

SENATE BILL 2640

By Watson

AN ACT to amend Chapter 557 of the Private Acts of 1939; as amended by Chapter 76 of the Private Acts of 2004; and any other acts amendatory thereto, relative to the Hamilton County Employees' Retirement Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, such acts comprising the Hamilton County Employees Retirement Act, herein referred to as "the Plan", and any other acts amendatory thereto, are hereby amended as provided in the subsequent sections of this act, generally effective as of July 1, 2013, with specific effective dates for certain sections as may be indicated in such sections.

SECTION 2. This act amends the Plan to comply with changes in the Internal Revenue Code of 1986, herein referred to as the "Code", and various regulations and other guidance, as set forth in the 2012 Cumulative List issued by the Internal Revenue Service in Notice 2012-76 for Cycle C plans, including, but not limited to, changes under the Pension Protection Act of 2006 (PPA '06), the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act of 2007, the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act), the Worker, Retiree, and Employer Recovery Act of 2008 (WRERA), the Small Business Jobs Act of 2010 (SBJA); the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 (PRA 2010) and the Moving Ahead for Progress in the 21st Century Act (MAP-21).

SECTION 3. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 25 in its entirety and substituting instead the following:

Section 25. Limitations on Benefits.

(a) The limitations of this Section 25 shall apply in Limitation Years beginning on or after July 1, 2007, except as otherwise provided herein.

(b) The Annual Benefit otherwise payable to a Participant at any time shall not exceed the Maximum Permissible Benefit. If the benefit the Participant would otherwise accrue in a Limitation Year would produce an Annual Benefit in excess of the Maximum Permissible Benefit, the benefit shall be limited, or the rate of accrual reduced, to a benefit that does not exceed the Maximum Permissible Benefit.

(c) If the Participant is, or has ever been, a participant in another qualified defined benefit plan maintained by the County, the sum of the Participant's Annual Benefits from all such plans may not exceed the Maximum Permissible Benefit. Where the Participant's county-provided benefits under all such defined benefit plans, determined as of the same age, would exceed the Maximum Permissible Benefit applicable at that age, the County will reduce the rate of accrual in this Plan to the extent necessary so that the total Annual Benefit payable at any time under such plans will not exceed the Maximum Permissible Benefit.

(d) The application of the provisions of this Section 25 shall not cause the Maximum Permissible Benefit for any Participant to be less than the Participant's accrued benefit under all the defined benefit plans of the County as of the end of the last Limitation Year beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007, satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to Code section 415 in effect as of the end of the last Limitation Year beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, as described in Regulation 1.415(a)-1(g)(4).

(e) Definitions (In Addition to Those Capitalized Terms Defined in Section 34).

For purposes of this Section 25, the following terms shall be defined as follows:

(1) "Annual Benefit" means a benefit that is payable annually in the form of a straight life annuity. Except as provided below, where a benefit is payable in a form other than a straight life annuity, the benefit shall be adjusted to an actuarially equivalent straight life annuity that begins at the same time as such other form of benefit and is payable on the first day of each month, before applying the limitations of this Section 25. For a Participant who has or will have distributions commencing at more than one Annuity Starting Date, the Annual Benefit shall be determined as of each such Annuity Starting Date, and shall satisfy the limitations of this Section 25 as of each such date, actuarially adjusting for past and future distributions of benefits commencing at the other Annuity Starting Dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to Regulation 1.401(a)-20, Q&A 10(d), and with regard to Regulation 1.415(b)-(1)(b)(ii)(B) and (C).

No actuarial adjustment to the benefit shall be made for (i) survivor benefits payable to a surviving Spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the Participant's benefit were paid in another form; (ii) benefits that are not directly related to retirement benefits, such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits; or (iii) the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to Code section 417(e)(3) and would otherwise satisfy the limitations of this Section 25, and the Plan provides that the amount payable under the form of benefit in any Limitation Year shall not exceed the limits of this Section 25 applicable at the Annuity Starting Date, as increased in subsequent years pursuant to Code section 415(d). For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

The determination of the Annual Benefit shall take into account Social Security supplements described in Code section 411(a)(9) and benefits

transferred from another defined benefit plan, other than transfers of distributable benefits pursuant Regulation 1.411(d)-4, Q&A-3(c), but shall disregard benefits attributable to employee contributions or rollover contributions.

The determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with subsections (A) or (B) below.

(A) Benefit Forms Not Subject to Code section 417(e)(3). The straight life annuity that is actuarially equivalent to the Participant's form of benefit shall be determined under this subsection (A) if the form of the Participant's benefit is either (1) a nondecreasing annuity, other than a straight life annuity, payable for a period of not less than the life of the Participant, or, in the case of a qualified preretirement survivor annuity, the life of the surviving Spouse, or (2) an annuity that decreases during the life of the Participant merely because of (a) the death of the survivor annuitant, but only if the reduction is not below fifty percent (50%) of the benefit payable before the death of the survivor annuitant, or (b) the cessation or reduction of Social Security supplements or qualified disability payments, as defined in Code section 401(a)(11).

(i) Limitation Years beginning before July 1, 2007. For Limitation Years beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit computed using whichever of the following produces the greater annual amount: (I) the interest rate and mortality table, or other tabular factor specified in Section 33 of the Plan for adjusting benefits in the same form; and (II) a five percent

(5%) interest rate assumption and the applicable mortality table defined in Section 33 of the Plan for that Annuity Starting Date.

(ii) Limitation Years beginning on or after July 1, 2007. For Limitation Years beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, the actuarially equivalent straight life annuity is equal to the greater of (I) the annual amount of the straight life annuity, if any, payable to the Participant under the Plan commencing at the same Annuity Starting Date as the Participant's form of benefit; and (II) the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using a five percent (5%) interest rate assumption and the applicable mortality table defined in Section 33 of the Plan for that Annuity Starting Date.

(B) Benefit Forms Subject to Code section 417(e)(3). As a governmental plan there are no benefits subject to Code section 417(e)(3).

(2) "Compensation" shall mean all of a Participant's wages within the meaning of Code section 3401(a) and all other payments of compensation to an employee by the County for which the County is required to furnish the employee a written statement under Code sections 6041(d), 6051(a)(3), and 6052. Compensation shall 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). However, compensation shall exclude amounts paid or reimbursed by the County for moving expenses incurred by an employee, but only to the extent that at the time

of the payment it is reasonable to believe that these amounts are deductible by the employee under Code section 217.

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

For Limitation Years beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, Compensation for a Limitation Year shall also include Compensation paid by the later of two and one-half (2½) months after an employee's severance from employment with the County, or the end of an elected or appointed term as commissioner, or the end of the calendar year that includes the date of the employee's severance from employment, or the end of an elected or appointed term as commissioner with the County, if:

(i) The payment is regular Compensation for services during the employee's regular working hours, or Compensation for services outside the employee's regular working hours, such as overtime or shift differential, commissions, bonuses, or other similar payments, and, absent a severance from employment, the payments would have been paid to the employee while the employee continued in employment, or service as commissioner with the County; or

(ii) The payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued; or

(iii) The payment is received by the employee pursuant to a nonqualified unfunded deferred compensation plan and would have been paid at the same time if employment had continued, but only to the extent includible in gross income.

Any payments not described above shall not be considered Compensation if paid after severance from

employment, or end of term as commissioner, even if they are paid by the later of two and one-half (2½) months after the date of severance from employment or the end of the calendar year that includes the date of severance from employment, except, (i) payments to an individual who does not currently perform services for the County by reason of qualified military service within the meaning of Code section 414(u)(1), to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the County rather than entering qualified military service; or (ii) compensation paid to a Participant who is permanently and totally disabled, as defined in Code section 22(e)(3), provided, salary continuation applies to all Participants who are permanently and totally disabled for a fixed or determinable period, or the Participant was not a highly compensated employee, as defined in Code section 414(q), immediately before becoming disabled.

Back pay, within the meaning of Regulation 1.415(c)-2(g)(8) shall be treated as Compensation for the Limitation Year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

For Limitation Years beginning after December 31, 1997, for purposes of applying the limitations of this Section 25, compensation paid or made available during such Limitation Year shall include any elective deferral, as defined in Code section 402(g)(3), and any amount which is contributed or deferred by the County at the election of the employee and which is not includible in the gross income of the employee by reason of Code section 125 or Code section 457.

For Limitation Years beginning on and after January 1, 2001, for purposes of applying the limitations of this Section 25, Compensation paid or made available during such Limitation Years shall include elective amounts that are not includible in the gross income of the Employee by reason of Code section 132(f)(4).

(3) "County" shall, for purposes of this Section 25, mean the County of Hamilton, Tennessee.

(4) "Defined Benefit Compensation Limitation" As a governmental plan, this Plan is not subject to the one hundred percent (100%) compensation limit of Code section 415(b).

(5) "Defined Benefit Dollar Limitation" shall mean, as of the general effective date of this act, two hundred five thousand dollars (\$205,000), the limit for the 2013 fiscal year, as may be automatically adjusted, effective January 1 of each year, by the Secretary of the Treasury under Code section 415(d) in such manner as the Secretary shall prescribe, and payable in the form of a straight-life annuity. A limitation as adjusted under Code section 415(d) will apply to Limitation Years ending with or within the calendar year for which the adjustment applies, but a Participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. The automatic annual adjustment provided under Code section 415(d) shall apply to Participants who have had a separation from employment.

(6) "Limitation Year" shall mean the Plan Year. All qualified plans maintained by the County shall use the same Limitation Year. If the Limitation Year is amended to a different twelve (12) consecutive month period, then the new Limitation Year shall begin on a date within the Limitation Year in which the amendment is made.

(7) "Maximum Permissible Amount" shall mean the Defined Benefit Dollar Limitation adjusted where required and to the extent applicable pursuant to subsections (A) and (B) below.

(A) Adjustment for Less Than Ten (10) Years of Participation or Service. If the Participant has less than ten (10) Years of Participation in the Plan, the Defined Benefit Dollar Limitation shall be multiplied by a fraction (i) the numerator of which is the number of Years, or part thereof, but not less than one (1) year, of Participation in the Plan, and (ii) the denominator of which is ten (10). This subsection (A) shall not apply to a distribution made on account of the Participant becoming disabled by reason of personal injuries or sickness or as a result of the Participant's death.

(B) Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement Before Age Sixty-Two (62) or after Age Sixty-Five (65). The Defined Benefit Dollar Limitation shall be adjusted if the Annuity Starting Date of the Participant's benefit is after age sixty-five (65) as follows:

(i) Limitation Years Beginning Before July 1, 2007. If the Annuity Starting Date for the Participant's benefit is after age sixty-five (65) and occurs in a Limitation Year beginning before July 1, 2007, or such later date as may be applicable to a governmental plan, the Defined Benefit Dollar Limitation for the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the Defined Benefit Dollar Limitation, adjusted under subsection (7)(A) above for years of participation less than ten (10), if required, with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate and the

mortality table, or other tabular factor specified in Section 33 of the Plan; or (2) a five percent (5%) interest rate assumption and the applicable mortality table defined in Section 33 of the Plan.

(ii) Limitation Years Beginning On or After July 1, 2007.

A. Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age Sixty-Five (65) and the Age of Benefit Commencement. If the Annuity Starting Date for the Participant's benefit is after age sixty-five (65) and occurs in a Limitation Year beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, and the Plan does not have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement, the Defined Benefit Dollar Limitation at the Participant's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's Annuity Starting Date that is the actuarial equivalent of the Defined Benefit Dollar Limitation, adjusted under subsection (7)(A) above for Years of Participation less than ten (10), if required, with actuarial equivalence computed using a five percent (5%) interest rate assumption and the applicable mortality table for that Annuity Starting Date as defined in Section 33 of the Plan, and expressing the Participant's age based on completed calendar months as of the Annuity Starting Date.

B. Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age Sixty-Five (65) and the Age of Benefit Commencement. If the Annuity Starting

Date for the Participant's benefit is after age sixty-five (65) and occurs in a Limitation Year beginning on or after July 1, 2007, or such later date as may be applicable to a governmental plan, and the Plan has an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement, the Defined Benefit Dollar Limitation at the Participant's Annuity Starting Date is the lesser of the limitation determined under subsection (B)(ii)A, and the Defined Benefit Dollar Limitation, adjusted under subsection (8)(A) above for Years of Participation less than ten (10), if required, multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the Participant's Annuity Starting Date to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age sixty-five (65), both determined without applying the limitations of this Section 25. For this purpose, the adjusted immediately commencing straight life annuity under the Plan at the Participant's Annuity Starting Date is the annual amount of such annuity payable to the Participant, computed disregarding the Participant's accruals after age sixty-five (65) but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the Plan at age sixty-five (65) is the annual amount of such annuity that would be payable under the Plan to a hypothetical participant who is age sixty-five (65) and has the same accrued benefit as the Participant.

(iii) Notwithstanding the other requirements of this subsection (7)(B), no adjustment shall be made to the Defined Benefit Dollar Limitation to reflect the probability of a Participant's death between age sixty-five (65) and the Annuity Starting Date, as applicable, since benefits are not forfeited upon the death of the Participant prior to the Annuity Starting Date. To the extent benefits are forfeited upon death before the Annuity Starting Date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the Participant's death if the Plan does not charge Participants for providing a qualified preretirement survivor annuity, as defined in Code section 417(c) upon the Participant's death.

(C) Minimum benefit permitted. Notwithstanding anything else in this definition to the contrary, the benefit otherwise accrued or payable to a Participant under this Plan shall be deemed not to exceed the Maximum Permissible Benefit if:

(i) The retirement benefits payable for a Limitation Year under any form of benefit with respect to such Participant under this Plan and under all other defined benefit plans, without regard to whether a plan has been terminated, ever maintained by the County do not exceed ten thousand dollars (\$10,000) multiplied by a fraction (I) the numerator of which is the Participant's number of years, or part thereof, but not less than one (1) year of service, not to exceed ten (10), with the County, and (II) the denominator of which is ten (10); and

(ii) The County has not at any time maintained a defined contribution plan in which the Participant participated. For this purpose, mandatory employee contributions under a defined benefit plan, individual medical accounts under § 401(h), and

accounts for postretirement medical benefits established under § 419A(d)(1) are not considered a separate defined contribution plan.

(8) “Year of Participation” shall mean each accrual computation period, computed to fractional parts of a year, for which the following conditions are met: (i) the Participant is credited with at least the number of hours of service for benefit accrual purposes, required under the terms of the Plan in order to accrue benefit service, and (ii) the Participant is included as a Participant under the eligibility provisions of the Plan for at least one (1) day of the period of benefit service. If these two (2) conditions are met, the portion of a Year of Participation credited to the Participant shall equal the amount of benefit service credited to the Participant for such accrual computation period. A Participant who is permanently and totally disabled within the meaning of Code section 415(c)(3)(C)(i) for an accrual computation period shall receive a Year of Participation with respect to that period. In addition, for a Participant 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 twelve-month period.

(f) Notwithstanding any provision of this Section 25, the application of this section shall be subject to such rules as may be prescribed by the Secretary of the Treasury.

SECTION 4. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 26 in its entirety and substituting instead the following:

Section 26. Limitation on Earnings.

(a) For purposes of computing any benefit under the Plan or any contribution made to the Plan, there shall be a limit on the amount of compensation that may be

considered in any Plan Year for any Participant. The limit shall be the amount specified in this section as described below.

(b) For Plan Years beginning after December 31, 2001, the annual compensation of each Participant taken into account in determining benefit accruals in any Plan Year shall not exceed two hundred thousand dollars (\$200,000), as may be adjusted as set forth below. Annual compensation means compensation during the Plan Year or such other consecutive twelve-month period over which compensation is otherwise determined under the Plan, known as the determination period. The two hundred thousand dollar (\$200,000) limit on annual compensation in this subsection (b) shall be adjusted for cost-of-living increases in accordance with Code section 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

SECTION 5. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 28 in its entirety and substituting instead the following:

Section 28. Right to Direct Rollover. This section applies to distributions made on or after January 1, 2002. 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 Pension Commission, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(a) Eligible rollover distribution: An "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one (1) 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 (10) years or more; any distribution to the extent such distribution is required under

Code section 401(a)(9); and the portion of any distribution that is not includible in gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

(b) Eligible retirement plan: An “eligible retirement plan” is any of the following arrangements that accept the distributee’s eligible rollover distribution:

(1) An individual retirement account described in Code section 408(a);

(2) An individual retirement annuity described in Code section 408(b);

(3) An annuity plan described in Code section 403(a);

(4) A qualified trust described in Code section 401(a);

(5) An annuity contract described in Code section 403(b);

(6) An eligible plan under Code section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan; and

(7) For distributions made after December 31, 2007, a Roth IRA described in Code section 408A(b).

A portion of a distribution shall not fail to be an “eligible rollover distribution” merely because the portion consists of after tax Participant contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Code section 408(a) or (b), or to a qualified defined contribution plan described in Code section 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

The definition of “eligible retirement plan” shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is the alternate payee under a domestic relations order accepted by the Pension Commission.

(c) Distributee: A “distributee” includes an employee or former employee eligible for benefits under the Plan. 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 domestic relations order accepted by the Pension Commission, are distributees with regard to the interest of the Spouse or former Spouse.

Effective for distributions made after December 31, 2010, a “distributee” also includes a Participant’s nonspouse beneficiary. However, in the case of a nonspouse beneficiary, the rollover must be a direct rollover and only can be made to an individual retirement account or annuity describe in Code section 408(a) or 408(b) (“IRA”) that is established on behalf of the beneficiary and will be treated as an inherited IRA pursuant to Code section 402(c)(ii). Also, in the case of a nonspouse beneficiary, the determination of any required minimum distribution under Code section 401(a)(9) that is ineligible for rollover shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18. If such distribution is made prior to January 1, 2010, it is not subject to the direct rollover requirements of Code section 401(a)(31), the notice requirements of Code section 402(f) or the mandatory withholding requirements of Code section 3405(c). If a nonspouse beneficiary receives a distribution from the Plan, the distribution is not eligible for a 60-day (nondirect) rollover.

If the Participant’s named beneficiary is a trust, the Plan may make a direct rollover to an IRA on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary with the meaning of Code section 401(a)(9)(E).

(d) Direct rollover: A direct rollover is a payment by the Plan to an eligible retirement plan specified by the distributee and as allowed by law.

SECTION 6. Chapter 557 of the Private Acts of 1939, as amended by Chapter 76 of the Private Acts of 2004, and any other acts amendatory thereto, is amended by deleting Section 33 in its entirety and substituting instead the following:

Section 33. Actuarial Equivalent

(a) Effective July 1, 2002, “actuarial equivalent” shall mean a benefit of equivalent value on the basis of a seven and one-half percent (7.5%) interest rate, the

RP-2000 Mortality Table for Employees (Male) for Members, and the RP- 2000 Mortality Table for Employees (Female) for Beneficiaries.

(b) Notwithstanding the foregoing, the mortality table and the interest rate for the purposes of determining the actuarial equivalent of the limitation on benefits per Section 25 shall be the “applicable mortality table” and the “applicable interest rate” described below:

(1) For Plan Years beginning before January 1, 2008, the “applicable interest rate” is the rate of interest on 30 year Treasury securities determined as of the “lookback month” for the “stability period,” as explained in Subsection (3) below. For Plan Years beginning on or after January 1, 2008, the applicable interest rate is the adjusted first, second and third segment rates described in Code section 417(e)(3), as specified by the Commissioner of the Internal Revenue Service, for the lookback month preceding the stability period. For this purpose, the segment rates are the spot segment rates that would be determined for the applicable month under Code section 430(h)(2)(C) without the twenty-four-month averaging under Code section 430(h)(2)(D), and determined without regard to the adjustment for the 25-year average segment rates provided in Code section 430(h)(2)(C)(iv).

(2) For Plan Years beginning before January 1, 2009, the “applicable mortality table” is the table set forth in Rev. Rul. 2001-62. For Plan Years beginning on or after January 1, 2009, the applicable mortality tables are set forth in Regulation 1.430(h)(3)-1 and Internal Revenue Service Notice 2008-25.

(3) For purposes of this Section 33, the “stability period” is the plan year in which the Participant’s Annuity Starting Date occurs, and the “lookback month” is the second full calendar month prior to the first day of the stability period.

(c) Notwithstanding the foregoing, except as provided in the Regulations, if a Plan amendment, including amendments made by this act, changes the time for determining the “applicable interest rate”, including an indirect change as a result of a change in the Plan Year, any distribution for which the Annuity Starting Date occurs in

the 1-year period commencing at the time the Plan amendment is effective, if the amendment is effective on or after the adoption date, must use the interest rate as provided under the terms of the Plan after the effective date of the amendment, determined at either the date for determining the interest rate before the amendment or the date for determining the interest rate after the amendment, whichever results in the larger distribution. If the Plan amendment is adopted retroactively, that is, the amendment is effective prior to the adoption date, the Plan must use the interest rate determination date resulting in the larger distribution for the period beginning with the effective date and ending one (1) year after the adoption date.

SECTION 7. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Hamilton County. Its approval or rejection shall be proclaimed by the presiding officer of the legislative body and certified to the Secretary of State.

SECTION 8. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 7.