



Office of the Comptroller

Milwaukee County

Scott B. Manske • Comptroller

To: Marcella Nicholson, Chairwoman, Milwaukee County Board of Supervisors

From: Scott B. Manske, Comptroller
Cynthia J. (CJ) Pahl, Financial Services Manager, Office of the Comptroller

Date: October 6, 2021

Re: Fiscal Analysis of Proposed Pension Ordinance Changes Required to Complete Voluntary Correction Program (VCP) Compliance

SUMMARY

The proposed ordinance changes modify Milwaukee County Code of General Ordinances (MCGO) to conform pension-related ordinances with the Employee Plans Compliance Resolution System (EPCRS) and the correction methods approved in the Voluntary Correction Program (VCP) Compliance Statement issued by the Internal Revenue Service (IRS) in February 2020.

Per Chapter 200 of the Milwaukee County Code of General Ordinances, the Pension Study Commission has jurisdiction over all proposed changes of the Employees' Retirement System (ERS), and is authorized to obtain from the designated actuary, such information or data as may be necessary to determine the cost implications or actuarial effect of matters under consideration. The actuary has provided an analysis of the proposed ordinance changes required to conform MCGO to the VCP Compliance Statement and EPCRS. The actuary reviews the proposed changes with respect to any actuarial impact to the ERS and has determined there is no actuarial impact.

The Comptroller's Office further reviews the proposed changes as to any direct fiscal impacts on the County. The Comptroller has determined that there is no direct fiscal impact to the County due to the proposed amendments at this time. However, future fiscal impacts may be possible if new overpayments or underpayments are discovered.

Section 1. Chapter 201.24(3.1)(1) of the Milwaukee County Code of General Ordinances

The provisions modified within this section will only have an operational impact. There is no direct fiscal impact to the County.

The proposed ordinance amendments modify the current operation so that Retirement Plan Services (RPS) will submit collection amounts collected on behalf of the County under Option 1 monthly. Previously, these amounts were to be retained by the ERS and used to offset the Annual Required Contribution (ARC) made to the ERS by the County in the year following collection. All future collection amounts collected by RPS will be submitted monthly to the County and deposited directly into the Pension Obligation Reserve.

Section 2. Chapter 201.24(8.24) of the Milwaukee County Code of General Ordinance

Although there is no direct fiscal impact to the County at this time, the provisions modified within this section that could impact the County in the future are discussed below.

- Chapter 201.24(8.24)(3)(f) – Minimum Monthly Overpayment Offset Amount:* Although the proposed ordinance amendments do not result in a fiscal impact to the County, current ordinance requires that RPS implement repayment guidelines that followed the Wisconsin Department of Employee Trust Fund guidelines. Under those guidelines, full repayment under both Option 1 and Option 2 should have occurred roughly within a 5-year period. The proposed ordinance clarifies the procedure of collecting full repayment within a 5-year period. It should be noted that this section of the current ordinance was never implemented, and “other repayment plans” were established for those overpayment recipients identified under the VCP. The “other repayment plans” established in some cases resulted in repayment plans that exceeded a 5-year period because they were based on a level repayment plan of 10 percent of the recipient’s corrected monthly retirement amount. It is possible that the County will never fully recoup overpayments from some overpayment recipients with “other repayment plans.” For Option 1 repayment plans not fully recouped at the recipient’s death, the County would then write off the balance due to the County from the recipient; for Option 2 repayment plans, the County would then be responsible for contributing to the ERS the unpaid principal and interest owed to the ERS by the recipient. Although this financial risk exists under any repayment term, the risk is less under a 5-year repayment term.
- Chapter 201.24(8.24)(4)– Applicable Interest:* Under the current provisions of the ordinance, the calculations of overpayments and underpayments were to include a simple interest rate of 5 percent on the total amount owed. However, MCGO includes a provision that the actual interest rate used in calculations would need to comply with any future VCP. Per the most recent VCP, the calculations of overpayments must include a compound interest rate that is reasonable (and has been set at 5 percent); the calculation of underpayments must include a compound interest rate that is equal to the actuarial equivalence interest rate (which is currently 7.5 percent). For previously identified overpayment recipients that selected repayment under Option 1, the County has already contributed to the ERS an interest amount equal to 5 percent compounded for each overpayment, so no additional funds are required. For future overpayment occurrences, the proposed ordinance amendment results in a direct fiscal impact to the County that is the difference between the simple 5 percent interest calculation (current ordinance) and compound 5 percent interest calculation (proposed ordinance) on the total amount owed. For future underpayments, the direct fiscal impact to the ERS is the difference between the simple 5 percent interest calculation (current ordinance) and the compound 7.5 percent interest calculation (proposed ordinance) that would be paid on the total amount owed. A County fiscal impact of an underpayment would only occur if there is an actuarial impact to the ERS. Generally speaking, any single overpayment or underpayment is not going to have an actuarial impact on the ERS, resulting in no fiscal impact for the County. It is worth noting, however, that in any event in which a significant number of overpayments or underpayments are discovered, there could be a resulting actuarial impact to the ERS’ assets or liabilities, which in turn could result in a fiscal impact on the County.
- Chapter 201.24(8.24)(5)– De Minimis Amounts:* County ordinance currently permits RPS to waive any repayment obligation if the total of all overpayments to the recipient, inclusive of interest owed, is less than \$165. The proposed ordinance amendment will raise this threshold to \$250.

The County is responsible for paying these amounts to the ERS, and although there is a direct fiscal impact to the County, the amount is negligible.

- *Chapter 201.24(8.24)(6) – Claim Period:* County ordinance previously established a claim period of six years for which the ERS would be responsible for reimbursing underpayment recipients. Any underpayments six years or older would not be due to the recipient by the ERS. The IRS has indicated that the ERS cannot set a claim period on underpayments and that recipients of underpayments must be made whole for all underpayments. Although there is no direct fiscal impact to the County, current ordinance limited the ERS’ potential financial obligations to payouts of six years of underpayments only. Under the proposed amendments, the entire underpayment amount would be due to the recipient, which increases the potential financial obligations of the ERS. As stated earlier, any single overpayment or underpayment is not going to have an actuarial impact on the ERS, which results in no financial impact to the County. It is worth noting, however, that in any event in which a significant number of overpayments or underpayments are discovered, there could be a resulting actuarial impact to the ERS’ assets or liabilities, which in turn could result in a fiscal impact on the County.

BUDGETARY IMPACT

There is no budgetary impact to the proposed ordinance amendments.



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