



Jackson County Missouri

Jackson County Courthouse
415 E. 12th Street, 2nd floor
Kansas City, Missouri
64106
(816)881-3242

Legislation Text

File #: 3515, Version: 0

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE amending sections 1503., 1511., 1520., and 1522., Jackson County Code, 1984, relating to the Jackson County Employees' Pension Plan.

ORDINANCE # 3515, July 12, 2004

INTRODUCED BY Scott Burnett, County Legislator

WHEREAS, certain technical amendments are necessary to conform the Jackson County Employees' Pension Plan (the "Plan") to the requirements of the Internal Revenue Code of 1986, as amended, in order to provide reliance on the determination letter issued by the Internal Revenue Service on April 5, 2004; and,

WHEREAS, the proposed amendments are in the best interests of the health, welfare and safety of the citizens of Jackson County; and,

WHEREAS, this ordinance ratifies the Executive Order of July 2, 2004, by which the County Executive previously adopted these amendments to the Plan on behalf of the County in order to meet certain time deadlines imposed by the Internal Revenue Service; therefore,

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

Section A. Enacting Clause. Sections 1503., 1511., 1520., and 1522., Jackson County Code, 1984, are hereby amended to read as follows:

1503. Pension Plan, Definitions.

As used herein, the following words and phrases shall have the meanings specified below, unless a different meaning is plainly required by the context, viz.:

1503.1 Accrued Benefit.

The term "Accrued Benefit" shall mean the Monthly Pension Income that a Member has "accrued" as of any date payable in the basic form commencing on his Normal Retirement Date. The "Accrued Benefit" as of any date shall be equal to the amount calculated under section 1512., but only to the extent that the Member is Vested.

1503.2 Actuarial Equivalent.

The term "Actuarial Equivalent" shall mean a benefit of equivalent value, as certified by the Actuary, computed on the basis of the following actuarial assumptions.

Interest - Seven percent (7%) per annum, compounded annually.

[Mortality - The 1983 Male Group Annuity Mortality Table, with the ages set back three years.]

Mortality - The 1983 Group Annuity Mortality Table blended 50% for males and

50% for females.

1503.3 Actuarial Value.

The term "Actuarial Value" shall mean the single sum value, as certified by the Actuary, of any income benefit, computed on the basis of the following actuarial assumptions.

Interest - Seven percent (7%) per annum, compounded annually.

[Mortality - The 1983 Male Group Annuity Mortality Table, with the ages set back three years.]

Mortality - The 1983 Group Annuity Mortality Table blended 50% for males and 50% for females.

1503.4 Actuary.

The term "Actuary" shall mean a Fellow of the Society of Actuaries or a firm of actuaries at least one of whose members is a Fellow of the Society of Actuaries who has been so enrolled. The "Actuary" shall be designated by the Employer.

1503.5 Anniversary Date.

The term "Anniversary Date" shall mean each January 1st.

1503.6 Annual Additions.

The term "Annual Additions" shall mean the sum of the following amounts credited to a Member's account for the limitation year:

- (a) Employer contributions;
- (b) Employee contributions;
- (c) forfeitures;
- (d) amounts allocated after March 31, 1984, to an individual medical account that is part of a pension or annuity plan maintained by the Employer are treated as Annual Additions to a defined

contribution plan. Also, amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after such date, that are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Section 419A(d)(3) of the Code) under a welfare benefit fund are treated as Annual Additions to a defined contribution plan; and

- (e) allocations under a simplified employee pension.

1503.7 Annual Benefit.

The term "Annual Benefit" shall mean a retirement benefit under the Plan which is payable annually in the form of a straight life annuity. Except as provided below, a benefit payable in a form other than a straight life annuity must be adjusted to an actuarially equivalent straight life annuity before applying the limitations of sections 1519 through 1521. The interest rate assumption used to determine actuarial equivalence will be the greater of the interest rate specified in subsection 1503.2 of this Plan or 5 percent. The Annual Benefit does not include any benefits attributable to Employee contributions or rollover contributions, or the assets transferred from a qualified plan that was not maintained by the Employer. No actuarial adjustment to the benefit is required for (a) the value of a qualified joint and survivor annuity, (b) the value of benefits that are not directly related to retirement benefits (such as a qualified disability benefit, pre-retirement death benefits, and post-retirement medical benefits), and (c) the value of post-retirement cost-of-living increases made in accordance with section 415(d) of the Code and section 1.415-3(c)(2)(iii) of the Income Tax Regulations.

1503.8 Attained Age.

The term "Attained Age" shall mean, unless clearly indicated to the contrary, the age of an Employee or Member as of his last birthday.

1503.9 Average Monthly Earnings.

The term "Average Monthly Earnings" shall mean the highest average of Monthly Earnings as determined for any thirty-

six (36) consecutive months of credited service for the Employer as an Employee during the one hundred twenty (120) months prior to the Member's Disability Retirement Date, Early Retirement Date, Normal Retirement Date, or termination date.

1503.10 Beneficiary.

The term "Beneficiary" shall mean any person or persons (or a trust) designated by a Member in such form and manner as the Pension Plan Administration Committee may prescribe to receive a Death Benefit, in the form specified in Sections 1511.1, 1511.2, 1511.3, or 1511.4 payable hereunder if such person or persons survive the Member. Any designation under Sections 1511.1 and 1511.2 may be revoked at any time in similar manner and form.

1503.11 Code.

The term "Code" shall mean the Internal Revenue Code of 1986, as amended.

1503.12 Compensation.

The term "Compensation" shall mean wages, as defined in Code section 3401(a), and all other payments of Compensation to an Employee by the Employer (in the course of the Employer's trade or business) for which the Employer is required to furnish the Employee a written statement under sections 6041(d) and 6051(a)(3) of the Code. Compensation must be determined without regard to any rules under Code section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code section 3401(a)(2)).

For Limitation Years beginning after December 31, 1991, for purposes of applying the limitations of section 1519 through 1521, Compensation for a Limitation Year is the Compensation actually paid or made available during such Limitation Year.

1503.13 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) and (b) hereof, subject to the provisions of subsection (c) hereof, if applicable.

1503.13 (a) 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.

1503.13 (b) 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.

1503.13 (c) 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 the Persian Gulf in Operation Desert Storm 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.

1503.13 (d) 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 Current Accrued Benefit.

The term "Current Accrued Benefit" shall mean a Member's Accrued Benefit under the Plan, determined as if the Member had separated from service as of the close of the last Limitation Year beginning before January 1, 1987, when expressed as an Annual Benefit within the meaning of section 415(b)(2) of the Code. In determining the amount of a Member's Current Accrued Benefit, the following shall be disregarded:

- (i) any change in the terms and conditions of the Plan after May 5, 1986; and

- (ii) any cost of living adjustments occurring after May 5, 1986.

1503.15 Death Benefit.

The term "Death Benefit" shall mean any benefit paid to a Spouse or Beneficiary at the death of a Member, Disabled Member, or Retired Member, as provided under the terms of the Plan.

1503.16 Defined Benefit Dollar Limitation.

[The term "Defined Benefit Dollar Limitation" shall mean \$90,000. Effective on January 1, 1988, and each January 1 thereafter, such \$90,000 limitation will be automatically adjusted by multiplying such limit by the cost of living adjustment factor prescribed by the Secretary of the Treasury under section 415(d) of the Code in such manner as the Secretary shall prescribe. The new limitation will apply to Limitation Years ending within the calendar year of the date of the adjustment.]

The term "Defined Benefit Dollar Limitation" shall mean \$160,000. Such limitation will be automatically adjusted by multiplying such limit by the cost of living adjustment factor prescribed by the Secretary of the Treasury under section 415 (d) of the Code in such manner as the Secretary shall prescribe. The new limitation will apply to Limitation Years ending with or within the calendar year of the date of the adjustment.

1503.17 [Defined Benefit Fraction.

The term "Defined Benefit Fraction" shall mean a fraction, the numerator of which is the sum of the Member's projected Annual Benefits under all the defined benefit plans (whether or not terminated) maintained by the Employer, and the denominator of which is the lesser of 125 percent of the dollar limitation determined for the Limitation Year under sections 415(b) and (d) of the Code and in accordance with subsection 1522.11(b) or 140 percent of the Highest Average Compensation, including any adjustments under section 415(b) of the Code.

Notwithstanding the above, if the Member was a participant as of the first day of the first Limitation Year beginning after December 31, 1986, in one or more defined benefit plans maintained by the Employer which were in existence on May 6,

1986, the denominator of this fraction will not be less than 125 percent of the sum of the Annual Benefits under such plans which the Member had accrued as of the close of the last Limitation Year beginning before January 1, 1987 disregarding any changes in the terms and conditions of the plans after May 5, 1986. The preceding sentence applies only if the defined benefit plans individually and in the aggregate satisfied the requirements of section 415 for all Limitation Years beginning before January 1, 1987.]

RESERVED

1503.18 Defined Contribution Fraction.

The term "Defined Contribution Fraction" shall mean a fraction, the numerator of which is the sum of the Annual Additions to the Member's account under all the defined contribution plans (whether or not terminated) maintained by the Employer for the current and all prior Limitation Years, (including the Annual Additions attributable to the Member's nondeductible employee contributions to this and all other defined benefit plans (whether or not terminated) maintained by the Employer, and the Annual Additions attributable to all welfare benefit funds or individual medical accounts and simplified employee pensions maintained by the Employer), and the denominator of which is the sum of the maximum aggregate amounts for the current and all prior Limitation Years of service with the Employer (regardless of whether a defined contribution plan was maintained by the Employer).

The maximum aggregate amount in any Limitation Year is the lesser of 125 percent of the dollar limitation determined under sections 415(b) and (d) of the Code in effect under section 415(c)(1)(A) of the Code or 35 percent of the Member's Compensation for such year. If the Employee was a participant as of the first day of the first Limitation Year beginning after December 31, 1986, in one or more defined contribution plans maintained by the Employer which were in existence on May 6, 1986, the numerator of this fraction will be adjusted if the sum of this fraction and the Defined Benefit Fraction would otherwise exceed 1.0 under the terms of this Plan. Under the adjustment, an amount equal to the product of (1) the excess of the sum of the fractions over 1.0 times (2) the denominator of this fraction, will be permanently subtracted from the numerator of this fraction. The adjustment is calculated using the fractions as they would be computed as of the end of the last Limitation Year beginning before January 1, 1987, and disregarding any changes in the terms and conditions of the plans made after May 5, 1986, but using the Code section 415 limitation applicable to the first Limitation

Year beginning on or after January 1, 1987.

The Annual Addition for any Limitation Year beginning before January 1, 1987, shall not be recomputed to treat all Employee contributions as Annual Additions.]

RESERVED

1503.19 Direct Rollover.

The term "Direct Rollover" shall mean a payment by the Plan to an Eligible Retirement Plan specified by a Distributee.

1503.20 Disability Retirement Date.

The term "Disability Retirement Date" shall mean the date a Disabled Member becomes eligible for immediate disability payments hereunder.

1503.21 Disabled Member.

The term "Disabled Member" shall mean any Member who has Vested in the Plan and who becomes Totally and Permanently Disabled while in the employ of Employer.

1503.22 Distributee.

[The term "Distributee" shall include an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are Distributees with regard to the interest of the spouse or former spouse.]

The term "Distributee" shall include an Employee or former Employee, the Employee's or former Employee's surviving spouse.

1503.23 Early Retirement Date.

The term "Early Retirement Date" shall mean the first day of the month that the Member has directed pension payments

to begin, if that date is prior to the Normal Retirement Date.

1503.24 Elected Official.

The term "Elected Official" shall mean the County Executive, Prosecuting Attorney, Sheriff, and each member of the County Legislature, without regard to whether such official was initially elected or appointed to office.

1503.25 Eligible Retirement Plan.

The term "Eligible Retirement Plan" shall mean an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code or a qualified trust described in section 401(a) of the Code, that accepts the Distributee's Eligible Rollover Distribution. [However, in the case of an Eligible Rollover Distribution to the surviving spouse, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity.]

1503.26 Eligible Rollover Distribution.

The term "Eligible Rollover Distribution" shall mean 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 a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under section 401(a) (9) of the Code; [and the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to Employer securities)] and any distribution which is made upon hardship of the Employee.

1503.27 Employee.

The term "Employee" shall mean any current or future full-time Employee of the Employer who is paid, in whole or in part, by the Employer including any Employee holding elective or appointive office, but shall not include:

- (a) any person holding an honorary or unpaid office;

- (b) any person employed or retained exclusively on a fee, commission or per diem basis;
- (c) any Employee whose employment is seasonal or temporary;
- (d) any Employee whose customary employment is for not more than twenty (20) hours a week or not more than five (5) months in any calendar year;
- (e) circuit judges, associate circuit judges, court reporters, and Employees of the Circuit Court of Jackson County, Missouri, whose compensation is paid by the State of Missouri; or
- (f) any Employee who is covered by another retirement plan to which the Employer makes contributions (other than the Federal Social Security system).

Notwithstanding the above, the term "Employee" shall also include any current or future full-time Employee of the Little Blue Valley Sewer District, the Kansas City Board of Election Commissioners, the Jackson County Board of Election Commissioners, the Jackson County Sports Complex Authority, the Jackson County law Library, Inc., effective June 1, 1990, Employees of the Eastern Jackson County Multi-Jurisdictional Anti-Drug Tax Force and, effective January 1, 2004, the Prosecuting Attorney of Jackson County.

1503.28 Employer.

The term "Employer" shall mean Jackson County, Missouri; provided, however, that for purposes of

sections 1503.6, 1503.7, 1503.12, 1503.17, 1503.18, 1503.30, 1503.31, and 1519. through 1521., such term shall mean Jackson County, Missouri, and all members of a controlled group of corporations (as defined in section 414(b) of the Code, as modified by section 415(h)), all commonly controlled trades or businesses (as defined in Code section 414(c) as modified by Code section 415 (h)), or affiliated service groups (as defined in Code section 414(m)) of which Jackson County is a part, and any other entity required to be aggregated with Jackson County pursuant to section 414(o) of the Code.

1503.29 Highest Average Compensation.

The term "Highest Average Compensation" shall mean average compensation for the period of the three consecutive calendar years during which the Member was an active participant in the Plan that produces the highest average.

1503.30 Late Retirement Date.

The term "Late Retirement Date" shall mean the first day of any month subsequent to the Member's Normal Retirement Date next following the day the Member terminates employment with the Employer for any reason other than death.

1503.31 Limitation Year.

The term "Limitation Year" shall mean a calendar year. All qualified plans maintained by the Employer must use the same Limitation Year. If the Limitation Year is amended to a different 12-consecutive month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made.

1503.32 Maximum Permissible Amount.

(a) [The term "Maximum Permissible Amount" means the lesser of the Defined Benefit Dollar Limitation or 100 percent of the Member's Highest Average Compensation.]

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. 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, 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.

1503.33 Member.

The term "Member" shall mean any Employee of the Employer who has become a Member as provided in section 1504 of this chapter.

1503.34 Monthly Earnings.

The term "Monthly Earnings" shall mean the Member's regular monthly cash compensation from the Employer including overtime pay, but excluding fees, commissions, travel or automobile allowances, expense reimbursement and any other forms of extraordinary compensation.

1503.35 Monthly Pension Income.

The term "Monthly Pension Income" shall mean the monthly income due a Retired Member which shall commence as of his Disability, Early, Normal or Late Retirement Date, or the date specified in section 1530 of this chapter and continue for the period indicated in sections 1510 through 1518.

1503.36 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 clause b. of this subsection.

1503.37 Pension Plan Administration Committee.

The term "Pension Plan Administration Committee" shall mean the Committee established under sections 1540 through 1547.

1503.38 Plan Year.

The term "Plan Year" shall mean a twelve (12) month period beginning on the first day of January and ending on the last day of December in the same calendar year.

1503.39 Prior Plan.

The term "Prior Plan" shall mean Jackson County, Missouri Employees' Pension Plan as constituted on December 31, 1976.

1503.40 Projected Annual Benefit.

The term "Projected Annual Benefit" shall mean the Annual Benefit to which the Member would be entitled under the terms of the Plan assuming:

- (a) the Member will continue employment until age 65 (or current age, if later), and
- (b) the Member's Compensation for the current Limitation Year and all other relevant factors used to determine benefits under the Plan will remain constant for all future Limitation Years.

1503.41 Retired Member.

The term "Retired Member" shall mean any Member of the Plan who has qualified for retirement and who is receiving a Monthly Pension Income by direction of the Pension Plan Administration Committee.

1503.42 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 subsection (b), if applicable.

1503.42 (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.

1503.42 (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.

1503.43 Spouse.

The term "Spouse" shall mean the legally married husband or wife of the Member at the date benefits commence to the Member under the Plan or at the Member's date of death.

1503.44 Total and Permanent Disability.

The term "Total and Permanent Disability" or "Totally and Permanently Disabled" shall mean a physical or mental condition arising after the original date of employment of the Member and at a time when the Member is in the employ of the Employer which totally and permanently prevents the Member from engaging in any occupation or employment for remuneration or profit, except for the purpose of rehabilitation not incompatible with a finding of Total and Permanent Disability. The determination as to whether a Member is Totally and Permanently Disabled shall be made solely on evidence that the Member is eligible for disability benefits under the Social Security Act in effect at the date of disability.

1503.45 Trustee.

The term "Trustee" shall mean the Trustee under the Trust Agreement.

1503.46 Trust Fund.

The term "Trust Fund" shall mean all cash, securities or any other property held by the Trustee pursuant to the terms of the Trust Agreement together with income therefrom.

1503.47 Vested.

The term "Vested" shall mean that if an Employee has completed at least five years Service he shall

have a nonforfeitable right to 100 percent of the Employee's Accrued Benefit or a Vested benefit of 100 percent. An Employee with less than five years Service shall have a 0% vested benefit; provided, however, that a Member shall have a 100% vested benefit upon attaining age sixty-five (65) (if employed by the Employer on or after that date).

The Vested percentage shall be multiplied times the amount calculated in section 1512.1 or 1512.2.

Except as otherwise specifically provided herein, any amendment of the Plan by the Employer, including any amendment of the Plan's provisions regarding vesting, shall apply only to an Employee whose employment with the Employer terminates on or after the effective date of the amendment.

1503.48 Year of Participation.

A Member shall be credited with a Year of Participation (computed to fractional parts of a year) for each accrual computation period for which the following conditions are met: (1) The Member is credited with at least the number of hours of service (or period of service if the elapsed time method is used) for benefit accrual purposes, required under the terms of the Plan in order to accrue a benefit for the accrual computation period, and (2) the Member is included as a Member under the eligibility provisions of the Plan for at least one day of the accrual computation period. If these two conditions are met, the portion of a Year of Participation credited to the Member shall equal the amount of benefit accrual service credited to the Member for such accrual computation period. A Member who is Permanently and Totally Disabled within the meaning of section 415(c)(3)(C)(i) of the Code for an accrual computation period shall receive a Year of Participation with respect to that period. In addition, for a Member to receive a Year of Participation (or part thereof) for an accrual computation period, the Plan must be established no later than the last day of such accrual

computation period. In no event will more than one Year of Participation be credited for any 12-month period.

1503.49 Construction.

Any words herein used in the masculine shall be read and construed in the feminine where they would so apply. Words in the singular shall be read and construed as though used in the plural in all cases where they would so apply.

1511. Pension Income, Basic Form.

The basic form of Monthly Pension Income (to which the formula indicated in Section 1512 applies) shall be a monthly income commencing on the Member's Disability, Early, Normal or Late Retirement Date or the date specified in Section 1530 and continuing for his lifetime thereafter, with sixty (60) payments guaranteed. Prior to his Disability, Early, Normal or Late Retirement Date, or the date specified in Section 1530, the Member may elect, in a written application provided by the Pension Plan Administration Committee, and subject to the Committee's approval, to receive his Monthly Pension Income in one of the alternative forms listed below; provided, however, that in the case of a Disabled Member whose Disability Retirement Date is prior to the date such Disabled Member attains age 55, the Disability Payments provided for in section 1515 shall be paid in the basic form provided for in this section 1511 and shall not be paid in any of the alternative forms specified in subsections 1511.1 and 1511.2. Each of the alternative forms shall be the Actuarial Equivalent of the Monthly Pension Income payable under the basic form and shall commence as of the Member's Disability, Early, Normal, or Late Retirement Date or the date specified in section 1530. Notwithstanding the foregoing provisions of this section 1511, a Disabled Member whose Disability Retirement Date precedes such Disabled Member's attainment of age 55 and who is receiving

Disability Payments in the basic form, may elect, not later than 60 days after attaining age 55, in a written application provided by the Pension Plan Administration Committee, and subject to the Committee's approval, to receive his remaining Monthly Pension Income in one of the alternative forms listed below. Such alternative form shall be the Actuarial Equivalent of the Monthly Pension Income then being received by the Disabled Member.

- 1511.1. A monthly income payable for the Member's lifetime with one hundred and twenty (120) payments guaranteed (an alternative form).
- 1511.2. A monthly income payable for the lifetime of the Member and continuing thereafter in the same monthly amount to a Beneficiary designated in writing by the Member (an alternative form). Should the Beneficiary named by the Member die prior to the Member's Disability, Early, Normal or Late Retirement Date or prior to the date specified in Section 1530, the election shall be void and Monthly Pension Income shall be paid under the basic form. Should the Beneficiary die after Monthly Pension Income has commenced to the Member, no alternative Beneficiary can be named.
- 1511.3. If the Member's designated Beneficiary is other than his Spouse, the Actuarial Value of the benefits payable to the Member shall be more than fifty percent (50%) of the Actuarial Value of the benefits payable to the Member and his Beneficiary or survivor.
- 1511.4 Contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code, notwithstanding any

contrary provision set forth herein.

1520. More Than One Plan.

This section applies if any Member is covered, or has ever been covered, by another plan maintained by the Employer, including a qualified plan, a welfare benefit fund, or an individual medical account, or a simplified employee pension that provides an Annual Addition.

1520.1 If a Member is, or has ever been, covered under more than one defined benefit plan maintained by the Employer, the sum of the Member's Annual Benefits from all such plans may not exceed the Maximum Permissible Amount. The limitation on benefits from more than one defined benefit plan maintained by the Employer shall be satisfied by a pro rata reduction (if necessary) in the Member's benefits under the defined benefit plans maintained by the Employer.

1520.2 [If the Employer maintains, or at any time maintained, one or more qualified defined contribution plans covering any Member of this Plan, a welfare benefit fund, an individual medical account, or a simplified employee pension, the sum of the Member's Defined Contribution Fraction and Defined Benefit Fraction will not exceed 1.0 in any Limitation Year. The limitation on combined benefits and contributions from one or more defined benefit plans and one or more defined contribution plans which is set forth in section 415(e) of the Code shall be satisfied by a pro rata reduction (if necessary) in the Member's benefits under the defined benefit plan(s) maintained by the Employer and the defined contribution plan(s) maintained by the Employer shall not be affected by such combined plans limitation.]

RESERVED

1522. Eligible Rollover Contributions.

[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 Distributee's election under this section, a Distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

Section B. Effective Dates. The individual sections and subsections of the Jackson County Code amended by this Ordinance shall be effective as of the dates indicated below (as required by the provisions of the Internal Revenue Code):

<u>Section(s) Amended</u>	<u>Effective Date</u>
1511.4	12/12/94
1503.32(a)	01/01/95
1503.2, 1503.3	07/01/99
1503.17, 1503.18, 1520.2	01/01/00
1503.16, 1503.22, 1503.24	01/01/02
1503.25, 1522.	01/01/02

Effective Date: This ordinance shall be effective immediately upon its signature by the County Executive.

APPROVED AS TO FORM:

Acting County Counselor

I hereby certify that the attached Ordinance, Ordinance # 3515 introduced on July 12, 2004 was duly passed on _____ July 26 _____, 2004 by the Jackson County Legislature. The votes thereon were as follows:

Yeas _____ 7 _____ Nays _____ 0 _____
Abstaining _____ 0 _____ Absent _____ 2 _____

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

Date

Mary Jo Spino, Clerk of Legislature

I hereby approve the attached Ordinance #3515.

Date

Katheryn J. Shields, County Executive