

**INTEROFFICE COMMUNICATION  
COUNTY OF MILWAUKEE**

DATE: May 13, 2014

TO: Willie Johnson & David Cullen, Co-Chairmen  
Committee on Finance, Personnel and Audit

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

SUBJECT: File No. 14-244; Pension Ordinance amendments and VCP filing

You requested that I provide a supplemental report regarding the proposed pension ordinance amendments in this file. You asked that I identify those portions of the proposed amendments that would have any effect on the administrative errors in the purchase of service programs reported to the IRS in the Pension Board's VCP (Voluntary Correction Plan) filing. You also asked what effect any such amendment would have on the benefits of any individuals. One section of the proposed amendments would have such an effect.

Section affecting VCP issues

Section 10 of the resolution, at lines 587 - 602, amends section 201.24(12.4)(1) of the ordinances; that section is described in the separate summary memo on page 5. This portion of the resolution is the only portion that relates to the administrative errors related to purchases of service reported to the IRS in the VCP filing. Had this section of the ordinances been amended at the time that federal law was changed in 2002, some of the reported errors would not have occurred.

This portion of the proposed amendments would amend Section 201.24(12.4)(1) of the Ordinances so that it is consistent with the revised IRS Code section 415(c) limits established in 2001 in EGTRRA. IRS Code section 415(c) limits the annual addition that an individual can make to a defined contribution plan. Although ERS is a defined benefit plan, the features relating to members' membership accounts or savings accounts, including purchases of service credit, are akin to, and therefore regulated similarly to, a defined contribution plan. Accordingly, this proposed change updates the limit for annual additions that a member can contribute to his or her savings and membership accounts in the ERS plan.

Effective for years after December 31, 2001, EGTRRA section 611(b) increased the defined contribution dollar limitation of IRS Code section 415(c)(1)(A) to \$40,000, and Section 632(a) of EGTRRA increased the "25 percent" in the defined contribution compensation limitation of IRS Code section 415(c)(1)(B) of the Code to "100 percent." Thus, the IRS Code was revised effective January 1, 2002 to allow up to 100% of annual compensation or \$40,000, whichever is less, be directed by an employee to a purchase of pension service credit, among other things. This section of the proposed amendments, as

with the other proposed amendments, makes the ERS Ordinances consistent with the IRS Code, retroactive to the date the IRS Code was changed.

#### Effect on benefits of members

Based on current information, nine (9) members contributed more than 25%, but less than 100%, of their compensation in a year on or after January 1, 2002 to purchase prior service credit and have no other errors associated with their purchase of service. The error involved in these members' purchases would be corrected as a by-product of this amendment. Accordingly, the prior service credit these nine (9) members purchased would be included in their ERS pension benefit calculations upon adoption of the proposed amendment to Section 12.4(1). All nine of these purchases were completed between 2002 and 2006. Of these 9 people, the purchase of service by 3 of them resulted in a membership date that was moved from after 1/1/1982 to prior to 1/1/1982 and they thereby became eligible for the 25% final average salary "bonus." The other 6 people received the additional service credit they purchased, but did not receive any other benefit increase related to their change in membership date.

As set forth in the actuarial report in this file, the benefits associated with these purchases of pension service have been included by the actuary in the annual valuations of the liabilities of the pension plan and therefore have been funded in the same manner as all pension benefits. Thus, approval of this ordinance amendment does not cause any increase in the already-calculated actuarial costs.

Based on current information, there are 101 other members with this same violation, but who also have other, additional violations resulting from the use of 457 Plan funds or relating to the two-year buy back repayment requirement. This particular amendment (changing the 25% of compensation limit to 100% of compensation effective 1/1/2002) would have the by-product of correcting this violation for those 101 members' purchases of prior service credit, but that would only partially correct their purchase of service. A full correction for these 101 individuals' purchases of service would require the adoption of other, additional Ordinance amendments. Those additional Ordinance amendments are not included with this set of required EGTRRA, PPA and HEART Ordinance amendments.