

**INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE**

DATE: March 14, 2014

TO: Marina Dimitrijevic, Chairwoman, Milwaukee County Board of Supervisors

FROM: Mark A. Grady, Deputy Corporation Counsel *MAG*

SUBJECT: Pension Board Request for amendments to ERS Pension Ordinances;
sections 201.24(2.7), (2.10), (4.6), (4.7), (4.8), (12.1), (12.2), (12.3), (12.4),
(12.6), (12.8), (13.3) and (13.4)

Please refer the attached resolution and ordinance amendments requested by the Pension Board of the Employees' Retirement System of the County of Milwaukee ("ERS") to the Committee on Finance, Personnel and Audit and to the Pension Study Commission. At its meeting on January 15, 2014, the Pension Board approved a motion requesting that the County Board adopt these amendments (copy attached). The ordinance amendments were drafted by Reinhart Boerner Van Deuren, the Pension Board's outside tax counsel, and reviewed by Corporation Counsel.

Background

ERS is a qualified plan under the Internal Revenue Code ("IRS Code") and must comply with IRS Code requirements applicable to government plans. Periodically, ERS is required to seek a determination letter from the Internal Revenue Service ("IRS") confirming ERS's compliance with IRS Code requirements. ERS has a pending determination letter request that was filed with the IRS on December 12, 2008 with which some of these amendments were filed as proposed amendments. If the IRS issues a determination letter on ERS's prior filing, these amendments must be adopted in order for that determination letter to be valid.

ERS also has an outstanding filing under the IRS's Voluntary Correction Program ("VCP"). These amendments will be required prior to full completion of and correction under the VCP.

The proposed amendments are required in order to maintain compliance with federal legislative changes and accompanying regulations under the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"), Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART") and the Pension Protection Act of 2006 ("PPA"). Attached is a summary of each of the amendments required by these legislative changes.

ERS's actuary, Buck Consultants, has performed a cost analysis of these amendments. Because ERS has operationally complied with the IRS Code as it has changed and as it is set forth in these amendments, these amendments result in no additional costs to ERS. In addition, no

administrative costs should be incurred following adoption of these amendments because ERS already operates in compliance with the amendments.

Proposed Amendments

To comply with IRS Code requirements, the Pension Board of the Employees' Retirement System of the County of Milwaukee requests adoption of the following amendments to sections 201.24(2.7), (2.10), (4.6), (4.7), (4.8), (12.1), (12.2), (12.3), (12.4), (12.6), (12.8), (13.3) and (13.4). A brief summary follows and a more detailed summary is attached.

- IRS Code section 401(a)(17). The change to Ordinance section 201.24(2.7) amends the definition of "earnable compensation" in the Ordinances to comply with IRS Code section 401(a)(17) and ensure the proper elements are included in calculating a member's retirement benefit.
- IRS Code section 414(u). The amendment to Ordinance section 201.24(2.10) is required to comply with IRS Code section 414(u) requirements regarding treatment of military service by retirement plans for individuals who leave active employment for military service.
- IRS Code section 401(a)(9). The amendments to Ordinance sections 201.24(4.6), (4.7) and (4.8) are required to comply with IRS Code section 401(a)(9) requirements used in calculating required minimum distributions at age 70-1/2 and upon certain other events.
- IRS Code section 415. The amendments to Ordinance sections 201.24(12.1), (12.2), (12.3), (12.4), (12.6) and (12.8) are required to comply with IRS Code section 415, which limits the amount of the benefit that an individual can receive from a retirement plan. The amendments incorporate technical IRS Code requirements for determining whether a benefit exceeds the applicable limits.
- IRS Code section 401. The amendments to Ordinance sections 201.24(13.3) and (13.4) are required to comply with IRS Code section 401 requirements and expand the types of plans that may receive distributions from ERS and receive favorable tax treatment. This change also permits non-spouse beneficiaries to roll over benefit payments, which is now required under IRS Code section 401.

cc: County Executive Chris Abele
Comptroller Scott Manske
Janelle Jensen