



CITY OF PONTIAC
OFFICE OF THE EMERGENCY MANAGER
LOUIS H. SCHIMMEL

47450 Woodward Avenue
Pontiac, Michigan 48342
Telephone: (248) 758-3133
Fax: (248) 758-3292

Dated: June 3, 2013

ORDER NO. S-276

RE: Reject ordinance to amend composition of GERS Retirement Board of Trustees

TO: Sherikia Hawkins, City Clerk
GERS Retirement Board of Trustees

The Local Financial Stability and Choice Act (Act 436 of 2012/MCL 141.15411, et. seq.) in Section 10 empowers an Emergency Manager to issue orders to the appropriate local elected and appointed officials and employees, agents, and contractors of the local government a Manager considers necessary to accomplish the purposes of the Act and any such orders are binding on the local elected and appointed officials and employees, agents, and contractors of the local government to whom they are issued.

Section 12(1) of the Act provides that “[a]n emergency manager may take 1 or more of the following additional actions with respect to a local government that is in receivership, notwithstanding any charter provision to the contrary: (dd) [e]xercise solely, for and on behalf of the local government, all other authority and responsibilities of the chief administrative officer and governing body concerning the adoption, amendment, and enforcement of ordinances....”

WHEREAS, Emergency Manager Schimmel introduced the attached ordinance at a public meeting on April 2, 2013; and,

WHEREAS, the proposed ordinance was distributed to each member of the Council and the Mayor by the Clerk; and,

WHEREAS, a summary of the proposed ordinance and time and place of consideration by the Emergency Manager was published in the Oakland Press on April 4, 2013; and,

WHEREAS, the Emergency Manager at a public meeting on June 3, 2013 announced that he is not adopting the proposed ordinance.

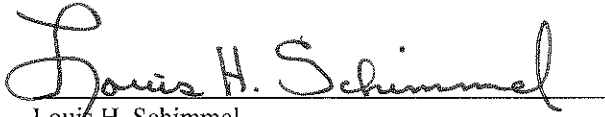
It is hereby ordered:

1. That the attached ordinance, an ordinance to amend the composition of the General Employee Retirement System Board of Trustees, is not adopted.

The Order shall have immediate effect.

Copies of the documents referenced in this Order are to be maintained in the offices of the City Clerk and may be reviewed and/or copies may be obtained upon submission of a written request consistent with the requirements of the Michigan Freedom of Information Act and subject to any exemptions contained in that state statute and subject to any exemptions allowed under that statute (**Public Act 442 of 1976, MCL 15.231, et. seq.**).

This order is effective as indicated and is necessary to carry out the duties and responsibilities required of the Emergency Manager as set forth in the Local Financial Stability and Choice Act (Act 436 of 2012/MCL 141.15411, et. seq.) and the contract between the Local Emergency Financial Assistance Loan Board and the Emergency Manager.

A handwritten signature in black ink that reads "Louis H. Schimmel". The signature is written in a cursive style with a horizontal line underneath the name.

Louis H. Schimmel
City of Pontiac
Emergency Manager

cc: State of Michigan Department of Treasury
Mayor Leon B. Jukowski
Pontiac City Council

Ordinance No. 227x

An ordinance to amend the composition of the General Employee Retirement System Board of Trustees

The City of Pontiac ordains:

Section 1. Amendments.

Section 3 of the General Employee Retirement System ordinance shall be amended to read as follows:

ADMINISTRATION OF RETIREMENT SYSTEM

There is hereby created a Board of Trustees in whom is vested the general administration, management, and responsibility for the proper operation of the Retirement System and for making effective the provisions of this amendment. The Board shall be a quasi-judicial body consisting of five (5) Trustees as follows:

- (a) The Mayor of the City of Pontiac.
- (b) The Finance Director of the City.
- (c) One (1) retirant of the Retirement System to be selected by the hospital retirees only.
- (d) One (1) retirant of the Retirement System to be selected by the current, non-hospital retirees only
- (e) One (1) person to be selected by all active employees, as well as deferred and current retirees.
- (f) All the above Trustees, except the Mayor and Finance Director, shall be appointed for three- (3-) year terms, and may be re-appointed for an unlimited number of successive three- (3-) year terms as provided above.
- (g) In exercising its fiduciary responsibilities, the Board shall act for the exclusive benefit of the Plan's participants and their beneficiaries and shall exercise the care, skill, prudence and diligence under the circumstances then prevailing, that an individual of prudence acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and similar objectives.
- (h) The Board shall indemnify to the extent authorized or permitted by

law the members of the Board, their representatives, and any other employees of the City who are deemed to be acting on behalf of the Retirement System and hold them harmless, against any and all liabilities, including legal fees and expenses, arising out of any act or omission made or suffered in good faith pursuant to the provisions of the plan, or arising out of any failure to discharge a fiduciary obligation imposed, other than a willful failure to discharge a fiduciary obligation of which the person was aware. There shall be no duty to indemnify where such person is judicially determined to have incurred liability due to fraud, gross negligence or malfeasance in the exercise and performance of their duties.

(i) Until such time that the Board meets and elects officers, the Mayor shall be designated the chair of the Board and shall have the authority to call a special meeting if necessary to address the business of the Board.

Section 2. Severability.

If any section, or provision of this Ordinance shall be declared to be unconstitutional, void, illegal, or ineffective by any Court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of the Ordinance shall stand and be in full force and effect.

Section 3. Repealer.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 4. Effective Date.

This Ordinance shall be effective ten days after date of adoption.