

**TGRS-MERS STATEMENT ON MODIFICATIONS
OF STANDARD BENEFIT PROGRAMS**

(Adopted January 15, 2003; *as amended November 9, 2005*)

TGRS-MERS recognizes that terms of public employee retirement plans may be modified through collective bargaining. See e.g., *Local 1383, Int'l Ass'n of Fire Fighters, AFL-CIO v City of Warren*, 411 Mich 642; 311 NW2d 702 (1981); OAG, 1983-1984, No. 6244. Section 43B of the Plan Document reflects the ability of a collective bargaining agreement to modify TGRS-MERS standard benefit programs *in effect in participating municipalities and courts*:

- (1) Pursuant to a collective bargaining agreement entered into pursuant to 1947 PA 336, being sections 423.201 *et seq.* of the Michigan Compiled Laws, a participating municipality or participating court may provide for retirement benefits which are modifications of standard retirement benefits otherwise included in the plan.
- (2) In the manner provided in Section 43 or Section 43A, the participating municipality or participating court may extend such collectively bargained retirement benefit modifications to other employees of the participating municipality or participating court.
- (3) As a condition of the retirement system administering retirement benefit modifications under this Section 43B, the participating municipality or participating court shall agree to compensate the system for all reasonable and necessary additional costs of administering such benefit modifications.

However, the terms of any collective bargaining agreement are based on statute (the Public Employment Relations Act). Public pension and retirement benefits are governed by and subject to Article 9, section 24, of the Michigan Constitution of 1963:

The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby.

Financial benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be used for financing unfunded accrued liabilities.

The constitutional obligations imposed by Article 9, section 24 are further implemented by the Retirement Board's administration of MERS as sole trustee and fiduciary under the Plan Document. In that capacity, the Board adopted Plan Section 43B regulating modification of standard MERS benefit programs.

**What Are "Standard Retirement Benefits Otherwise Included in the Plan"
That Are Subject to Modification**

The following TGRS-MERS standard "benefit programs" are subject to modification and within TGRS-MERS technological capabilities to implement:

- “Compensation” items within “Final Average Compensation” in FAC-3 or FAC-5 (Section 2A).
- “Multipliers” under Benefit Program B-1 (Section 15); Benefit Program B-2 (Section 16); Benefit Program B-3 (Section 16A); and Benefit Program B-4 under Section 16B.
- Increase in maximum 80% of FAC benefit limit under Benefit Programs B-3 and B-4.
- Vesting provisions less than standard 10 years (including V-8 and V-6) (Section 10(1)(b) and 12).
- Retiree COLA (“E” benefits under Section 20).

For each non-standard TGRS-MERS benefit which may be implemented, the Retirement Board has established a \$6,000 first-year charge for set-up/programming, allocated equally between all affected divisions (Special Annual Expense Charges Procedure, August 12, 1999). *Under Plan Section 41(1) and 41A(1), providing the Board “shall establish benefit program coverage classifications,” it is determined that non-standard benefit fees shall not apply at the time of initial participation in MERS (or at the time a new division of an already participating municipality becomes covered under MERS).*

What Matters Are Not Subject to Modification and TGRS-MERS Will Decline to Administer?

TGRS-MERS is subject to Mich Const Art 9 section 24 and other federal and state laws of general application, the terms of which must control over contrary language. The MERS Plan Document is subject to (and must be administered in conformance with) provisions of the Internal Revenue Code of 1986 that apply to public pension plans, pursuant to the Letter of Favorable Determination issued by Internal Revenue Service, finding TGRS-MERS to be a tax-qualified trust under section 401(a) of the Code.

By way of description, *and not limitation*, the following lists those TGRS-MERS matters that are non-modifiable and will not be administered or recognized by TGRS-MERS:

- TGRS-MERS actuarial assumptions, or Plan Document language of general TGRS-MERS-wide application, as approved by the Retirement Board as trustee and fiduciary.
- Board-approved, TGRS-MERS-wide provision whose language specifies that TGRS-MERS will decline to administer or recognize any modification or alteration of terms. For example, Section 2C(3), prior service credit; or governing body/administrative order adoption resolution of general applicability, such as the TGRS-MERS Uniform Defined Contribution Adoption Resolution.
- Modifications not capable of implementation within TGRS-MERS then-current technology.

IN ALL CASES OF PROPOSED NON-STANDARD BENEFITS:

TGRS-MERS will not submit a valuation request to the actuary for valuation of any proposed TGRS-MERS benefits, or their structure, which are not subject to modification or alteration. In such instances, the requestor will be advised in writing of such action, and presented with any feasible alternatives.