

# MACOMB COUNTY EMPLOYEES RETIREMENT SYSTEM ORDINANCE



## HISTORY:

<u>DATE</u>	<u>DESCRIPTION</u>	<u>RELATED ORDINANCE</u>
March 6, 1995	As approved	n/a
September 28, 1995	Amended Sec.14(b)	n/a
January 25, 1996	Amended Sec. 22(a)(21)	n/a
October 24, 1996	Amended Sec. 50(d)	n/a
June 26, 1997	Amended Sec. 31(b)	n/a
October 25, 2001	Amended Sec. 21; and Sec. 22(a)(2)	n/a
February 21, 2002	Amended Sec. 2(3); Sec. 15; Sec. 20(c); Sec. 26(c)(1)(A), (B), (C), (D); Sec. 44; Sec. 50(d)(e); Sec. 56; and Sec. 57	n/a
September 18, 2003	Amended Sec. 2(3)	n/a
November 17, 2006	Adopted change in mortality table	n/a
December 16, 2010	Amended Sec. 4	n/a
November 20, 2014	Amended Sec. 2(4); and Sec. 2(8)	Ordinance 2014-12
December 8, 2016	Amended Sec. 18; Re-stated Ord	Ordinance 2016-06
December 14, 2017	Amended Sec. 18 via Ord. 2017-05	Ordinance 2016-06
August 30, 2018	Adopted Ordinance 2018-03 – formatting updates to Ordinance 2016-06	n/a

**BOARD OF COMMISSIONERS  
MACOMB COUNTY, MICHIGAN**

**ENROLLED ORDINANCE  
NO: 2018-03**

**MACOMB COUNTY EMPLOYEES RETIREMENT SYSTEM ORDINANCE  
RESTATED ORDINANCE**

THE PEOPLE OF THE CHARTER COUNTY OF MACOMB ORDAIN:

**TABLE OF CONTENTS**

<b>SECTION 1.</b>	<b>ESTABLISHMENT AND PURPOSE</b>	<b>4</b>
<b>SECTION 2.</b>	<b>DEFINITIONS</b>	<b>4</b>
<b>SECTION 3.</b>	<b>RETIREMENT BOARD CREATED</b>	<b>7</b>
<b>SECTION 4.</b>	<b>RETIREMENT BOARD MEMBERS</b>	<b>7</b>
<b>SECTION 5.</b>	<b>TRUSTEE'S TERM OF OFFICE</b>	<b>7</b>
<b>SECTION 6.</b>	<b>OATH OF OFFICE</b>	<b>8</b>
<b>SECTION 7.</b>	<b>VACANCY ON BOARD</b>	<b>8</b>
<b>SECTION 8.</b>	<b>RETIREMENT BOARD OFFICERS – MEETINGS</b>	<b>8</b>
<b>SECTION 9.</b>	<b>QUORUM – VOTING</b>	<b>8</b>
<b>SECTION 10.</b>	<b>RESERVED</b>	<b>9</b>
<b>SECTION 11.</b>	<b>RETIREMENT BOARD AUTHORITY</b>	<b>9</b>
<b>SECTION 12.</b>	<b>USE OF ASSETS; PROHIBITED ACTIONS</b>	<b>10</b>
<b>SECTION 13.</b>	<b>RECORDS</b>	<b>10</b>
<b>SECTION 14.</b>	<b>REPORT TO COUNTY BOARD OF COMMISSIONERS</b>	<b>10</b>
<b>SECTION 15.</b>	<b>MORTALITY AND OTHER TABLES</b>	<b>11</b>
<b>SECTION 16.</b>	<b>MEMBERSHIP OF THE MCERS</b>	<b>11</b>
<b>SECTION 17.</b>	<b>MEMBERSHIP CEASES</b>	<b>12</b>
<b>SECTION 18.</b>	<b>MEMBERSHIP REINSTATEMENT</b>	<b>12</b>
<b>SECTION 19.</b>	<b>SERVICE CREDIT</b>	<b>12</b>

<b>SECTION 20.</b>	<b>MILITARY SERVICE CREDIT</b>	<b>13</b>
<b>SECTION 21.</b>	<b>SERVICE RETIREMENT</b>	<b>13</b>
<b>SECTION 22.</b>	<b>PENSION</b>	<b>14</b>
<b>SECTION 23.</b>	<b>DEFERRED PENSION</b>	<b>15</b>
<b>SECTION 24.</b>	<b>NON-DUTY DEATH BEFORE RETIREMENT - BENEFICIARY NOMINATED</b>	<b>15</b>
<b>SECTION 25.</b>	<b>NON-DUTY DEATH PENSION AUTOMATIC PROVISIONS</b>	<b>15</b>
<b>SECTION 26.</b>	<b>PENSION OPTIONS</b>	<b>16</b>
<b>SECTION 27.</b>	<b>SUPPLEMENTAL RETIREMENT PAYMENTS</b>	<b>17</b>
<b>SECTION 28.</b>	<b>DISABILITY RETIREMENT</b>	<b>17</b>
<b>SECTION 29.</b>	<b>DUTY DISABILITY RETIREMENT</b>	<b>18</b>
<b>SECTION 30.</b>	<b>DISABILITY PENSION</b>	<b>18</b>
<b>SECTION 31.</b>	<b>RECOMPUTATION OF DUTY DISABILITY PENSION</b>	<b>18</b>
<b>SECTION 32.</b>	<b>RE-EXAMINATION OF DISABILITY RETIRANTS</b>	<b>18</b>
<b>SECTION 33.</b>	<b>DISABILITY RETIRANTS RESTORED TO SERVICE – CONDITIONS</b>	<b>19</b>
<b>SECTION 34.</b>	<b>REFUND OF MEMBERS' CONTRIBUTIONS</b>	<b>19</b>
<b>SECTION 35.</b>	<b>DEATH IN LINE OF DUTY</b>	<b>20</b>
<b>SECTION 36.</b>	<b>EMPLOYEES PENSION RESERVE</b>	<b>20</b>
<b>SECTION 37.</b>	<b>COUNTY PENSION RESERVE</b>	<b>21</b>
<b>SECTION 38.</b>	<b>RETIREMENT RESERVE TRANSFERS</b>	<b>21</b>
<b>SECTION 39.</b>	<b>FINANCIAL OBJECTIVE OF MCERS</b>	<b>22</b>
<b>SECTION 40.</b>	<b>ADMINISTRATIVE FUNDS RESERVE</b>	<b>22</b>
<b>SECTION 41.</b>	<b>MANAGEMENT OF ASSETS</b>	<b>22</b>
<b>SECTION 42.</b>	<b>RESERVED</b>	<b>22</b>
<b>SECTION 43.</b>	<b>METHOD OF PAYMENT FROM RESERVES</b>	<b>22</b>
<b>SECTION 44.</b>	<b>ASSIGNMENTS PROHIBITED; RIGHT OF SET-OFF; SUBROGATION; DOMESTIC RELATIONS ORDERS</b>	<b>23</b>
<b>SECTION 45.</b>	<b>ERRORS</b>	<b>24</b>

<b>SECTION 46.</b>	<b>PROTECTION AGAINST FRAUD</b>	<b>24</b>
<b>SECTION 47.</b>	<b>VESTING UPON MCERS TERMINATION</b>	<b>24</b>
<b>SECTION 48.</b>	<b>RESERVED</b>	<b>24</b>
<b>SECTION 49.</b>	<b>EXCLUSIVE BENEFIT OF MEMBERS</b>	<b>24</b>
<b>SECTION 50.</b>	<b>DENIAL OF BENEFIT CLAIM; APPEAL</b>	<b>24</b>
<b>SECTION 51.</b>	<b>RE-EMPLOYMENT AFTER RETIREMENT</b>	<b>25</b>
<b>SECTION 52.</b>	<b>RECIPROCAL RETIREMENT ACT</b>	<b>25</b>
<b>SECTION 53.</b>	<b>APPLICABILITY OF PROVISIONS TO UNION AND TO NON UNION EMPLOYEES AND ELECTED OFFICIALS</b>	<b>25</b>
<b>SECTION 54.</b>	<b>LAWS; INCONSISTENT AUTHORITY REPEALED</b>	<b>26</b>
<b>SECTION 55.</b>	<b>SAVING PROVISION</b>	<b>26</b>
<b>SECTION 56.</b>	<b>EFFECTIVE DATE</b>	<b>26</b>
<b>SECTION 57.</b>	<b>QUALIFIED RETIREMENT SYSTEM</b>	<b>26</b>
<b>SECTION 58.</b>	<b>DEFERRED RETIREMENT OPTION PLAN</b>	<b>27</b>

## **SECTION 1. ESTABLISHMENT AND PURPOSE**

The Macomb County Employees Retirement System (MCERS), established effective May 1, 1946 under authority of the County Board of Commissioner Act, Public Act 46.12a of 1851, as amended (MCL §46.12a) is continued for the purpose of providing retirement benefits for the members of MCERS and survivor benefits to their qualifying beneficiaries.

This Ordinance may be cited as the MCERS Ordinance.

This restatement will apply to individuals employed by the County on and after the effective date of the restatement. The retirement rights of an individual whose employment terminated before the effective date of this restatement will be governed by the provisions of MCERS in effect on the date the individual last terminated employment.

This Ordinance shall be put into effect immediately upon final passage by the Board of Commissioners of the County of Macomb with an effective date of immediately after notice of publication.

## **SECTION 2. DEFINITIONS**

The following words and phrases as used in the MCERS Ordinance, unless a different meaning is clearly required by the context, shall have the following meanings:

- (A) “Accumulated Contributions” means the sum of all amounts deducted from the compensations of a member or paid in and credited to the member’s account in the Employees’ Pension Reserve, together with regular interest thereon.
- (B) “Actuary” means the actuary retained by the Board to advise the Board on actuarial matters regarding MCERS.’
- (C) “Actuarially equivalent” means that the two benefits being compared have equal actuarial present values. Actuarial equivalencies shall be calculated using assumptions adopted by the Board.
- (D) “Beneficiary” means any person, except a retirant, who is in receipt of, or who is designated to receive a pension or other benefit payable by the MCERS.
- (E) “Board” means the Board of Commissioners of the Macomb County Employees Retirement System.
- (F) “Compensation” means the salary or wages paid an employee for services rendered the County while a member of MCERS. Salary and wages shall include all payments unless otherwise stated by Board resolution which shall be incorporated into the MCERS Ordinance by reference. Compensation for members

represented by collective bargaining agents shall also include or exclude those items specifically provided in the applicable collective bargaining agreement.

- (G) “County” means Macomb County, Michigan, and shall include any agency of Macomb County including the Macomb County 16<sup>th</sup> Circuit, 42<sup>nd</sup> District and Probate Courts, and the Human Services Board operating the Martha T. Berry Medical Care Facility.
- (H) “Credited Service” means service credited to a member to the extent provided in the MCERS Ordinance.
- (I) “Employee” means any person who is in the employ of the County.
- (J) “Final Average Compensation” for members hired before January 1, 2002, or who were vested as of February 27, 2009, means the average of the highest annual compensations received by a member during a period of four (4) consecutive years of credited service contained within the member’s ten (10) years of credited service immediately preceding the date the member’s employment by the County terminates. If the member has less than four (4) years of credited service, final average compensation shall be the average of the member’s annual compensation for the total period of credited service.

For members hired on or after January 1, 2002, or who were not vested as of February 27, 2009, “Final Average Compensation” means the average of the highest annual compensation received by a member during a period of five (5) consecutive years of credited service contained within the members’ ten (10) years of credited service immediately preceding the date the member’s employment by the County terminates. If the member has less than five (5) years of credited service, final average compensation shall be the average of the member’s annual compensation for the total period of credited service.

Final Average Compensation shall be calculated pursuant to the provisions of MCERS and the individual’s applicable collective bargaining agreement in effect at the termination of each period of membership.

For purposes of calculating Final Average Compensation, the term “year” shall mean twenty-six (26) consecutive pay periods. The periods of time to be used for final average compensation shall be consecutive.

Retroactive payment of compensation, if any, shall be recognized in the period for which the compensation was earned, not in the period in which the compensation was received.

- (K) “Insurable Interest” means a reasonable basis, founded on the relations of the parties, whether pecuniary, contractual or by blood or affinity, supporting the continued life of the member.
- (L) “Medical Director” means a physician or entity retaining physicians who shall be responsible for medical examinations and certifications required under the provisions of MCERS.

- (M) “Member” means any person included in the membership of the Retirement System under Section 16 of the MCERS Ordinance.
- (N) “Pension” means the annual amount payable in equal monthly installments throughout the future life of a person, or for a temporary period as provided in the MCERS Ordinance.
- (O) “Regular Interest” means such rate or rates of interest per annum, compounded annual, as the Board shall from time to time adopt, subject to the approval of the County Board of Commissioners.
- (P) “Retirant” means any member who retires with a pension payable by the MCERS.
- (Q) “Retirement” means a Member’s withdrawal from the employ of the County with a pension paid by the MCERS.
- (R) “Retirement System” or “MCERS” means the Macomb County Employees Retirement System.
- (S) “Service” means service rendered to the County and qualifying military service pursuant to Section 20 of the MCERS Ordinance.
- (T) “Vested” means attainment of: (1) - Eight (8) or more years of credited service for Members hired by the County on or before December 31, 2011; (2) - Fifteen (15) years of credited service for Members hired by the County during the period of January 1, 2012, to December 31, 2015; or (3) – Five (5) years of credited service for Members hired by the County on or after January 1, 2016.
- (U) “Vested Former Member” means an individual who was vested, ceased to be a Member for a reason other than retirement, and who has not withdrawn their accumulated contributions.
- (V) “Workers’ Compensation” means benefits paid under the Workers’ Disability Compensation Act of Michigan on account of a Member’s disability or death arising out of and in the course of County employment.
- (W) “Workers’ Compensation Period” means the period a person is in receipt of workers’ compensation. If the person is paid a single sum in lieu of future workers’ compensation, the “Workers Compensation Period” shall be the period, if any, the person was in receipt of weekly workers’ compensation, plus the period arrived at by dividing the single sum by the person’s weekly workers’ compensation award. For purposes of this Section, attorney fees, amounts specifically allocated for past, present and future medical expenses, and statutory redemption fees shall not be included in the single sum workers’ compensation amount.

### **SECTION 3. RETIREMENT BOARD**

The Retirement Board is vested the general administration, management and responsibility for the proper operation of the MCERS, and for the construing and making effective the provisions of the MCERS Ordinance. In exercising its authority, the Board shall exercise the care, skill, prudence and diligence under the circumstances then prevailing, that a person of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise with like aims. When acting on issues concerning MCERS membership, disabilities, benefit eligibility and other benefits-related issues or issues related to the interpretation of this Ordinance, the Retirement Board shall be a quasi-judicial body, the decisions of which shall be subject to the deference and standard of review applicable to quasi-judicial bodies.

### **SECTION 4. RETIREMENT BOARD MEMBERS**

The Retirement Board shall consist of seven (7) Trustees as follows:

(A) The County Executive or the County Executive's designee.

(B) The Treasurer or the Treasurer's designee.

(C) The Chairperson of the Macomb County Board of Commissioners or the Chairperson's designee.

(D) The Director of the Macomb County department of Roads.

(E) Three (3) active Members of the MCERS elected by active Members of the MCERS. The election of the Trustees pursuant to this subsection shall be conducted in the manner provided by the rules and regulations adopted by the Board to govern such elections.

(F) One additional non-voting member shall be elected by retired County employees in the manner provided by the rules and regulations adopted by the Board.

### **SECTION 5. TRUSTEE'S TERM OF OFFICE**

The regular term of the position of Trustee for the Trustees provided in Section 4(E) shall be three (3) years; one such term to expire annually.

## **SECTION 6. OATH OF OFFICE**

Each member of the Board shall, before assuming the duties of Trustee, take an oath of office to be administered by the County Clerk/Register of Deeds.

## **SECTION 7. VACANCY ON RETIREMENT BOARD**

A vacancy shall occur in a Trustee position upon the Trustee's separation from County service. A vacancy shall occur if a Trustee resigns or is no longer eligible for membership under Section 16 of the MCERS Ordinance. If a vacancy occurs in a Trustee position through separation from County service, or for other reasons, the vacancy shall be filled within ninety (90) days after the date of the vacancy, for the unexpired term, in the same manner as the position was previously filled. A Trustee may be removed from the Board in accordance with the Public Employee Retirement System Investment Act, Public Act 314 of 1965, as amended (MCL §38.1132 *et seq.*).

## **SECTION 8. RETIREMENT BOARD OFFICERS – MEETINGS**

- (A) The Board shall elect from its Trustees a chairperson and a vice-chairperson.
- (B) The County Finance Director shall be the Secretary of the Board and shall serve as the Administrative Officer of MCERS.
- (C) The County Treasurer shall be Treasurer of MCERS and shall be the custodian of its assets, unless the Board designates a corporate custodian which shall be a federal or state chartered bank or trust company.
- (D)
- (E) The County Corporation Counsel shall be legal adviser to the Board. The Board may also retain legal counsel.
- (F) The Board shall adopt its own rules of procedure and shall keep a record of its proceedings. The Board shall hold meetings regularly which shall be held in accordance with the Open Meetings Act, Public Act 267 of 1976, as amended.

## **SECTION 9. QUORUM – VOTING**

Each Trustee shall be entitled to one vote on each question before the Board. Four (4) Trustees shall constitute a quorum and at least four (4) concurring votes shall be necessary for a decision by the Trustees at any meeting of the Board.

## **SECTION 10. RESERVED**

## **SECTION 11. RETIREMENT BOARD AUTHORITY**

The Board shall have the powers necessary to construe and make effective the purposes and provisions of the MCERS Ordinance including, but not limited to, the power:

- (A) To administer the MCERS Ordinance, including the management of MCERS assets and making effective the provisions of the MCERS Ordinance;
- (B) To create and maintain records;
- (C) To make and adopt such reasonable rules and regulations as may be necessary to carry out the duties of the Board and activities of the MCERS, including any rules and regulations necessary to preserve the status of the MCERS as a qualified pension plan consistent with the provisions of the Internal Revenue Code of the United States, as amended, or under successor or related provisions of law.
- (D) To designate committees and to designate committee participants, including individuals who may not be Members in the MCERS;
- (E) To retain accounting, administrative, actuarial, custodial, investment, legal, medical and other personnel and services as are necessary to comply with the provisions of the MCERS;
- (F) To pay the expenses of the MCERS;
- (G) To determine who is a member within the meaning of the provisions of the MCERS Ordinance;
- (H) To adopt, in consultation with its actuary, the actuarial assumptions of the MCERS as are required in the operation of the MCERS;

- (I) To the extent authorized or permitted by law, the Board shall be indemnified and held harmless by the County against any and all liabilities, including legal fees and expenses, arising out of any act or omission made in good faith pursuant to the provisions of the MCERS Ordinance, other than a willful failure to discharge a fiduciary obligation of which a Board member is aware. Further, there shall be no indemnification where a Board member is found by a state or federal agency or court of competent jurisdiction to have incurred liability due to fraud, gross negligence, or malfeasance in the exercise and performance of the Board member's duties.

**SECTION 12. USE OF ASSETS; PROHIBITED ACTIONS**

- (A) All assets of the MCERS shall be held and invested for the sole purpose of meeting the legitimate obligations of the MCERS and shall be used for no other purpose.
- (B) Trustees of the Boards and its employees, if any, are prohibited from:
  - (1) Having a beneficial interest, direct or indirect, in an investment of the MCERS.
  - (2) Borrowing money or assets of the MCERS.
  - (3) Receiving any pay or emolument from any individual or organization providing services to the MCERS other than compensation for services or reimbursement of authorized expenses paid by the MCERS.
- (C) Nothing contained in this section shall be construed to impair the rights of any Member.

**SECTION 13. RECORDS**

The Board shall keep, or cause to be kept, such records as shall be necessary for the administration of the MCERS.

**SECTION 14. REPORT TO COUNTY BOARD OF COMMISSIONERS**

The Board shall render an annual report to the County Board of Commissioners showing the fiscal transactions of the MCERS for the year ending the preceding 31st day of December and a balance sheet showing the financial condition of the MCERS and an actuarial valuation of the assets and liabilities of the MCERS. Except as prohibited by law, the Board shall furnish information to the County Board of Commissioners concerning the MCERS upon request.

## **SECTION 15. MORTALITY AND OTHER TABLES**

The Board shall, from time to time, adopt such mortality and other tables of experience and rate of assumed investment return, as are necessary in the MCERS on an actuarial basis.

## **SECTION 16. MEMBERSHIP OF THE MCERS**

The membership of the MCERS shall consist of the following:

(A) All employees who are either: (1) in a full-time position normally requiring 30 hours or more per week, or (2) in a part-time position normally requiring 1,000 hours or more per year, but less than 30 hours per week, except as provided in Subsection (d) of this section.

(B) The elected County officials as follows: (i) Members of the Macomb County Board of Commissioners, whose initial term of office first commenced before January 1, 2011 or (ii) elected County officials, other than members of the Macomb County Board of Commissioners, whose term of office commenced before January 1, 2016.

(C) Employees hired by the County on or after January 1, 2016 are members of the Plan; however, membership is limited to receipt of the benefits provided in Section 22(a)(3); unless otherwise provided in Section 18.

(D) Unless otherwise provided in Section 18, the membership in the MCERS shall not include: (1) any person engaged for services on a contract or fees basis, (2) any temporary employee, (3) any County employee who is included by law in any other pension or retirement system, except the Federal Social Security System or as otherwise provided in the MCERS Ordinance, by reason of the compensation the individual receives from the County, (4) any member of a board or commission paid exclusively on a per diem basis, (5) any person receiving a pension from the MCERS, (6) any person whose appointment is to a position normally requiring less than 1,000 hours, (7) members of the Macomb County Board of Commissioners, whose initial term of office first commences on or after January 1, 2011, nor (8) elected County officials, other than members of the Macomb County Board of Commissioners, whose term of office commenced on or after January 1, 2016.

(E) A member's commencement of a position (elected or non-elected) shall not be considered a change in membership.

(F) In all cases of doubt, the Board shall decide who is a member of the MCERS within the meaning of the provisions of the MCERS Ordinance.

(G) Under such rules and regulations as the Board shall from time to time adopt, each member shall furnish such information as the Board may require for the proper operation of the MCERS.

#### **SECTION 17. MEMBERSHIP CEASES**

Except as otherwise provided in the MCERS Ordinance, should any member no longer be employed by the County in a position normally requiring 1,000 hours or more per year, for any reason except retirement or death, the individual shall cease to be a member. The former member shall be eligible for a refund of the individual's accumulated contributions and, upon such refund, the individual's credited service at that time shall be forfeited.

#### **SECTION 18. MEMBERSHIP REINSTATEMENT**

Except as otherwise provided in the MCERS Ordinance, in the event a former member is re-employed by the County, within a period of four (4) years from the date the individual last separated from membership, the individual shall again become a Member of the MCERS and the individual's credited service forfeited at the time the individual last separated from membership shall be restored: Provided the Member shall, within one year from and after the individual's re-employment by the County, pay into the Employees' Pension Reserve, by a single contribution, or by an increased rate of contribution as approved by the Board, the amounts the individual may have withdrawn together with regular interest thereon from the date of withdrawal to the date of repayment.

Upon a Former Vested Member's reinstatement of membership, the vesting requirements shall be determined based upon the provisions in effect at the time the individual previously separated from membership.

#### **SECTION 19. SERVICE CREDIT**

(A) In accordance with such rules and regulations as the Board shall from time to time adopt, the Board shall credit each member with the number of years and months of service to which the individual is entitled.

(B) For a member who is a part-time employee, as defined in the MCERS Ordinance, for any portion of a calendar year, service credit in a calendar year shall be one year multiplied by the following fraction: the numerator shall be the number of hours worked during the year, and the denominator shall be full-time hours for the year. Not more than one year of service shall be credited any member for all service rendered by the Member in any calendar year.

(C) Service credit is only credited to a Member for periods in which the Member receives compensation, no service credit will be credited to a Member during any period without compensation; including, without limitation, unpaid leaves under the Family Medical Leave Act.

## **SECTION 20. MILITARY SERVICE CREDIT**

### **PRIOR MILITARY SERVICE**

A member who served in the armed service of the United States before June 1, 1980, or who served in the armed service of the United States on or after June 1, 1980, during a time of war or emergency condition as defined in Section 1 of Public Act 190 of 1965 (MCL § 35.61 *et seq.*) may elect to receive credited service for not more than five years of active military service. Credit for military service shall be given upon request and payment to the MCERS of an amount equal to five percent of the member's full-time or equated full-time annual compensation, as defined in Section 2, for the year in which the payment is made multiplied by the number of years, and fraction of a year, of credited service that the member elects to purchase up to the maximum. Service shall not be credited if the service is or would be credited under any other federal, state, or local publicly supported retirement system, except for service that is or would be credited under the Federal Government for service in the Reserves. Service shall not be credited under this subsection until the member is vested. Only completed years and months of armed service shall be credited under this subsection.

### **INTERVENING MILITARY SERVICE**

A Member who enters or entered any armed service of the United States may purchase credited service for periods of continuous active duty lasting 30 days or more, subject to and in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA), Code Section 414(U) and related regulations and rules.

Qualified military service that is credited to a Member under this subsection shall not be the basis for Credited Service under Sections 20 above.

## **SECTION 21. SERVICE RETIREMENT**

- (A) A Member may retire upon satisfaction of each of the following requirements:
- (1) A written application for retirement has been filed with the MCERS not less than thirty (30) days nor more than ninety (90) days prior to the date of retirement.
  - (2) The individual meets the following applicable age and/or service requirements for retirement:
    - (a) For an individual hired on or before December 31, 2001 or who is vested as of February 26, 2009, the Member must have attained: (A) age 60 with 8 or more years of credited service; or (B) Age 50 with 8 or more years of credited service and have the sum of the Member's age and credited service equal or exceed the sum of 70;
    - (b) For an individual hired on or after January 1, 2002, the Member must have attained: (A) age 60 with 8 or more years of credited service; or (B) age 55 with 25 or more years of credited service;

- (c) For an individual hired during the period of January 1, 2012 to December 31, 2015, the Member must have attained: (A) age 60 with 15 or more years of credited service; or (B) age 55 with 25 or more years of credited service;
- (d) For an individual hired on or after January 1, 2016, the Member must have attained five (5) or more years of credited service.

(B) Upon retirement, the Member shall receive a pension as provided in Section 22, and effective the day following separation from employment.

(C) Any member shall be entitled to retirement pursuant to the provisions of MCERS and the individual's collective bargaining agreement in effect at the time the individual previously separated from membership.

## **SECTION 22. PENSION**

(A) A retirant shall receive a straight life retirement pension; however, prior to the separation from employment, the Member may elect to receive the pension under an option provided in Section 26 in lieu of a straight life pension. Unless otherwise specific in the applicable collective bargaining agreement, the straight life pension shall be as follows:

(1) For an individual hired on or before December 31, 2001, or who is vested as of February 26, 2009, a pension based upon 2.4 percent (.024) of the Member's Final Average Compensation for the first twenty-six (26) years of credited service and one percent (1%) for each year of credited service thereafter multiplied by the Member's credited service. In no case shall the individual's pension exceed sixty-five percent (65%) of Final Average Compensation.

(2) For an individual hired during the period of January 1, 2002, to December 31, 2015, a pension based upon 2.2 percent (.022) of the Member's Final Average Compensation for the first twenty-six (26) years of credited service and one percent (1%) for each year of credited service thereafter multiplied by the Member's credited service. In no case shall the individual's pension exceed sixty-six percent (66%) of Final Average Compensation.

(3) For an individual hired on or after January 1, 2016, the Member is eligible to receive a one-time fixed payment of one thousand (\$1,000.00) dollars.

(B) In no case shall an individual's pension exceed the percentage of Final Average Compensation as provided in the applicable collective bargaining agreement. This limitation is applicable only to the amount of benefit financed by the County.

(C) A member who retires shall receive a pension pursuant to the provisions of the MCERS and the individual's collective bargaining agreement in effect at the termination of each period of membership.

## **SECTION 23. DEFERRED PENSION**

A Vested Former Member may retire upon satisfaction of the requirements of Section 21 (service retirement) and receive a pension computed in accordance with Section 22, or corresponding sections of the MCERS Ordinance in effect on the date of the former member ceased to be a member, which shall begin on the first day of the calendar month next following the date the former member's application is filed with the MCERS after the former member would have become eligible for retirement under the MCERS had the individual not separated from County employment. Payment of a benefit under this section will not be paid retroactively.

A Vested Former Member who withdraws accumulated contributions and voluntarily forfeits credited service in the MCERS thereby forfeits all rights in and to the portion of the pension attributable to the forfeited credited service.

In the event a Vested Former Member dies prior to commencement of a pension, the Vested Former Member's accumulated contributions shall be paid in accordance with Section 34.

## **SECTION 24. NON-DUTY DEATH BEFORE RETIREMENT – BENEFICIARY NOMINATED**

Any member who continues in County employment on or after the date the Member becomes vested, may at any time prior to the effective date of the Member's retirement elect Option A provided in Section 26 in the same manner as if the Member was then retiring from County employment, and nominate a beneficiary whom the Board finds to be dependent upon the member for at least fifty percent (50%) of the beneficiary's support due to lack of financial means. Prior to the effective date of the Member's retirement, a member may revoke the Member's election of Option A and nomination of beneficiary, and the Member may again elect Option A and nominate a beneficiary as provided in this section. Upon the death of a member who has Option A election in force, the beneficiary, if living, shall immediately receive a pension computed in the same manner in all respects as if the member had retired the day preceding the date of the Member's death, notwithstanding that the Member might not have attained age 60 years. If a member has an Option A election in force at the time of the Member's retirement, the Member's election of Option A and nomination of beneficiary shall thereafter continue in force; provided, that prior to the effective date of the Member's retirement, the Member shall have the right to elect to receive a pension as a straight life pension or any available option provided in Section 26. No pension shall be paid under this section on account of the death of a member if any benefits are paid or will become payable under Section 25 on account of the Member's death.

## **SECTION 25. NON-DUTY DEATH PENSION AUTOMATIC PROVISIONS**

Any vested member who continues in the employ of the County and (1) dies while in County employment and (2) leaves a spouse, the spouse shall immediately receive a pension computed in the same manner in all respects as if the member had (1) retired the day preceding the date of the Member's death, (2) elected Option A in Section 26, and (3) nominated the Member's spouse as beneficiary.

## SECTION 26. PENSION OPTIONS

Prior to separation from employment but not thereafter, a Member may elect to receive a pension as a straight life pension payable throughout the Member's life or may elect to receive the actuarial equivalent, at that time, of the Member's straight life pension in a reduced pension payable throughout the Member's life and nominate a beneficiary, in accordance with the provisions of Option A, B, C, D or E set forth below. If a member does not elect an option, the Member's pension shall be paid as a straight life pension.

**Option A.** 100% Survivor pension. Under Option A, subject to subsection (b) of this section, upon the death of the retirant, the reduced pension shall be continued throughout the life of and paid to such person, having an insurable interest in the Member's life, as the Member shall have nominated by written designation duly executed and filed with the Board prior to the beginning date of the Member's pension; or

**Option B.** 50% Survivor pension. Under Option B, subject to subsection (b) of this section, upon the death of a retirant, one half of the reduced pension shall be continued throughout the life of and paid to such person, having an insurable interest in the Member's life, as the Member shall have nominated by written designation duly executed and filed with the Board prior to the beginning date of the Member's pension; or

**Option C.** Pension For Ten Years Certain and Life Thereafter. Under Option C, subject to subsection (b) of this section, a retirant shall receive a reduced pension payable throughout the retirant's life with the provision that if the retirant dies before the retirant has received 120 monthly pension payments, the payments shall be continued for the remainder of the period of 120 months to such person or persons, in equal shares, as the retirant shall have nominated by written designation duly executed and filed with the Board. If there be no such designated person surviving the retirant, such remaining monthly payments shall be continued and paid to the estate or legal representative of the retirant. Under this option, the beneficiary may be changed during the first 120 months of the pension; or

**Option D.** According to such rules and regulations as the Board may from time to time adopt, any member who retires under Section 21 prior to the attainment of age 65 years, may elect to have the Member's straight life pension actuarially equated to provide an increased pension payable to the attainment of age 65 years and a reduced pension payable thereafter. The increased pension payable to the retirant's attainment of age 65 years shall approximate the sum of the reduced pension to be payable after the attainment of age 65 years and the estimated primary social security amount. The retirant shall also have the right to select survivor's benefits as described in Option A, Option B, or Option C. This section shall not apply to a member who retires prior to the attainment of age 60 years; or

**Option E.** Pop-Up Option. A Member may elect this option in combination with Option A or B. Under this option, a reduced pension is payable during the joint lifetime of the retirant and the retirant's beneficiary nominated under Option A or B, whichever is elected. Upon the death of the retirant, the beneficiary will receive a pension for life equal to the percentage specified by Option A or B of the reduced pension payable during the joint lifetime of the retirant and the retirant's beneficiary. Upon the death of the

beneficiary, the retirant will receive a pension equal to one hundred percent of the amount specified by Section 26(a) above for the remaining lifetime of the retirant. The reduced pension payable during the joint lifetime of the retirant and the retirant's beneficiary together with the pension payable to one upon the death of the other will be actuarially equivalent to the pension provided by Section 22 as a single life annuity. This provision shall be without force or effect unless or until the retirant submits acceptable documentation of the death of the beneficiary to the Board.

If any benefits become payable under Section 35 on account of the death of a retirant who was receiving a pension under Option A, B, C, D or E provided in subsection (a) of this section, no pension shall be paid under the said-Option A, B, C, D or E to the designated beneficiary. If all pension payments permanently terminate before there has been paid an aggregate amount equal to the member's accumulated contributions in the Member's Employees' Pension Reserve at the time of the Member's retirement, the difference between the member's accumulated contributions and the aggregate amount of pension payments received by the retirant shall be paid from the Retirement Reserve to the designated beneficiary, if living, otherwise to the retirant's estate or legal representative.

## **SECTION 27. SUPPLEMENTAL RETIREMENT PAYMENTS**

(A) The Board shall establish a reserve for supplemental retirement payments. Such reserve may be funded each year by a portion of investment gains, if any, from the preceding calendar year, attributable to that portion of the total retirement system assets which are reserved to pay the retirement benefits of current retirees.

(B) The Board shall credit the reserve with as much of the investment gain, as exceeds the actuarial assumption of the reserve, as the Board may deem appropriate for the year.

(C) The Board shall distribute to retired County employees and survivor beneficiaries, after approval by the Macomb County Board of Commissioners; a single sum amount as provided for by a formula to be determined by the Board.

(D) The Board, in its own discretion, may determine that no monies paid into said reserve or be distributed in any year.

(E) The formula for distribution of the additional benefit shall be from time to time determined by the Board but in all instances shall take into account the period of time since a person has retired and begun receiving benefits and the period of credited service rendered to the County prior to retirement.

## **SECTION 28. DISABILITY RETIREMENT**

Upon the application of a Member, or the Member's department head, a member who (1) is in the employ of the County, (2) is vested, and (3) has become or becomes totally and permanently incapacitated for duty in the employ of the County, may be retired by the Board: Provided, that after a medical examination of the Member made by or under the direction of the medical director, the medical director certifies to the Board (1) that the Member is mentally or physically totally incapacitated for duty in the employ of the County, (2) that such incapacity will probably be permanent, and (3) that the member should be retired.

## **SECTION 29. DUTY DISABILITY RETIREMENT**

Any member who is not vested shall be considered vested for the exclusive purpose only of qualifying for disability retirement as provided in Section 28: Provided, that (1) the Board finds the Member is totally and permanently incapacitated for duty as the natural and proximate result of a personal injury or disease arising out of and in the course of the Member's actual performance of duty in the service of the County, and, (2) the Member is in the receipt of workers' compensation on account of the Member's physical or mental incapacity.

## **SECTION 30. DISABILITY PENSION**

Upon a member's retirement on account of disability as provided in the MCERS Ordinance, The Member shall receive a straight life disability pension computed according to Section 22. The retirant's disability pension shall be subject to section 32 and shall not be less than \$400.00 per month. During the individual's workers' compensation period, the County pension portion of the disability pension shall not exceed the difference between (1) sixty percent (60%) of the Member's final average compensation, and (2) the individual's workers' compensation, if any, converted to an annual basis. Prior to the date of the Member's retirement, the Member may elect to receive a pension under an option provided in Section 26, except Option D.

## **SECTION 31. RECOMPUTATION OF DUTY DISABILITY PENSION**

Upon termination of the individual's workers' compensation period, if any, arising on account of the Member's County employment, or at the individual's attainment of age 65 years, whichever occurs first, a disability retirant shall be given service credit for the individual's workers' compensation period, but in no case beyond the individual's attainment of age 65 years; and the individual's disability pension provided in Section 30 shall be recomputed to include such additional service credit.

## **SECTION 32. RE-EXAMINATION OF DISABILITY RETIRANTS**

At least once each year during the first five (5) years following the retirement of a member with a disability pension, and at least once in each three (3) year period thereafter, the Board may require the retirant to undergo a medical examination by or under the direction of the medical director. If the retirant refuses to submit to such medical examination in any such period, the retirant's disability pension may be suspended by the Board until the retirant's withdrawal of such refusal. Should such refusal continue for one year, the retirant's disability pension may be revoked by the Board. If, upon such medical examination of a retirant, the medical director reports to the Board that the retirant is physically able and capable of resuming employment with the County and the report is concurred in by the Board, the disability pension shall terminate.

### **SECTION 33. DISABILITY RETIRANTS RESTORED TO SERVICE – CONDITIONS**

The membership status of a retirant who is returned to County employment shall be governed by the provisions of Sections 16 and 18. Credited service shall not be granted for the period of disability retirement unless the individual was in receipt of workers' compensation on account of a disability arising out of and in the course of County employment.

### **SECTION 34. REFUND OF MEMBERS' CONTRIBUTIONS**

(A) Should any member cease to be employed by the County for any reason, except the Member's retirement or death, before the Member has satisfied the age and service requirements for retirement provided in Section 21, the individual shall be paid the accumulated contributions, including any payments for purchase of service credits, in the individual's Employees' Pension Reserve upon the individual's demand in writing on forms furnished by the Board.

(B) Refund to Beneficiary. Should any member die and no pension becomes or will become payable by the MCERS on account of the Member's death, except as provided in Section 35, the accumulated contributions in the Member's Employees' Pension Reserve at the time of the member's death, shall be paid to such person or persons as the Member shall have nominated by written designation duly executed and filed with the Board. If there be no such designated person surviving the member, the Member's accumulated contributions shall be paid to the member's estate or legal representative.

(C) Payments of accumulated contributions, as provided in this section may be made in a single sum, according to such rules and regulations as the Board may from time to time adopt.

(D) Annuity Withdrawal. Any member who retires pursuant to Sections 21, 23 or 29 of the MCERS Ordinance may elect, prior to the effective date of the retirement but not thereafter, to be paid the accumulated contributions, excluding amounts paid in for purchases of credited service, in the Member's Employees' Pension Reserve. Upon this election and the payment of the accumulated contributions, the member's straight life pension shall be reduced by an amount which is the actuarial equivalent of the accumulated contributions paid. The actuarial equivalent shall be determined on the basis of the interest rate established by the Pension Benefit Guaranty Corporation for immediate annuities. Such rates are to be adjusted semi-annually on January 1<sup>st</sup> and July 1<sup>st</sup> of each year and used for the succeeding six months. After such reduction, the member may elect to receive the actuarial equivalent of the reduced pension in accordance with the provisions of Options A, B, C, D or E as described in Section 26.

## **SECTION 35. DEATH IN LINE OF DUTY**

In the event, (1) a member dies as a result of a personal injury or disease arising out of and in the course of the Member's employment by the County, or (2) a disability retiree dies prior to attaining age 60 years and within a period of three (3) years following the individual's effective date of disability retirement as the result of the same injury or disease for which the individual retired, and in either case, the individual's death, injury, or disease resulting in death, is found by the Board to have occurred as the natural and proximate result of causes arising out of and in the course of the Member's actual performance of duty in the service of the County, the applicable benefits provided in paragraphs (A), (B), (C), and (D) of this section shall be paid, subject to the condition that workers' compensation is paid on account of the individual's death.

(A) Accumulated Contributions. In the case of a deceased member, the individual's accumulated contributions in the Employees' Pension Reserve at the time of the Member's death shall be paid in accordance with Section 34.

(B) Payments to Spouse. Upon termination of the statutory period for payment of workers' compensation to the spouse of the deceased member or retiree, the spouse shall receive a pension equal to the spouse's weekly workers' compensation converted to an annual basis, the pension shall continue until the spouse's death.

(C) Payments to Children. Upon termination of the statutory period for payment of workers' compensation to the child or children of the said deceased member or retiree, the child shall receive a pension equal to the child's weekly workers' compensation converted to an annual basis. The child's pension shall terminate upon the child's attainment of 18 years, or death or marriage prior thereto. Should the spouse's pension be terminated as provided in paragraph (b) of this section, and should an unmarried child or children under age 18 years survive the spouse, each such child's pension shall be increased by an equal share of the spouse's pension.

(D) Payment to Parents. Upon termination of the statutory period for payment of workers' compensation to the parent or parents of the deceased member or retiree, the parent or parents shall each receive a pension equal to the parent's weekly worker's compensation converted to an annual basis. The parent's pension shall terminate upon the parent's death.

The statutory period for the payment of workers' compensation shall be reduced proportionate to any payback of workers' compensation received as the result of recovery based upon the liability of a third party.

## **SECTION 36. EMPLOYEES' PENSION RESERVE**

The Employees' Pension Reserve is hereby created. It shall be the Reserve in which shall be accumulated, at regular interest, the contributions deducted from the compensations of members, and from which shall be made refunds and transfers of accumulated contributions as provided in the MCERS Ordinance.

Member contributions to the MCERS shall be based on the following percentage of the Member's compensation, unless otherwise specified in the applicable collective bargaining agreement:

- (A) For an individual hired on or before December 31, 2001, or who is vested as of February 26, 2009, the Member must contribute three and five tenths percent (3.5%) of the Member's compensation;
- (B) For an individual hired on or after January 1, 2002, the Member must contribute two and five tenths percent (2.5%) of the Member's compensation;
- (C) For an individual hired on or after January 1, 2016, the Member must contribute zero percent (0%) of the Member's compensation.

The Member contribution provided in subsection (A) of this section shall be deducted from the compensation of each member. Every member shall be deemed to consent and agree to the deduction made and provided herein. Payment of the Member's compensation less the deduction shall be full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by the Member during the period covered by such payment, except as to benefits provided in the MCERS Ordinance. The contributions when deducted from the compensation of a member shall be paid to the MCERS and shall be credited the member's individual account in the Employees' Pension Reserve.

The interest to be credited to a Member's individual balance in the Employees' Pension Reserve shall be computed at the end of the fiscal year on the Member's balance at the beginning of the year: provided, that no interest shall be credited on any portion of accumulated contributions refunded during the year; nor shall interest be credited a Member after the individual leaves County employment, except as is otherwise specifically provided in the MCERS Ordinance.

Upon the retirement of a member, the Member's accumulated contributions shall be transferred from the Employees' Pension Reserve to the Retirement Reserve.

### **SECTION 37. COUNTY PENSION RESERVE**

The County Pension Reserve is hereby created. It shall be the Reserve in which shall be accumulated reserves for the payment of the Actuary shall annually computer the County Pension Reserves. The County Pension Reserves shall be financed by annual appropriations, to be made by the County.

### **SECTION 38. RETIREMENT RESERVE TRANSFERS**

At the time a pension becomes payable, the County Pension Reserve for such pension shall be transferred from the County Pension Reserve to the Retirement Reserve. The Board may from time to time authorize transfers between the County Pension Reserve and the Retirement Reserve as necessary for the proper maintenance of the Reserves.

**SECTION 39. FINANCIAL OBJECTIVE OF THE MCERS**

The financial objective of the MCERS is to (a) fund the actuarial cost of benefits likely to be paid on account of credited service earned by members during the fiscal year, and (b) fund the unfunded actuarial cost of benefits likely to be paid on account of credited service earned by members prior to the fiscal year over a period of not more than 30 years or less than 30 if otherwise required by law.

**SECTION 40. ADMINISTRATIVE FUNDS RESERVE**

The Administrative Reserve shall be an administrative account of the MCERS for the payment of expenses necessary in connection with the administration and operation of the MCERS.

**SECTION 41. MANAGEMENT OF ASSETS**

(A) The Board shall be the trustees of the assets of the MCERS and shall have full power to invest and reinvest such assets subject to the Public Employee Retirement System Investment Act (Public Act 314 of 1965) (MCL § 38.1132 *et seq.*), as amended.

(B) The Board shall have full power to purchase, hold, sell, assign, transfer, exchange, and dispose of any of the securities and investments in which any of the assets of the MCERS have been invested, as well as the proceeds of the investments and any assets belonging to the MCERS.

(C) All assets of the MCERS shall be held for the sole purpose of meeting disbursements for pensions and other payments authorized by the MCERS Ordinance and shall be used for no other purpose. The description of the various reserves of the MCERS shall be interpreted to refer to the accounting records of the MCERS and not to the segregation of assets in the reserves of the MCERS.

**SECTION 42. RESERVED**

**SECTION 43. METHOD OF PAYMENT FROM RESERVES**

All payments from the reserves of the MCERS shall be made according to provisions of law, the MCERS Ordinance, and the rules and regulations adopted by the Board.

**SECTION 44. ASSIGNMENTS PROHIBITED; RIGHT OF SET-OFF; SUBROGATION; DOMESTIC RELATIONS ORDERS.**

The right of a person to a pension, to the return of accumulated contributions, or the retirement itself, any optional benefit, and any other right accrued or accruing to any member, retirant or beneficiary under the provisions of the MCERS Ordinance and the assets belonging to the MCERS, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever, and shall be unassignable except as is specifically provided in the MCERS Ordinance or by law; including Public Act 100 of 2002, as amended (MCL § 38.1681 *et seq.*).

The County shall have the right of setoff for any claim arising from embezzlement by or fraud of a member, retirant, or beneficiary.

If a member is covered by a group insurance or prepayment plan participated in by the County, and should the individual be permitted to, and elect to, continue such coverage as a retirant, the individual may authorize the Board to have deducted from the Member's pension the payments required of the individual to continue coverage under such group insurance or prepayment plan.

If a person becomes entitled to a pension or other benefit payable by the MCERS 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 the County financed benefits which the MCERS pays or becomes liable for payment.

The right of a member, a vested former member or a retirant to MCERS assets is subject to an eligible domestic relations order under the Eligible Domestic Relations Order Act, Public Act 46 of 1991, as amended, (MCL § 38.1701 *et seq.*).

If a retirant is receiving a reduced pension under an optional form of payment and is divorced from a spouse who had been named the retirant's survivor beneficiary under the MCERS, the election of a reduced pension form of payment shall be considered void by the MCERS if specifically provided in the judgment of divorce or award or court order entered in accordance with the County Board of Commissioner Act, Public Act 46.12a of 1851, as amended, (MCL § 46.12a). This subsection also does not require the MCERS to distribute or pay retirement assets on behalf of a retirant in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

## **SECTION 45. ERRORS**

Should any change in the records result in any member, retirant, or beneficiary receiving from the MCERS more or less than he/she would have been entitled to receive had the records been correct, the Board shall correct such error, and as far as practicable shall adjust the payment in such manner that the actuarial equivalent of the benefit to which the said member, retirant, or beneficiary was correctly entitled shall be paid.

## **SECTION 46. PROTECTION AGAINST FRAUD**

Whoever with intent to deceive shall make any statement and/or reports required under the MCERS Ordinance which are untrue, or shall falsify or permit to be falsified any record or records of the MCERS, or who shall otherwise violate, with intent to deceive, any of the terms or provisions of the MCERS Ordinance, shall be guilty of a misdemeanor and upon conviction shall be fined in accordance with the law, plus costs of prosecution, or sentenced to ninety days imprisonment, or both, in the discretion of the Court.

## **SECTION 47. VESTING UPON MCERS TERMINATION**

Members shall be one hundred percent vested in their accrued benefit, to the extent funded, upon the termination of the MCERS or upon a complete discontinuation of contributions to the MCERS. Notwithstanding anything in the MCERS Ordinance to the contrary, after the satisfaction of all liabilities with respect to Members, Vested Former Members and retirants upon termination of the MCERS Ordinance, the County reserves the right to recover any balance of assets remaining in the MCERS in accordance with law.

## **SECTION 48. RESERVED**

## **SECTION 49. EXCLUSIVE BENEFIT OF MEMBERS**

Diversion of any portion of the MCERS corpus or income for any purpose other than the exclusive benefit of members, retirants or beneficiaries is prohibited.

## **SECTION 50. DENIAL OF BENEFIT CLAIM; APPEAL**

A benefit claimant shall be notified in writing, within thirty (30) days of the Board's denial of a claim for benefits. The notification shall contain the basis for the denial. The benefit claimant may appeal the denial and request a hearing before the Board. The appeal shall be in writing and filed with the MCERS within ninety (90) days of the date of the notification of denial. The request for appeal shall contain a statement of the claimant's reasons for believing the denial to be improper. The Board shall schedule a hearing of the appeal within sixty (60) days of receipt of the request to appeal.

## **SECTION 51. REEMPLOYMENT AFTER RETIREMENT**

A retirant may continue to receive pension payments upon reemployment by the County provided the retirant meets the eligibility requirements of the County Board of Commissioner Act, Public Act 46.12a of 1851, as amended (MCL § 46.12a), and is not eligible for membership in the MCERS.

The term “any 12 month period” for purposes of the 1,000 hour limitation provided in this section will be a calendar year.

## **SECTION 52. RECIPROCAL RETIREMENT ACT**

The provisions of the Reciprocal Retirement Act, Public Act 88 of 1961, as amended (MCL § 38.1101*et seq.*) were adopted by the Macomb County Employees’ Retirement System on December 9, 1964.

## **SECTION 53. APPLICABILITY OF PROVISIONS TO UNION AND TO NON-UNION EMPLOYEES AND ELECTED OFFICIALS**

All of the provisions of the MCERS Ordinance as stated are applicable to all County employees as well as to the elected officials of the County. For those Members represented by a collective bargaining agent, the MCERS Ordinance shall be amended by the provisions contained within the applicable collective bargaining agreements. The collective bargaining agreements are incorporated into the Plan by reference and will update the MCERS Ordinance automatically as provided for under the applicable collective bargaining agreements. The provisions of the collective bargaining agreements shall supersede any provisions in the MCERS Ordinance.

Not all provisions of the MCERS Ordinance are applicable to the employees of the County who are members of a collective bargaining unit; such provisions are applicable only if they are specifically provided for in the appropriate collective bargaining agreement. The provisions of the MCERS Ordinance applicable to employees shall be governed by terms and conditions of the collective bargaining agreement in effect at the time of their separation from County employment.

All union employees must look to their own collective bargaining agreements for a determination as to which retirement provisions are applicable to them.

## **SECTION 54. LAWS: INCONSISTENT AUTHORITY REPEALED**

The MCERS Ordinance shall be construed and enforced under the laws of the State of Michigan and any applicable federal law, rule, or regulation. The Board shall have the fiduciary obligations, limitations, and authority as provided by the Public Employee Retirement System Investment Act (Public Act 314 of 1965) (MCL § 38.1132 *et seq.*), as amended. The Board shall administer the MCERS consistent with Article 9, Section 24 of the State of Michigan Constitution. Any matter relating to the MCERS provisions applicable to current employees represented by a collective bargaining agent is a mandatory subject of bargaining under the Public Employment Relations Act (Public Act 336 of 1947) ( MCL § 423.201 *et seq.*), as amended. The provisions contained in the collective bargaining agreements shall supersede any conflicting provisions contained in the MCERS Ordinance and the Board shall administer the MCERS in accordance with applicable collective bargaining agreements.

All applicable provisions of ordinance, resolution or local act inconsistent with the provisions of the MCERS Ordinance are hereby repealed to the extent of such inconsistency insofar as the County Board of Commissioners has authority to repeal the same.

## **SECTION 55. SAVING PROVISION**

If any section, subsection, paragraph, sentence, clause or phrase of the MCERS Ordinance is for any reason held to be invalid or unconstitutional, such holding shall not be construed as affecting the validity of any of the remaining sections, subsections, paragraphs, sentences, clauses or phrases of this Ordinance, of the Ordinance as an entirety; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any section or part of any section.

## **SECTION 56. EFFECTIVE DATE**

The effective date of the MCERS Ordinance shall be the first day of May, 1946. The MCERS Ordinance Plan Year is the 12-month period commencing on January 1 and ending on December 31.

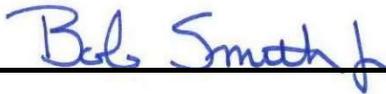
## **SECTION 57. QUALIFIED RETIREMENT SYSTEM**

The MCERS is intended and shall be a qualified pension plan under Code Section 401 or successor provisions of the law, to the extent applicable to a government plan and that the trust be an exempt organization in compliance with Code Section 501. The MCERS does not elect to be subject to provisions of the Code that are not applicable to a government plan, nor to any provisions of the Employee Retirement Income Security Act of 1974, as amended. The Board may adopt such additional provisions to the MCERS as necessary to fulfill the intent of being qualified pension plan.

**SECTION 58. DEFERRED RETIREMENT OPTION PLAN**

The terms and conditions of the Deferred Retirement Option Plan (DROP) shall be those provisions adopted by the County or by collective bargaining agreement which shall be incorporated into the MCERS Ordinance by reference.

Notwithstanding the foregoing, a DROP participant shall be eligible to vote in any employee member elections and shall be eligible to hold office as an elected employee member pursuant to Section 4€ of the MCERS Ordinance.



BOB SMITH  
Chair, Macomb County Commission



KATHY SMITH  
Interim Macomb County Clerk/Register of Deeds

Adopted: August 30, 2018  
Published: