



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

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**Dated: March 1, 2012**

**ORDER NO. S-165**

**RE: Ordinance to amend composition of GERS Board of Trustees**

**TO: Sherikia Hawkins, City Clerk**  
**Ellen Zimmermann, Retirement System Administrator**

The **Local Government and School District Fiscal Accountability Act (Public Act 4 of 2011)** in **Section 17(1)** empowers an Emergency Manager to issue the orders the Manager considers necessary to accomplish the purposes of the Act and any such orders are binding on the local officials or employees to whom they are issued. **Section 19(1)** provides that an Emergency Manager may take on one or more additional actions with respect to a local government in receivership: **(dd)** [e]xercise solely, for and on behalf of the local government, all other authority and responsibilities of the chief administrative officer and the governing body concerning the adoption, amendment, and enforcement of ordinances...; and **19(2)** ...the authority of the chief administrative officer and governing body to exercise power for and on behalf of the local government under law, charter, and ordinance shall be suspended and vested in the Emergency Manager.

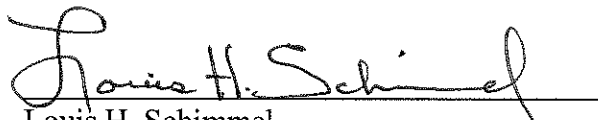
**It is hereby ordered:**

1. That the attached Ordinance No. 2249, an ordinance to amend the composition of the General Employee Retirement System Board of Trustees, is adopted and effective upon publication.
3. That the City Clerk shall take all actions required under the law to reflect the attached ordinance changes on the City books and records, including publication of the adopted ordinance.

**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 necessary in order to carry out the duties and responsibilities required of the Emergency Manager as set forth in the **Local Government and School District Fiscal Accountability Act (Public Act 4 of 2011)** and the contract between the State of Michigan and the Emergency Manager.

A handwritten signature in cursive script, reading "Louis H. Schimmel", written over a horizontal line.

Louis H. Schimmel  
City of Pontiac  
Emergency Manager

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

## Ordinance No. 2249

### **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 eleven (11) Trustees as follows:

- (a) A member of the City Council to be selected by the City Council.
- (b) The Mayor of the City of Pontiac.
- (c) The Finance Director of the City.
- (d) The City Council shall appoint three (3) citizens who are electors and freeholders of the City and who are not eligible to receive benefits under this Retirement System, hereinafter referred to as the citizen trustees.
- (e) Three (3) members of the Retirement System one (1) of whom shall be an active member nominated and elected by the active members of the Retirement System and two (2) of whom shall be either active, deferred vested or retired members, nominated and elected by the active, deferred vested and retired members (Herein after referred to as the Member Trustees).
- (f) One (1) retirant of the Retirement to be elected by the retirants of the Retirement System.
- (g) One (1) deferred vested or retired member of the Retirement System who was formerly employed by Pontiac General Hospital ("PGH Member") shall be nominated and elected by the deferred vested or retired members

who were formerly employed by PGH, pursuant to an election or nominating procedure adopted by the PGH Members. Elections shall be conducted by the PGH Members and shall be held in such a manner as to afford all PGH deferred and retired Members the opportunity to vote.

- (h) The election of the Trustees provided for in paragraph (e) and (f) of this Section shall be conducted under such rules and regulations as the Board shall adopt to govern such elections.
- (i) 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.
- (j) 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.

### **Section 2. Severability.**

If any section, clause, 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 this 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. Emergency Declaration**

This Ordinance is hereby determined to be immediately necessary for the preservation of the public health, safety, and welfare and shall be in full force and effect upon publication as required by law.