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(ITEM ) From the Pension Board of the Employees' Retirement System (ERS) of the County of Milwaukee, requesting authorization to amend Section 201.24 Subsections (8.17), (11.1), (11.11), and (12.4) of the Milwaukee County Code of General Ordinances to be compliant with ERS's operation and administration and to prospectively eliminate purchases of service credit and optional membership in ERS, by recommending adoption of the following:

**AN AMENDED RESOLUTION/ORDINANCE**

WHEREAS, the Employees' Retirement System (ERS) of the County of Milwaukee is a tax-qualified governmental retirement plan that must comply with the applicable provisions of the Internal Revenue Code of 1986 (Code); and

WHEREAS, the Pension Board of ERS (Pension Board) acts as the fiduciary for, and oversees administration of, the ERS, in an effort to ensure the ERS maintains its tax-qualified status; and

WHEREAS, the Code requires tax-qualified retirement plans to be in writing and to be operated in accordance with the terms of their written plan documents; and

WHEREAS, after conducting a compliance audit of ERS's operations, the Pension Board discovered several operational errors with respect to the "buy back" of service credits by reemployed members pursuant to Section 201.24(11.1) of the Milwaukee County Code of General Ordinances (MCCGO) and the "buy in" of service credits by optional employees pursuant to ERS Rule 207; and

WHEREAS, between January 1, 1982, and January 1, 2005, the ERS Retirement Office (Retirement Office) permitted employees to restore prior service credit through the buy back despite violations of the two-year payment deadline imposed by Section 201.24(11.1), MCCGO; and

WHEREAS, between January 1, 1982, and January 1, 2002, the Retirement Office permitted employees to purchase and repurchase service credit through the buy in and buy back through payments that violated the Code section 415 limits on annual contributions, codified in Section 201.24(12.4); and

WHEREAS, between January 1, 2002, and January 1, 2007, the Retirement Office permitted employees to purchase prior service credit using amounts held in members' accounts under Milwaukee County's Internal Revenue Code section 457 deferred compensation plan; and

WHEREAS, through amendments to ERS ordinances by Milwaukee County, the Pension Board desires to correct these prior errors in the operation and administration

46 of ERS and seeks to ensure that future operational errors do not occur related to  
47 purchases of service credit; and

48

49 WHEREAS, the Voluntary Correction Program (VCP) compliance statement  
50 entered into between the County and the Internal Revenue Service (IRS) shall be  
51 written to correct failures related to Code section 415 limits; and

52

53 WHEREAS, the most administratively efficient means of correcting these prior  
54 errors is to amend ERS ordinances to retroactively eliminate the requirement that  
55 employees must purchase service credit pursuant to the buy back within two years of  
56 reemployment and retroactively allow for payments from the member's Code section  
57 457 plan account, and to work with the IRS on a resolution through the VCP compliance  
58 statement; and

59

60 WHEREAS, to simplify the operation of ERS, in light of the creation and  
61 existence of the Omnibus Budget Reconciliation Act plan, to ease the administrative  
62 costs and complexity of ERS, and to ensure that future operational errors do not occur,  
63 the Pension Board recommends amendments to ERS ordinances to prospectively  
64 eliminate the buy back and buy in features; and

65

66 WHEREAS, the proposed amendments have been referred to the pension fund  
67 actuary, who has submitted a report on actuarial cost; and

68

69 WHEREAS, at its meeting of February 3, 2015, the Pension Study Commission  
70 received testimony including a summary of the actuary's report and recommended  
71 approval of the item as amended by the Committee on Finance, Personnel, and Audit  
72 (vote 4-0); now, therefore,

73

74 BE IT RESOLVED, as requested by the Pension Board, Employees' Retirement  
75 System (ERS) ordinances are hereby amended to bring them into compliance with  
76 ERS's operation and administration and further amended to prospectively eliminate  
77 purchases of service credit and optional membership in ERS; and

78

79 BE IT FURTHER RESOLVED, the Voluntary Correction Program compliance  
80 statement entered into between the County and the Internal Revenue Service shall be  
81 written to correct failures related to Code section 415 limits; and

82

83 BE IT FURTHER RESOLVED, to ensure the above-noted revisions are properly  
84 codified, the Milwaukee County Board of Supervisors hereby amends Section 201.24 of  
85 the Milwaukee County Code of General Ordinances as follows:

86

87

### 87 **AN AMENDED ORDINANCE**

88

89 To amend section 201.24 of the General Ordinances of Milwaukee County as  
90 appropriate to bring the operation of ERS into compliance with the ERS Ordinances, as

91 required by federal requirements related to tax-qualified retirement plans that impact the  
92 ERS, and to eliminate purchases of service credit.

93

94

95 The County Board of Supervisors of the County of Milwaukee does ordain as  
96 follows:

97

98 **SECTION 1.** Effective upon adoption, section 201.24(8.17) is hereby amended to read  
99 as follows:

100

101 **8.17. Other powers.**

102

103 The board shall have the power to construe and interpret the system, decide all  
104 questions of eligibility and determine the amount, manner and time of payment of any  
105 benefits and reasonable administrative expenses hereunder. The board may, in its  
106 discretion, deny membership to any class of employes whose compensation is only  
107 partially paid by the county or who are serving on a temporary or other than per annum  
108 basis, ~~and it may, in its discretion, make optional with persons in any class their~~  
109 ~~individual entrance into membership.~~

110

111 The pension board shall be given no less than thirty (30) days to comment in  
112 writing to the county executive and the county board upon the fiscal impact of proposed  
113 benefit changes referred from the county board. The pension board may request of the  
114 county board an extension of time to comment. In making its referral, the county board  
115 shall make full disclosure to the pension board of all actuarial information utilized in the  
116 proposed benefit changes.

117

118 **SECTION 2.** Section 201.24(11.1) is hereby amended to read as follows effective as of  
119 the dates stated within:

120

121 **11.1 Reemployment of former members.**

122

123 (1) Effective from January 1, 1982, through June 30, 2007, ~~S~~should any  
124 member who terminated and withdrew his membership account return to  
125 active service, his service credits which he had at the time of such  
126 separation shall be restored to him, provided he renders two (2) years of  
127 service subsequent to his restoration to membership and provided further  
128 that within a thirty year period ~~the two-year period or on or before December~~  
129 ~~31, 1971, whichever date is later,~~ he redeposits the amount of any  
130 accumulated contributions withdrawn from his membership account at the  
131 time of his separation from the service, with interest thereon to date of  
132 redeposit. If he does not elect to restore his prior service credit by  
133 redepositing his accumulated contribution during said period of employment,  
134 the prior service credits shall be canceled and service credited only from the  
135 date his most recent reemployment period commenced.

136

137 Effective from January 1, 1982 through June 30, 2007, notwithstanding  
138 anything to the contrary in the Ordinances or Rules, a member who  
139 terminated County employment to become employed by United Regional  
140 Medical Services, Inc. in conjunction with the joint venture between the  
141 County and Froedtert Memorial Lutheran Hospital or who terminated  
142 County employment to become employed by Froedtert Memorial Lutheran  
143 Hospital in conjunction with the sale of Dohne Hospital or who retired  
144 from County employment pursuant to Ordinance section 201.24(4.25) or  
145 Ordinance section 201.24(4.26) may make payments to purchase  
146 permissive service credit or to repurchase previously forfeited service  
147 credit for up to two years following termination of County employment as  
148 long as that member had an otherwise completed purchase or repurchase  
149 of service credit as of July 1, 2007.

150  
151 (2) Effective from July 1, 2007, through December 31, 2014, for any redeposit  
152 that a member completes on or after July 1, 2007, the member must  
153 complete the redeposit within the two year period after returning to active  
154 service rather than a thirty year period. Prior service credit will not be  
155 restored until the entire amount previously withdrawn is redeposited. If he  
156 does not elect to restore his prior service credit by redepositing his  
157 accumulated contribution during said period of employment, the prior  
158 service credits shall be canceled and service credited only from the date his  
159 most recent reemployment period commenced.

160  
161 (3) Any person who was an employee of the county on June 4, 1937, but did  
162 not elect to become a member until a later date, may receive credit for his  
163 service as a county employe prior to his membership by depositing in his  
164 membership account before January 1, 1970, the contributions which he  
165 would have made as a member during the period from June 3, 1937, to the  
166 date he became a member together with interest to date of deposit.  
167 Effective January 1, 1982, any payments to repurchase previously forfeited  
168 service credit are subject to all other requirements contained within the  
169 Ordinances and Rules.

170  
171 (4) Should any member who is eligible to receive a deferred vested pension  
172 under section 4.5 return to active service, he shall again become an active  
173 member of the retirement system and shall resume contributions. Upon his  
174 subsequent retirement, he shall be credited with all the service giving rise to  
175 his deferred vested pension benefit as well as his service as a member  
176 subsequent to his reemployment for purposes of redetermining the amount  
177 of his pension.

178  
179 (5) Any member who terminated and withdrew his accumulated contributions  
180 because of membership in the sheriffs' annuity and benefit fund of the  
181 county shall have restored to him all service credits which he had at the time  
182 of such termination, provided that within one (1) year from July 9, 1969, he

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redeposits the amount of any accumulated contributions withdrawn at the time of his termination with interest thereon to the date of redeposit.

- (6) Notwithstanding the foregoing, members may not redeposit under this section 11.1 accumulated contributions previously refunded to the member under section 3.11.
- (7) Effective January 1, 1982, any payments to purchase permissive service credit are subject to all other requirements contained within the Ordinances and Rules.

**SECTION 3.** Effective January 1, 2015, section 201.24(11.1) is amended to read as follows in its entirety:

**11.1. Reemployment of former members.**

- ~~(1) Effective from January 1, 1982, through June 30, 2007, Sshould any member who terminated and withdrew his membership account return to active service, his service credits which he had at the time of such separation shall be restored to him, provided he renders two (2) years of service subsequent to his restoration to membership and provided further that within a thirty year period the two-year period or on or before December 31, 1971, whichever date is later, he redeposits the amount of any accumulated contributions withdrawn from his membership account at the time of his separation from the service, with interest thereon to date of redeposit. If he does not elect to restore his prior service credit by redepositing his accumulated contribution during said period of employment, the prior service credits shall be canceled and service credited only from the date his most recent reemployment period commenced.~~

~~Effective from January 1, 1982 through June 30, 2007, notwithstanding anything to the contrary in the Ordinances or Rules, a member who terminated County employment to become employed by United Regional Medical Services, Inc. in conjunction with the joint venture between the County and Froedtert Memorial Lutheran Hospital or who terminated County employment to become employed by Froedtert Memorial Lutheran Hospital in conjunction with the sale of Doyne Hospital or who retired from County employment pursuant to Ordinance section 201.24(4.25) or Ordinance section 201.24(4.26) may make payments to purchase permissive service credit or to repurchase previously forfeited service credit for up to two years following termination of County employment as long as that member had an otherwise completed purchase or repurchase of service credit as of July 1, 2007.~~

- ~~(2) Effective from July 1, 2007, through December 31, 2014, for any redeposit that a member completes on or after July 1, 2007, the member must~~

229 complete the redeposit within the two year period after returning to active  
230 service rather than a thirty year period. Prior service credit will not be  
231 restored until the entire amount previously withdrawn is redeposited. If he  
232 does not elect to restore his prior service credit by redepositing his  
233 accumulated contribution during said period of employment, the prior  
234 service credits shall be canceled and service credited only from the date his  
235 most recent reemployment period commenced.  
236

237 ~~(3) Any person who was an employee of the county on June 4, 1937, but did~~  
238 ~~not elect to become a member until a later date, may receive credit for his~~  
239 ~~service as a county employe prior to his membership by depositing in his~~  
240 ~~membership account before January 1, 1970, the contributions which he~~  
241 ~~would have made as a member during the period from June 3, 1937, to the~~  
242 ~~date he became a member together with interest to date of deposit.~~  
243 ~~Effective January 1, 1982, any payments to repurchase previously forfeited~~  
244 ~~service credit are subject to all other requirements contained within the~~  
245 ~~Ordinances and Rules.~~  
246

247 ~~(4) Should any member who is eligible to receive a deferred vested pension~~  
248 ~~under section 4.5 return to active service, he shall again become an active~~  
249 ~~member of the retirement system and shall resume contributions. Upon his~~  
250 ~~subsequent retirement, he shall be credited with all the service giving rise to~~  
251 ~~his deferred vested pension benefit as well as his service as a member~~  
252 ~~subsequent to his reemployment for purposes of redetermining the amount~~  
253 ~~of his pension.~~  
254

255 ~~(5) Any member who terminated and withdrew his accumulated contributions~~  
256 ~~because of membership in the sheriffs' annuity and benefit fund of the~~  
257 ~~county shall have restored to him all service credits which he had at the time~~  
258 ~~of such termination, provided that within one (1) year from July 9, 1969, he~~  
259 ~~redeposits the amount of any accumulated contributions withdrawn at the~~  
260 ~~time of his termination with interest thereon to the date of redeposit.~~  
261

262 ~~(6) Notwithstanding the foregoing, members may not redeposit under this~~  
263 ~~section 11.1 accumulated contributions previously refunded to the member~~  
264 ~~under section 3.11.~~  
265

266 ~~(7) Effective January 1, 1982, any payments to purchase permissive service~~  
267 ~~credit are subject to all other requirements contained within the Ordinances~~  
268 ~~and Rules.~~  
269

270 **SECTION 4.** Effective January 1, 2002, section 201.24(11.11) is created to read as  
271 follows:

272  
273 **11.11. Assets for purchasing permissive service credit.**  
274

275 Effective January 1, 2002, for payments made prior to July 1, 2007, subject to all  
276 other requirements contained within the Ordinances and Rules with regard to  
277 purchases of service credit, at a member's request, and consistent with the  
278 requirements of applicable Internal Revenue Code provisions, a member may  
279 use amounts held in the member's name pursuant to Milwaukee County's  
280 Internal Revenue Code section 457 deferred compensation plan or an individual  
281 retirement account described in Internal Revenue Code section 408 to purchase  
282 permissive service credit, as described in Rule 207 of the employees retirement  
283 system, or to repurchase previously forfeited service credit for which the member  
284 received a benefit distribution from the employees retirement system pursuant to  
285 section 11.1.

286  
287 **SECTION 5.** Effective January 1, 1982, section 201.24(12.4) is created to read as  
288 follows:  
289

290 **12.4. Maximum permissible amount of annual additions.**  
291

292 This section 12.4 shall limit contributions and allocations to a member's savings  
293 account and membership account.  
294

- 295 (1) The annual addition to a member's savings account and membership  
296 account that is subject to testing pursuant to Internal Revenue Code  
297 section 415(c) for any limitation year shall not exceed the Code section  
298 415(c) limit ("415(c) Limit"), which is the lesser of:  
299
- 300 (a) The greater of thirty thousand dollars (\$30,000.00) or twenty-five  
301 (25) percent of the defined benefit dollar limitation recited in Internal  
302 Revenue Code Section 415(b)(1)(A) for such year; or  
303
- 304 (b) Twenty-five (25) percent of the compensation paid or made  
305 available to the member for such year.  
306

307 If a member's payment to purchase prior or permissive service credit  
308 would otherwise exceed the 415(c) Limit for a calendar year, then it shall  
309 be corrected to the extent provided by the terms of the Voluntary  
310 Correction Program compliance statement which shall be designed to  
311 correct failures to comply in operation with the 415(c) Limit and agreed to  
312 by the County for violations beginning in 1982.  
313

- 314 (2) Effective for limitation years beginning in 1987, the "annual addition" shall  
315 mean the sum allocated to a member's account for any year of  
316 contributions pursuant to the system and allocated to this benefit pursuant  
317 to all other defined contribution plans maintained by the county for the  
318 limitation year, including employe contributions. Contributions allocated to  
319 any individual accounts which are part of a pension or annuity plan under  
320 Internal Revenue Code Sections 415(1) and 419(A)(d)(2) shall be treated

321 as annual additions to a defined contribution plan. However, subsection  
322 12.4(1)(b) above shall not apply to any accounts treated as an annual  
323 addition under the preceding sentence.

324  
325 The annual addition shall not include the allocation to a member's account  
326 of income.

327  
328 (3) Other than as discussed in subsection (1) above, the pension board shall  
329 reallocate the excess of a member's annual addition over the limits stated  
330 above in accordance with the following subsections:

331  
332 (a) The excess amount may be used to reduce the county  
333 contributions for the next (or succeeding, if necessary) limitation  
334 year for the member who incurred the excess amounts provided the  
335 member is covered by the system at the end of such limitation year.  
336 If the member is no longer covered by the system as of the end of  
337 the limitation year, the excess amounts shall be held unallocated in  
338 a suspense account and reallocated in the next limitation year to all  
339 remaining members in the system as a reduction of such members'  
340 county contributions.

341  
342 (b) The excess amount may be held unallocated in a suspense  
343 account for the limitation year and used to reduce the county  
344 contributions for the next (or succeeding, if necessary) limitation  
345 year to all members in the system.

346  
347 (c) Excess amounts attributable to employe contributions shall be  
348 refunded to the member.

349  
350 **SECTION 6.** Effective January 1, 2002, section 201.24(12.4) is amended to read as  
351 follows:

352  
353 **12.4. Maximum permissible amount of annual additions.**

354  
355 This section 12.4 shall limit contributions and allocations to a member's savings  
356 account and membership account.

357  
358 (1) The annual addition to a member's savings account and membership  
359 account that is subject to testing pursuant to Internal Revenue Code  
360 section 415(c) for any limitation year shall not exceed the Code section  
361 415(c) limit ("415(c) Limit"), which is the lesser of:

362  
363 (a) The defined contribution dollar limitation provided in Internal  
364 Revenue Code section 415(c)(1)(A), or such successor provision of  
365 the Internal Revenue Code, as adjusted for cost of living \_\_\_\_\_  
366 adjustments pursuant to Internal Revenue Code section 415(d);

367 ~~The greater of thirty thousand dollars (\$30,000.00) or twenty-five~~  
368 ~~(25) percent of the defined benefit dollar limitation recited in Internal~~  
369 ~~Revenue Code Section 415(b)(1)(A) for such year ;or~~

370  
371 (b) One hundred (100) ~~Twenty-five (25)~~ percent of the compensation  
372 paid or made available to the member for such year.

373  
374 If a member's payment to purchase prior or permissive service credit  
375 would otherwise exceed the 415(c) Limit for a calendar year, then it shall  
376 be corrected to the extent provided by the terms of the Voluntary  
377 Correction Program compliance statement which shall be designed to  
378 correct failures to comply in operation with the 415(c) Limit and agreed to  
379 by the County for violations beginning in 1982

380  
381 (2) Effective for limitation years beginning in 1987, the "annual addition" shall  
382 mean the sum allocated to a member's account for any year of  
383 contributions pursuant to the system and allocated to this benefit pursuant  
384 to all other defined contribution plans maintained by the county for the  
385 limitation year, including employe contributions. Contributions allocated to  
386 any individual accounts which are part of a pension or annuity plan under  
387 Internal Revenue Code sections 415(1) and 419(A)(d)(2) shall be treated  
388 as annual additions to a defined contribution plan. However, subsection  
389 12.4(1)(b) above shall not apply to any accounts treated as an annual  
390 addition under the preceding sentence.

391  
392 The annual addition shall not include the allocation to a member's account  
393 of income.

394  
395 (3) Other than as discussed in subsection (1) above, ~~the~~ the pension board shall  
396 reallocate the excess of a member's annual addition over the limits stated above  
397 in accordance with the following subsections:

398  
399 (a) The excess amount may be used to reduce the county  
400 contributions for the next (or succeeding, if necessary) limitation  
401 year for the member who incurred the excess amounts provided the  
402 member is covered by the system at the end of such limitation year.  
403 If the member is not longer covered by the system as of the end of  
404 the limitation year, the excess amounts shall be held unallocated in  
405 a suspense account and reallocated in the next limitation year to all  
406 remaining members in the system as a reduction of such members'  
407 county contributions.

408  
409 (b) The excess amount may be held unallocated in a suspense  
410 account for the limitation year and used to reduce the county  
411 contributions for the next (or succeeding, if necessary) limitation  
412 year to all members in the system.

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(c) Excess amounts attributable to employe contributions shall be refunded to the member.

jmj  
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