed by the later of (i) April 1

of the calendar year following the calendar year that the employee attains the age of 70 1/2, or (ii) April 1 of the calendar year the member retires.

(d) **Eligible rollover distributions.** This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributees election under this section, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee as a direct rollover. The following definitions shall apply with regard to this section.

(1) *Eligible rollover distribution.* An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint live (or joint life expectancies) of the distributee and the distributees designated beneficiary, or for a specified period of ten years or more, and any distribution to the extent such distribution is required under IRC 401(a)(9). For purposes of the direct rollover provision, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in IRC 408(a) or (b), or to a qualified plan described in IRC 401(a) or 403(b) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(2) *Eligible retirement plan.* An eligible retirement plan is an individual retirement account described in IRC 408(a), an individual retirement annuity described in IRC 408(a), an annuity plan described in IRC 403(a), an annuity contract described in IRC 403(b), an eligible plan under IRC 457 which is maintained by a state, political subdivision of a state and which agrees to separately account for amounts transferred into such plan or a qualified trust described in IRC 401(a), that accepts the distributees eligible rollover distribution. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a domestic relations order.

(3) *Distributee.* A distributee includes an employee or former employee. In addition, the employees or former employees surviving spouse is a distributee with regard to the interest of the surviving spouse.

(4) *Direct rollover.* A direct rollover is a payment by the retirement system to the eligible retirement plan specified by the distributee.

(e) *Maximum annual earnings.* For plan years beginning on or after January 1, 1989 and before July 1, 1996, the annual compensation of each participant taken into account for determining all benefits provided under the plan for any determination period shall not include any amounts in excess of the annual compensation limit (originally \$200,000.00) provided for in IRC 401(a)(17) prior to the Omnibus Budget Reconciliation Act of 1993 (OBRA "93") and adjusted for inflation in the manner provided by IRC 401(a)(17). For plan years beginning on or after July 1, 1996, the annual compensation of each employee taken into account shall not exceed the annual compensation limit provided for in IRC 401(a)(17), as amended by the Omnibus Budget Reconciliation Act of 1993 (OBRA "93") (\$200,000.00 in 2002). This limit may be adjusted as required by federal law for qualified government plans and shall be further adjusted for inflation in the manner provided by IRC 401(a)(17). Annual compensation means compensation during the plan year or such other consecutive 12-month period over which compensation is otherwise determined under the plan. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

(f) *Actuarial assumptions.* Actuarial equivalence will be determined on the basis of the interest rate and mortality tables adopted by the retirement commission. Actuarial assumptions that will be used to determine the amount or level of any optional benefit forms will be the actuarial equivalent of the normal retirement benefit. Optional benefits provided under the plan shall be actuarial adjusted in relation to the straight life annuity. For purposes determining the IRC 415 limitations, the interest rate assumption will not be less than the greater of five percent or the rate specified in the plan for determining actuarial equivalence for the particular form of retirement benefit. The actuarial early retirement reduction and reduction of the dollar limit if the employee has less than ten years of participation under IRC 415 do not apply to income received as a pension or annuity as a result of an employees personal injury, sickness or death and shall be administered in accordance with IRC 415(b)(2), as amended.

(g) *Forfeitures.* Upon a members termination date, the value of any forfeitable accrued benefit shall be forfeited by the member as of the termination date. The value of such forfeitures shall be used to reduce the employers future contributions under the plan in accordance with IRC 401(a)(8). No forfeitures under the plan shall be applied to increase the benefits that any member or beneficiary would otherwise receive at any time prior to the time when the plan may be terminated. If a member whose employment has terminated does not retain a vested benefit under the plan, he/she shall no longer be a member or retain or earn credited service under the plan unless and until he/she again becomes an employee.

(h) Military service. Notwithstanding any provision of the plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with IRC 414(u) and regulations.

(i) Forfeitability of accrued benefits. An employee's right to his/her normal retirement benefit is nonforfeitable on the attainment of his/her normal retirement age as defined in IRC 411(d)(3) and as defined and protected by Article 9 Section 24 of the State of Michigan Constitution. In the event of termination or partial termination of the plan, a member's interest is nonforfeitable to the extent funded in conformity with applicable sections of the Code and Regulations.

(j) Prohibition against reversion. The retirement system and trust have been created for the exclusive benefit of the members and beneficiaries as set forth herein. The funds thereof have been established for the benefit of the members and for the operation of the retirement system. No part of the principal and income of any of the funds of the system and trust shall revert to or be returned to the county prior to the satisfaction of all liabilities hereunder to all members, beneficiaries and anyone claiming by or through them.

(k) Vesting. Pursuant to IRC 411(e) as in effect in 1974, a member shall be 100 percent vested in his/her accrued benefit when he or she attains normal retirement age.

(l) Plan year. The plan year shall be the 12 consecutive month period commencing on July 1 and each anniversary thereafter.

(Ord. No. 94-747, § 32.05, eff. 12-2-94; Ord. No. 2003-124, § 1(6), eff. 3-20-03)

**Sec. 141-43. Medicare benefits.**

Thirty days prior to turning 65 years of age, the retirement member shall complete the necessary documents to apply for Part B medicare benefits through the Social Security Administration.

(Ord. No. 2002-1103, § 1, eff. 12-5-02)