

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE repealing subsections 1503.14, 1503.35, 1503.39, and 1503.45 and sections 1505., 1523., 1550., 1570., 1571., and 1572., Jackson County Code, 1984, relating to the Jackson County Employees Pension Plan, and enacting, in lieu thereof, four new subsections and five new sections relating to the same subject.

ORDINANCE NO. 4709, December 8, 2014

INTRODUCED BY Dennis Waits, Theresa Garza Ruiz, Crystal Williams, Fred Arbanas, Scott Burnett, Kenneth T. Bacchus, Dan Tarwater, Greg Grounds, Bob Spence, County Legislators

WHEREAS, the Jackson County Veterans Task Force and Pension Plan Board of Trustees have both recommended that the Jackson County Employees' Pension Plan be amended to allow military veterans employed by the County to purchase a year of credited service in the Plan for each full year of military service, up to four years total; and

WHEREAS, it is also appropriate that certain sections of the Plan be amended to make clear the property right that Plan members enjoy in the Plan's benefits and the County's obligation to fund the Plan; and

WHEREAS, such amendments to the Plan are in the best interests of the health, welfare, and safety of the citizens of Jackson County; now therefore

BE IT ORDAINED by the County Legislature of Jackson County, Missouri, as follows:

Section A. Enacting Clause.

Subsections 1503.14, 1503.35, 1503.39, and 1503.45 and sections 1505., 1523., 1550., 1570., 1571., and 1572., Jackson County Code, 1984, are hereby repealed, and four new subsections and five new sections enacted in lieu thereof, to be known as subsections 1503.14, 1503.35, 1503.39, and 1503.45 and sections 1505., 1523., 1550., 1570., and 1572., to read as follows:

1503.14 Credited Service.

The term "Credited Service" shall mean the number of years and months of employment for which a Member is given credit for the purpose of calculating his Monthly Retirement Income or Spouse Death Benefit under this Plan. As of any date, "Credited Service" shall be equal to the sum of the years and months calculated under subsections (a), (b) and (e) hereof, subject to the provisions of subsections (c) or (d) hereof, if applicable.

1503.14.1 For any period of employment prior to January 1, 1967, three-fourths (3/4) of the number of years and completed months of the Member's continuous employment for the Employer as an Employee from his last date of hire as an Employee to December 31, 1966.

1503.14.2 For any period of employment after December 31, 1966, the number of years and completed months of the Member's continuous employment for the Employer as an Employee from the later of (i) January

1, 1967, and (ii) his last date of hire as an Employee to the date of his termination of employment.

1503.14.3 For the purposes of this Plan the following periods of employment shall be considered "continuous employment" but shall not be recognized as Credited Service:

i. a break in continuity of employment of not more than two (2) years; provided the Employee returns to work for at least twelve (12) months;

ii. any period of employment during which the Employee was not compensated by the Employer, except that any such period during which an employee was absent on approved leave without Compensation while serving on active military duty in Operation Desert Storm, or between September 11, 2001 and December 31, 2006, shall be recognized as Credited Service;

iii. any period of employment excluded pursuant to section 1506 hereof;

iv. any period of employment prior to January 1, 1977, during which the Employee was eligible to participate in the Prior Plan but refused to make the Employee contributions required thereunder;

v. a break in the continuity of employment prior to April 1, 1967, of more than two (2) years; provided:

A. the Employee was employed by the Employer as an Employee on April 1, 1967; and

B. the Employee completes twenty-five (25) years of employment as an Employee by his Normal Retirement Date (including for this purpose any break in the continuity of employment occurring prior to April 1, 1967).

vi. a break in the continuity of employment of more than two (2) years; provided:

A. the reemployed Employee terminated Vested in the plan, or is a Retired Member of the Plan, or had completed fifteen (15) years of service during his prior employment; and,

B. the Employee accrues sufficient Service during his period of reemployment to become Vested in the Plan.

1503.14.4 Notwithstanding any other provision contained in this section, no Member shall receive credit for any period of employment by the Jackson County Law Library, Inc., prior to January 1, 1993.

1503.14.5 Notwithstanding any other provision contained in this section, any Member who is employed on October 1, 2004, and is vested or becomes vested on or after that date shall receive Credited Service for period of Employment with the Employer for which the Member has not previously received Credited Service.

1503.14.6 Uniformed Services Employment and Re-employment Rights Act (USERRA).

A Member will receive credit for pension benefits accrued during a member's service in the uniformed services (up to five years cumulative) upon the member's prompt reemployment with the County, as defined in the USERRA, on or after December 12, 1994. Credit for such service in the uniformed services, as well as the County's contributions to the plan on behalf of members, shall be applied retroactively upon the member's reemployment under the USERRA. The County's contribution shall not be dependent upon the member's repayment of contributions not made by

the member during the period of such qualified service in the uniformed services under the USERRA. A member will be treated as an active member for purposes of any death benefit payable under section 1532. or 1533. of this chapter if such member dies while performing qualified military service.

1503.14.7 Purchase of Credited Service Due To Military Service.

In addition to Credited Service pursuant to section 1503.14.6, Service purchased by a Vested Member pursuant to section 1503.45.1 due to military service prior to employment with the Employer will be Credited Service.

1503.35 Maximum Permissible Amount.

a. The term "Maximum Permissible Amount" means the Defined Benefit Dollar Limitation.

b. If the Member has less than 10 years of participation with the Employer, the Defined Benefit Dollar Limitation is reduced by one-tenth for each year of participation (or part thereof) less than ten. If the Member has less than ten years of service with the Employer, the Compensation limitation is reduced by one-tenth for each year of service (or part thereof) less than ten. The adjustments of this paragraph (b) shall be applied in the denominator of the Defined Benefit

Fraction based upon years of service. Years of service shall include future years occurring before the Member's Normal Retirement Date. Such future years shall include the year in which the Member reaches the Normal Retirement Date, only if it can be reasonably anticipated that the Member will receive a year of service for such year.

c. If the Annual Benefit of a Member commences before the Member's attainment of age 62, but on or after age 55, the Defined Benefit Dollar Limitation as reduced in paragraph (b) of this subsection, if necessary, shall be adjusted so that it is the Actuarial Equivalent of an Annual Benefit of such dollar limitation beginning at age 62; provided, however, that the Annual Benefit shall not be reduced below \$[75,000] 100,000. To determine actuarial equivalence, the interest rate assumption used is the greater of the rate specified in section 1503.2 of the Plan or 5 percent. Any decrease in the Defined Benefit Dollar Limitation determined in accordance with this paragraph (c) shall not reflect the mortality decrement to the extent that benefits will not be forfeited upon the death of the Member.

d. If the Annual Benefit of a Member commences before the Member's attainment of age 55, the Defined Benefit Dollar Limitation as reduced in paragraph (b) of this subsection, if necessary, shall be adjusted so that it is the Actuarial Equivalent of an Annual Benefit of such dollar limitation beginning at

age 62; provided, however, that such benefit shall not be reduced below the Actuarial Equivalent of an Annual Benefit of \$[75,000] 100,000, beginning at age 55. To determine actuarial equivalence, the interest rate assumption used is the greater of the rate specified in section 1503.2 of the Plan or 5 percent. Any decrease in the Defined Benefit Dollar Limitation determined in accordance with this paragraph (d) shall not reflect the mortality decrement to the extent that benefits will not be forfeited upon the death of the Member.

e. If the annual benefit of a Member commences after the Member attains age 65, the Defined Benefit Dollar Limitation as reduced in paragraph (b) of this subsection, if necessary, shall be adjusted so that it is the Actuarial Equivalent of an Annual Benefit of such dollar limitation beginning at the Member's attainment of age 65. To determine actuarial equivalence, the interest rate assumption used is the lesser of the rate specified in section 1503.2 of the Plan or 5 percent.)

1503.39 Normal Retirement Date.

The term "Normal Retirement Date" shall mean the earlier date of: a.) the first day of the month next following the month during which the sum of the Member's age in years and Credited Service first equals eighty (80) years, but not earlier than the first day of the month next following the Member's fifty-fifth (55th) birthday; or b.) the first day of the month next following the Member's sixty-fifth (65th) birthday, provided that no Member who is not also an Employee shall have

a Normal Retirement Date earlier than the date specified in section 1503.45(b)(v)(B). All provisions and requirements of this subsection shall be subject to the option to reduce the date and time of a Normal Retirement Date allowed through the purchase of Military Service contained within section 1503.45.1.

1503.45 Service.

The term "Service" shall mean the number of years for which a Member is given credit for the purpose of determining his eligibility for benefits under the Plan. As of any date, Service shall be equal to the sum of the years of employment calculated under subsection a, subject to the provisions of subsections b and c of this section, if applicable.

a. The number of years and completed months of the Member's continuous employment for the Employer as an Employee from his date of hire as an Employee to the date of his termination of employment.

b. For the purposes of this Plan the following periods of employment shall be considered "continuous employment" but shall not be recognized as Service:

i. a break in the continuity of employment of not more than two (2)

years, provided the Employee returns to work for at least twelve (12) months;

ii. any period of employment during which the Employee was not compensated by the Employer, except that any such period which an employee was on approved leave without compensation while serving on active military duty in the Persian Gulf in Operation Desert Storm shall be recognized as Service;

iii. any period of employment excluded pursuant to the provisions of section 1506 of this chapter;

iv. any period prior to January 1, 1977, during which the Employee was eligible to participate in the Prior Plan but refused to make the Employee contributions thereunder;

v. a break in the continuity of employment prior to April 1, 1967, of more than two (2) years; provided:

A. the Employee was employed by the Employer as an Employee on April 1, 1967; and

B. the Employee completes twenty-five (25) years of employment as an Employee by his Normal Retirement Date

(including for this purpose any break in the continuity of employment occurring prior to April 1, 1967).

vi. a break in the continuity of employment of more than two (2) years; provided:

A. the reemployed Employee terminated Vested in the Plan, or is a Retired Member of the Plan, and;

B. the Employee accrues sufficient Service during his period of reemployment to become Vested in the Plan.

c. Service shall also include the number of years a Vested Member purchases pursuant to section 1503.45.1.

1503.45.1 Purchase of Service Due To Military Service

a. Only a Vested Member of the Plan may opt to purchase individual years of Military Service, up to four (4) years of Service, one year for each full year of military service. Such option to purchase individual years of Military Service must be exercised or declared within twelve (12) months of either the vesting of the

Member, or the effective date of Ordinance 4709. Once a Member has exercised or declared the option to purchase years of Military Service, the Member shall have twenty-four (24) months from the date of such declaration to provide to the County full payment for years of Service purchased pursuant to the calculations as provided in subsection (b) of this section.

b. Annually, the Board of Trustees shall determine the cost of the purchase of a year of Service for this purpose, in a manner that is cost neutral to the Plan and based on the following factors:

i. A discount factor equal to the then current interest rate on the thirty-year Treasury Bond plus 200 basis points;

ii. The immediately preceding five (5) year historical aggregate salary experience of the Plan; and

iii. The generational mortality table used for the immediately preceding Annual Valuation.

c. A Member may elect to purchase years of Military Service, but a Member may not purchase partial years of Service. A member may only purchase complete years of Service.

d. A Vested Member may purchase Service pursuant to this section 1503.45.1 with either after-tax dollars or with pre-tax contributions, such as rollover contributions or plan-to-plan transfers from other retirement arrangements qualified under Internal Revenue Code sections 401(a), 403(a), 403(b), 457(b), or 408;

e. If Service is purchased pursuant to this section 1503.45.1, such Service will be considered "Credited Service" pursuant to section 1503.14, unless at the time of the purchase the Member, at the Member's request, opts to purchase Service only for purposes of establishing an earlier Normal Retirement Date than otherwise allowed or provided pursuant to section 1503.39. In this case, Service will not be Credited Service for any purpose other than establishment of an earlier than otherwise allowed or provided Normal Retirement Date under the Rule of 80. A member may purchase up to ~~two (2)~~ four (4) years of service for this purpose. The Board of Trustees shall set the cost of Service purchased for

establishing an earlier retirement date utilizing the same factors as stated in section 1503.45.1 b, above.

f. A Member may not purchase Service pursuant to this section 1503.45.1 to establish Vested status pursuant to section 1503.48.

g. A Terminated Employee as defined under section 1509. of this chapter may not purchase Service under this section.

h. Military Service.

The term "Military Service" shall refer to a full calendar year of military service within the United States Military, whether active, reserve, or inactive, so long as the Member was honorably discharged from such service.

1505. Employee Contributions.

No employee contributions shall be required or permitted under this Plan, except as provided in sections 1505.1 and 1503.45.1. The participant contributions under the Prior Plan, together with the interest accumulated thereon, have been distributed to all the participants in the Prior Plan who were employed by the Employer as an Employee on December 31, 1976.

1505.1 Employee Contributions by Elected Officials.

Effective January 1, 2004, each Elected Official shall be required to contribute to the Plan four percent (4%) of such Elected Official's Compensation (hereinafter referred to as "Employee Contributions"). The Employer shall, solely for the purpose of compliance with Section 414(h) of the Code, pick-up the Employee Contributions required by this Section and the contributions so picked-up shall be treated as employer contributions in determining tax treatment under the Code and any applicable state tax code. The Elected Official shall have no option to receive the contributed amounts directly instead of having them paid by the Employer to the Plan. [Any Elected Official who terminates employment before becoming Vested in the Plan will receive, within 90 days of termination, a lump-sum refund of all Employee Contributions previously made under this section 1505.1, plus interest at five percent (5%) compounded annually.] If, at the time benefit payments commence, the difference in the actuarial present value of the benefit under sections 1512.3 and 1512.1 is less than such Elected Official's total Employee Contributions plus interest at five percent (5%) compounded annually thereon, the Elected Official shall receive a lump-sum refund of Employee Contributions (and interest, if applicable) equal to the shortfall, if any.

1523. Purchase of Prior Service Credit.

a. Those Elected Officials who are in office as of August 31, 2006, may make a one-time irrevocable election to purchase Credited Service for purposes of calculating the Elected Official's Monthly Pension Income under section 1512.3, under the circumstances, terms and conditions provided in this section. The

purchase of Credited Service may be made with either pre- tax contributions, such as rollover contributions or plan-to-plan transfers from other retirement arrangements qualified under sections 401(a), 403(a), 403(b), 457(b) or 408 of the Internal Revenue Code, or with after-tax amounts. Any Elected Official who elects to purchase Credited Service under this section may elect to purchase prior service with the employer. The election must be made no later than September 30, 2006, and must be effected by paying to the Plan the amount the Elected Official would have contributed under section 1505.1 had such member been an employee for the number of years for which the member is purchasing credit, and had the Elected Official's compensation during such period been the same as the Elected Official's annual salary as of August 31, 2006. However, the amount paid to purchase additional credit will not exceed the actuarial value of the credit being purchased, as calculated by the Plan's Actuary. Payment of the amount calculated under this section must be made by the Elected Official in a single payment (or rollover or transfer) no later than December 31, 2006.

b. Any Elected Official may make a one-time election to purchase additional Credited Service as defined by section 1503.14 and IRC §415(n). No more than 5 years of Credited Service can be purchased for purposes calculating the Elected Officials' Monthly Pension Income under section 1512.3. Such purchase must be in accordance with the general provisions of this section 1523, except that payment of the amount calculated under subsection 1523(a) must be made no

later than December 31, 2005. The purchase of Credited Service under this section 1523 is part of and not in addition to the Elected Officials' Monthly Pension Income and cannot exceed the maximum permissible amount under section 1503.35.

c. Service may also be purchased by a Vested Member pursuant to section 1503.45.1.

1550. Contributions by the Employer.

It is the intention of the Employer[, but it does not guarantee to do so,] to deposit in the Fund not less frequently than annually, the funds actuarially necessary to provide the benefits under the Plan at the contribution rate specified in the Fund's annual actuarial report. The Employer's deposits shall be made from the Employer's General Fund and any of the Employer's special purpose revenue funds that are the source of Members' salaries. Each such special purpose revenue fund shall contribute at the contribution rate specified in the Fund's annual actuarial report, while the General Fund shall contribute at a rate of not less than 9%, unless the Actuary has determined that the total required contribution rate is less than 9%. The Employer shall deposit the Employee Contributions as described in section 1505.1 no less frequently than annually.

1570. [Pension Plan Not a Contractual Obligation.

Although it is the intention of the Employer that this Plan shall be continued and contributions made regularly each year, this Plan is entirely voluntary on the part of the

Employer and the continuance of the Plan and the payments thereunder are not assumed as a contractual obligation of the Employer. The Employer does not guarantee or promise to pay or cause to be paid any of the benefits provided by this Plan.]

Property Right, Vested Members.

Each Member of the Plan who has Vested shall have a property right in any benefit of the Plan to which he or she may be entitled under any provision of this chapter.

[1571. Employer Has Sole Discretion.

The Employer specifically reserves the right, in its sole and uncontrolled discretion and by official and authorized act, to modify, suspend, in whole or in part, at any time or from time to time, and for any period or periods, or to discontinue at any time, the contributions specified in Section 1550 of this chapter.]

1572. Pension Plan, [Not Consideration] No Right to Continued Employment.

[This Plan shall not be deemed to be a consideration or an inducement for the employment of any Member or Employee.] Nothing contained in this Plan shall be deemed to give any Member or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Member or Employee at any time regardless of the effect which such discharge shall have upon him as a Member of the Plan.

Effective Date: This Ordinance shall be effective immediately upon its passage by the County Executive.

APPROVED AS TO FORM:


Chief Deputy County Counselor


County Counselor

I hereby certify that the attached Ordinance, Ordinance No. 4709 introduced on December 8, 2014, was duly passed on December 15, 2014 by the Jackson County Legislature. The votes thereon were as follows:

Yeas 9

Nays 0

Abstaining 0

Absent 0

This Ordinance is hereby transmitted to the County Executive for his signature.

12.15.14
Date


Mary Jo Spino, Clerk of Legislature

I hereby approve the attached Ordinance No. 4709.

12-16-14
Date


Michael D. Sanders, County Executive