

ORDINANCE #69183
Board Bill No. 11
Floor Substitute

An Ordinance pertaining to The Firemen’s Retirement System of St. Louis, repealing Section Six of Ordinance 49623, codified as Section 4.18.060 of the Revised Code of the City of St. Louis, and enacting in lieu thereof a new section pertaining to the jurisdiction and authority of the trustees of the The Firemen’s Retirement System of St. Louis; containing an emergency clause.

WHEREAS, in 1959 the City adopted Ordinance 49623, establishing The Firemen’s Retirement System of St. Louis (“FRS”), effective January 1, 1960, under the general authority of Senate Bill 314, approved by the Missouri General Assembly.

WHEREAS, the City is required to fund FRS to the extent investment returns and other revenues are insufficient to fund benefit obligations.

WHEREAS, FRS incurred actuarial investment losses totaling more than \$256 million during the eleven-year period from 2001 through 2011, resulting in an unfunded liability in excess of \$117 million.

WHEREAS, during the same period of time, the City’s required annual payment to FRS increased by 529 percent, from \$3,365,007 to \$21,176,763 (not including service of debt incurred to fund contributions).

WHEREAS, the City therefore wishes to clarify, augment and amend the provisions of FRS ordinances relating to the duties and responsibilities of FRS trustees so as to assure that said trustees do not cause the City to incur additional and unnecessary expenditures as a result of conduct that exceeds the intended scope of the trustees’ authority.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. Section Six of Ordinance 49623 (codified as Section 4.18.060 of the Revised Code of the City of St. Louis), is hereby repealed, and in lieu thereof a new Section Six is enacted to read as follows herein. The provisions of this Ordinance shall supercede any other ordinance or part of an ordinance to the extent such other ordinance or part of an ordinance conflicts herewith.

SECTION TWO. Jurisdiction.

The Board of Trustees shall have exclusive original jurisdiction in all matters relating to or affecting the funds provided for in this chapter, including, in addition to all other matters, all claims for benefits and refunds under this law, and its action, decision or determination in any matter shall be reviewable under Chapter 536, RSMo, only, and any party to the proceedings shall have a right of appeal from the decision of the reviewing court. Subject to the limitations of this act, the Board of Trustees shall, from time to time, establish rules and regulations for the administration of funds created by this law, for the transaction of its business, and for the limitation of the time within which claims may be filed. The provisions of this Section shall be codified as Section 4.18.060 A of the Revised Code of the City of St. Louis.

SECTION THREE. Administration – Duties of Trustees.

- (a) Plan Administrator. The authority and responsibility for the interpretation, operation and general administration of the Plan shall be vested in the Board of Trustees.
- (b) Duties of Plan Administrator. The Board of Trustees shall have the discretionary authority and responsibility to interpret and manage the Plan and exercise all fiduciary responsibilities with respect to the Plan. The duties and powers of the Board of Trustees as Plan Administrator shall include, but not be limited to, the following:
 - (1) To interpret the Plan provisions and to decide all questions concerning the Plan and the eligibility of any Employee to participate in the Plan and to receive benefits from the Plan;
 - (2) To authorize the payment of benefits at such times and in such manner as they determine are consistent with the terms of the Plan;
 - (3) To keep accurate and detailed records of the administration of the Plan, including the amount of Accumulated Contributions credited to the account of each Member, which records shall be open to inspection by the City at

all reasonable times;

- (4) To establish and enforce such rules, regulations and procedures as it shall deem necessary or proper for the efficient administration of the Plan;
- (5) To delegate to any agents such duties and powers, both ministerial and discretionary, as it deems appropriate, by an instrument in writing which specifies which such duties are so delegated and to whom each such duty is so delegated; and
- (6) To keep a record of all its proceedings, which shall be open to public inspection, and to publish annually a report showing the fiscal transactions of the Plan for the preceding fiscal year and the financial statement showing the assets of the Plan.

Notwithstanding any other provision of the City's ordinances, the FRS Board of Trustees shall have no duty or authority with respect to the establishment, design, amendment or termination of the plan. Such functions are settlor functions, which are reserved to the City, not fiduciary functions, in accordance with trust law. In particular, the Board of Trustees shall have no duty or authority to contest or challenge actions taken by the City with respect to the establishment, design, amendment or termination of the FRS, or any other action taken by the City in its capacity as settlor of the FRS or employer of plan members; and shall not authorize the expenditure of any assets of the FRS to fund any such contest or challenge, including but not limited to expenses related to litigation. The fiduciary authority of the Board of Trustees includes discretionary control over investment of assets of the Trust Fund. In particular, enforcing collection of a receivable, such as an obligation of the City to make a contribution to the plan, is included in the scope of the fiduciary duties and authority of the Board of Trustees.

The provisions, terms and conditions of this section shall be codified as Section 4.18.060 B of the Revised Code of the City of St. Louis.

SECTION FOUR. Emergency Clause.

This being an ordinance for the preservation of public peace, health and safety, and to prevent excessive expenditures and liabilities of the city government, it is hereby declared to be an emergency measure within the meaning of Sections 19 and 20 of Article IV of the Charter of the City of St. Louis and therefore shall become effective immediately upon its passage and approval by the Mayor.

Approved: July 2, 2012