

ST. CLAIR COUNTY EMPLOYEES' RETIREMENT SYSTEM

POLICY RESOLUTION 12-06

Adopted: September 25, 2007

Revised: November 20, 2012

Revised: September 12, 2017

Revised: August 16, 2022

Re: Re-employment of Retirees Policy and Procedures

WHEREAS, the Board of Trustees of the St. Clair County Employees' Retirement System (hereinafter "the Board") is vested with the general administration, management and operation of the St. Clair County Employees' Retirement System (hereinafter "the Retirement System"), and

WHEREAS, the Retirement System provides pension benefits in accordance with the provisions of the County Pension Plan Act (MCL 46.12a), the St. Clair County Employees' Retirement Ordinance (hereinafter "the Retirement Ordinance"), applicable collective bargaining agreements, and applicable state and federal law, including, but not limited to the Internal Revenue Code ("IRC"), and

WHEREAS, Section 12a(28) of the County Pension Plan Act and Section 6.8 of the Retirement Ordinance provide generally for the suspension of pension benefits from the Retirement System in the event a retiree becomes re-employed by the County and further state that:

the suspension of the payment of the pension or retirement benefit shall become effective the first day of the calendar month that follows the sixtieth day after the retirant is employed by the county. Payment of the pension or retirement benefit shall resume on the first day of the calendar month that follows termination of the employment. Payment of the pension or retirement benefit shall be resumed without change in amount or conditions by reason of the employment. The retirant shall not be a member of the plan during the period of employment, and

WHEREAS, the County Pension Plan Act and the Retirement Ordinance provide exceptions to the suspension of pension benefits to re-employed retirees under limited circumstances, and

WHEREAS, Section 12(a)(28)(b) of the County Pension Plan Act and Section 6.8(b)(1) of the Retirement Ordinance provide in pertinent part that the payment of pension benefits to a retiree shall continue without change in amount by reason of re-employment if all of the following requirements are met:

- (i) The retirant meets 1 of the following requirements:
 - (A) For any retirant, is employed by the county for not more than 1,000 hours in any 12-month period.
 - (B) For a retirant who was not an elected or appointed county official at retirement, is elected or appointed as a county official for a term of office that begins after the retirant's

retirement allowance effective date.

- (C) For a retirant who was an elected or appointed county official at retirement, is elected or appointed as a county official to a different office from which the retirant retired for a term of office that begins after the retirant's retirement allowance effective date.
 - (D) For a retirant who was an elected or appointed county official at retirement, is elected or appointed as a county official to the same office from which the retirant retired for a term of office that begins 2 years or more after the retirant's retirement allowance effective date.
- (ii) The retirant is not eligible for any benefits from the county other than those required by law or otherwise provided to the retirant by virtue of his or her being a retirant.
 - (iii) The retirant is not a member of the plan during the period of reemployment, does not receive additional retirement credits during the period of reemployment, and does not receive any increase in pension or retirement benefits because of the employment under this subdivision.

WHEREAS, the Retirement System is intended to be and has been administered as a qualified governmental pension plan under Section 401 of the IRC, and is a tax exempt organization under IRC § 501, and

WHEREAS, in order to maintain the qualified status of the Retirement System, the IRS requires that a bona fide separation of employment of at least thirty (30) days occur prior to the re-employment of a retiree in receipt of pension benefits from the Retirement System, and

WHEREAS, in the event that a bona fide separation of employment of at least thirty (30) days has not occurred, the IRS requires that certain safe-harbor normal retirement age/in-service distribution rules are satisfied, and

WHEREAS, the IRS bona fide separation and/or safe-harbor rules apply regardless of the re-employed retiree's status as an elected or appointed County official at the time of retirement and/or re-employment, and

WHEREAS, accordingly, the Board has a fiduciary duty to suspend the pension benefits of any retiree who is re-employed by the County unless the retiree's re-employment complies with the IRC and related regulations, in addition to the specific exceptions provided in the County Pension Plan Act and the Retirement Ordinance, and

WHEREAS, issues have arisen with regard to the suspension of benefits to re-employed retirees; the suspension and reinstatement of retirement benefits of those retirees who violate the 1,000 hour limitation; and monitoring compliance with IRC rules and regulations and Retirement System provisions, and

WHEREAS, in accordance with the requirements of the IRC, the terms of Section 12a(28) of the County Pension Plan Act and the terms of Section 6.8 of the Retirement Ordinance, the Board desires to revise its adopted formal policy addressing the re-employment of retirees, and the suspension and reinstatement of retirement benefits to those applicable retirees who do not satisfy the requirements of the IRC and regulations, and/or who violate the 1,000 hour limitation, and

WHEREAS, the Board finds it in the best interests of its Participants and its Beneficiaries to adopt the following Re-employment of Retirees Policy and Procedure,

THEREFORE BE IT RESOLVED, that the Board hereby adopts the following “Re-employment of Retirees Policy and Procedure”:

Revision Date: November 20, 2012

Revision Date: September 12, 2017

Revision Date: August 16, 2022

St. Clair County Employees' Retirement System
Board of Trustees Policy Guidelines

Policy #:

Subject: Re-employment of Retirees-Policy and Procedures

Purpose: The purpose of this policy is to provide procedures in accordance with the requirements of the IRC, the terms of Section 12a(28) of the County Pension Plan Act and the terms of Section 6.8 of the Retirement Ordinance to address the re-employment of retirees, and the suspension and reinstatement of retirement benefits to those applicable retirees who do not satisfy the requirements of the IRC and regulations, and/or who violate the 1,000 hour limitation. The revisions adopted September 12, 2017 will be effective as of November 1, 2017.

Adopted: September 25, 2007

Revised: November 20, 2012

Revised: September 12, 2017

Revised: August 16, 2022

Effective Date: November 1, 2017

**St. Clair County Employees Retirement System
Re-employment of Retirees – Policy and Procedures**

I. Re-employment of Retirees; Suspension of Benefits - No Exception Applies

- A. Upon the re-employment of a retiree from the Retirement System, all County Employers shall report the re-employment to the Retirement System including the effective date of re-employment, the re-employed retiree's position and the anticipated number of hours to be worked per month by the retiree. All County Employers must provide a copy of time sheets as entered in payroll to the Retirement System Administrator at the end of each pay period for any re-employed retiree.

Each re-employed retiree and the Supervisor or Department Head who has hired the re-employed retiree must sign a copy of the attached Acknowledgement which provides that the re-employed retiree understands the Policy and Procedure and agrees to abide by its provisions. The fully signed Acknowledgement must be returned to the Retirement System Administrator within 30 days of the re-employment. Failure to return a signed copy of the Acknowledgement does not negate the Policy or its provisions or the Retirement System's duties under the Policy.

- B. In the event that a retiree is re-employed by the County prior to being separated from service for a period of at least thirty (30) days, or does not otherwise satisfy the IRC safe-harbor normal retirement age/in-service distribution rules (i.e., attainment of age 50 for public safety retirees and age 55 for non public safety retirees prior to re-employment), pension benefits shall be immediately suspended upon the retiree's effective date of re-employment by the County.

- C. Notwithstanding the fact that the bona fide separation of employment and/or safe-harbor in-service distribution rules are satisfied, the retiree's benefits shall be suspended unless the retiree meets the requirements of either Section II or Section III below.
- D. Suspension of benefits pursuant to Subsection C, above, shall become effective the first day of the calendar month that follows the sixtieth day after re-employment.
- E. During such period of re-employment the retiree shall not be a member of the Retirement System and shall not accrue additional service credit, or any other form of pension benefit.
- F. Payment of pension benefits shall be resumed on the first day of the calendar month that follows the termination of employment without change in amount by reason of re-employment.

II. Re-employment of Retirees; No Suspension - Elected or Appointed Official

- A. Upon the election or appointment of a retiree from the Retirement System in satisfaction of the requirements of the IRC and related regulations, all County Employers shall report the election or appointment to the Retirement System, including the effective date of such election or appointment, the retiree's elected or appointed position with the County and the anticipated number of hours to be worked per month by the retiree.
- B. Notwithstanding satisfaction of the IRC bona fide separation and/or safe-harbor rules, the retiree's pension benefits shall be suspended unless the retiree meets one of the following requirements:
 - (1) A retiree who was not an elected or appointed county official at retirement, but is then elected or appointed as a county official for a term of office that begins after the retiree's retirement date; or
 - (2) A retiree who was an elected or appointed county official at retirement, but is then elected or appointed as a county official to a different office from which her or she retired for a term of office that begins after the retiree's retirement date; or
 - (3) A retiree who was an elected or appointed county official at retirement, but is then elected or appointed as a county official to the same office from which her or she retired for a term of office that begins 2 years or more after the retiree's retirement date.
- C. The Board shall be responsible for determining whether a re-employed retiree is an elected or appointed official and shall determine the status of any re-employed retiree in any case of doubt.
- D. During such period of re-employment the retiree shall not be a member of the Retirement

System and shall not accrue additional service credit, or any other form of pension benefit.

III. Re-employment of Retirees; No Suspension - 1,000 Hour Limit

- A. Upon the re-employment of a retiree from the Retirement System in accordance with the requirements of the IRC and related regulations, all County Employers shall report the re-employment to the Retirement System including the effective date of re-employment, the re-employed retiree's position and the anticipated number of hours to be worked per month by the retiree.

All County Employers must provide a copy of time sheets as entered in payroll to the Retirement System Administrator at the end of each pay period for any re-employed retiree.

Each re-employed retiree and the Supervisor or Department Head who has hired the re-employed retiree must sign a copy of the attached Acknowledgement which provides that the re-employed retiree understands the Policy and Procedure and agrees to abide by its provisions. The fully signed Acknowledgement must be returned to the Retirement System Administrator within 30 days of the re-employment. Failure to return a signed copy of the Acknowledgement does not negate the Policy or its provisions or the Retirement System's duties under the Policy.

- B. Pension benefits shall not be suspended if the retiree is employed for not more than 1,000 hours in any 12-month period. The 12-month period applies to any 12-month period and is not limited to a calendar year or fiscal year. The 12-month period to be used shall be the 12 months immediately prior to the current month. For example, if the current month is April of 2018, the 12-month period applicable would be the period from April 1, 2017 to March 31, 2018. The 12-month period will not be considered a 365-day period, calendar year, or any other timeframe.
- C. Each month, each County Employer shall report to the Retirement System Administrator the actual hours worked of all re-employed retirees so that the Board may monitor the amount of time worked in the previous twelve month period. Hours worked shall include any paid holiday, vacation, and sick time consistent with any applicable collective bargaining agreement. Hours worked shall be credited in the month in which they were worked. The total hours worked each month shall be credited to that month.
- D. If a retiree exceeds the 1,000 hour limitation in any 12-month period, the Retirement System will notify the retiree that his or her pension benefits shall be suspended and shall be retroactively effective as of the first day of the calendar month that the retiree's re-employment by the County exceeded 1,000 hours worked, upon Board approval at its next regular meeting.
- E. The suspension of pension benefits shall remain in effect for no less than one month, and shall continue for so long as the re-employed retiree remains in violation of the 1,000 hour limitation.
- F. Any retirement benefits paid in error shall be recouped by the Retirement System upon recommencement of benefits by the retiree in accordance with the Retirement

Ordinance.

- G. The retiree's retirement benefit shall be reinstated on the first day of the calendar month that follows either termination of employment or return to compliance with the 1,000 hour limitation, whichever occurs first.
- H. Although the Retirement System shall monitor the hours worked by all re-employed retirees by notification from the employer, it is each retiree's individual burden to ensure that he or she does not violate the 1,000 hour limitation, and to monitor his or her own hours worked.
- I. The Board shall be responsible for determining whether a re-employed retiree has violated the 1,000 hour limit and shall determine the status of any re-employed retiree in any case of doubt.
- J. During such period of re-employment the retiree shall not be a member of the Retirement System and shall not accrue additional service credit, or any other form of pension benefit.

A copy of this Policy and Procedure shall be forwarded to all County Employer groups, all collective bargaining units, all retirees, and any other relevant parties.

**St. Clair County Employees Retirement System
Re-employment of Retirees – Policy and Procedures**

Acknowledgement of Policy and Procedure

I acknowledge that as a re-employed retiree from the St. Clair County Employees Retirement System that I am subject to the Retirement System's Re-employment of Retirees Policy and Procedure. I further acknowledge that I am subject to the provisions of the County Pension Plan Act (MCL 46.12a) and the St. Clair County Employees Retirement System Ordinance. Finally, I acknowledge that if I exceed the 1,000 hour limitation in a 12-month period as more fully described in the Policy and Procedure that my monthly pension benefit will be suspended until I am no longer in violation of the 1,000 hour limitation.

I acknowledge that I am not eligible for any benefits from the County other than those required by law or otherwise provided to the retiree by virtue of being a retiree.

Re-employed Retiree Name

Signature

Date

Dept Head/Supervisor Name

Signature

Date