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(ITEM) From the Milwaukee County Comptroller, requesting authorization to amend Sections 17.17(1) and 17.175 of the Milwaukee County Code of General Ordinances to codify when unused vacation hours are paid to an employee leaving employment with Milwaukee County and to remove the limitation on overtime payout upon death of an employee, by recommending the adoption of the following:

AN AMENDED RESOLUTION/ORDINANCE

WHEREAS, Wisconsin law generally allows an employer to determine policies for when it will pay unused vacation hours to an employee who is leaving employment, unless a contractual agreement provides otherwise; and

WHEREAS, Section 17.17(1) of the Milwaukee County Code of General Ordinances (the Code) provides that no payment of unused vacation hours may be made unless an employee has worked two thousand and eighty (2080) hours after the employee’s initial hire or re-hire; and

WHEREAS, Section 17.175 of the Code provides that unused vacation hours shall be paid in the event of the death of an employee; and

WHEREAS, based on an opinion from Corporation Counsel in 1971, employees who are involuntarily terminated from employment have been denied payment of unused vacation hours, with the exception of those employees who are laid off; and

WHEREAS, Milwaukee County has followed longstanding practices governing the payment of unused vacation hours in other situations, including, but not limited to, voluntary resignation, retirement, termination of an emergency appointment, termination of a temporary appointment, or death during employment; and

WHEREAS, it is recommended that any longstanding practices not already contained within the Code be included in the Code; and

WHEREAS, the Committee on Finance, Personnel, and Audit, at its meeting of January 28, 2016, recommended adoption of the Comptroller’s request as amended (vote 7-0); now, therefore,

BE IT RESOLVED, in order to codify the longstanding policies and practices of Milwaukee County (the County) with respect to payment of unused vacation hours to employees leaving employment with the County, the Milwaukee County Board of Supervisors does hereby adopt the following:

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AN ORDINANCE

To amend section 17.17(1) of the General Ordinances of Milwaukee County to codify the longstanding policies and practices of Milwaukee County with respect to payment of unused vacation hours to employees leaving employment with Milwaukee County.

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

Section 1. Section 17.17(1) is amended to read as follows:

17.17. - Vacations and holidays.

(1)(a) The heads of all departments, bureaus, institutions, boards or commissions shall make provision for, designate, and allow annual leaves with pay to serve as vacation equivalent to eighty (80) hours for each employe who has completed one (1) year or more of service, unless as otherwise may be provided for by collective bargaining agreements; one hundred twenty (120) hours for each employe who has completed five (5) years or more of service; one hundred sixty (160) hours for each employe who has completed ten (10) years or more of service; two hundred (200) hours for each employe who has completed twenty (20) years or more of service; assistant chiefs of airport rescue and firefighting, employes shall be allowed annual leave with pay to serve as vacation equivalent to one hundred four (104) hours for each employe who has completed one (1) year or more of service; one hundred fifty six (156) hours for each employe who has completed five (5) years or more of service; two hundred eight (208) hours for each employe who has completed ten (10) years or more of service; two hundred sixty (260) hours for each employe who has completed fifteen (15) years or more of service; and three hundred twelve (312) hours for each employe who has completed twenty (20) years or more of service; firefighter and equipment operators, employes paid on an hourly or per diem basis who customarily work less than forty (40) hours per week or two thousand eighty (2,080) hours per annum, employes paid on a per call or clinic hourly basis, and part-time employes paid on a biweekly basis whose services are required less than half-time, unless as otherwise provided for by collective bargaining agreements; firefighter and equipment operators shall be allowed annual leave with pay to serve as vacation as follows: five (5) work days for each employe who has completed one (1) year or more of service, seven (7) work days for each employe who has completed five (5) years or more of service, ten (10) work days for each employe who has completed ten (10) years or more of service, and twelve (12) work days for each employe who has completed twenty (20) years or more of service. During the first year of employment, or in a return to service, an employe will be granted a proportional share of their hours of vacation entitlement based on the number of full calendar months remaining in the calendar year in which the employe was first hired or in which the employe was rehired, divided by twelve (12) and rounded up to the nearest whole hour, and shall be granted their full vacation entitlement on January 1 of the calendar year after being hired or rehired by the county. Years of service for a new non-represented-employe, or non-represented-employe returning to service, who was not discharged or involuntarily separated from the county, shall include any creditable

89 pension service earned with Milwaukee County, the State of Wisconsin or any
90 municipality within the State of Wisconsin. An employee shall not receive payment for
91 unused vacation credit upon any termination of employment, including, but not limited
92 to, a retirement, unless the employee has served two thousand eighty (2,080) hours after
93 the employee's initial date of hire or rehire. Effective in 2002 all non-represented
94 employees shall be eligible for five (5) weeks of vacation (two hundred (200) hours) after
95 fifteen (15) years of service and six (6) weeks of vacation (two hundred forty (240)
96 hours) after twenty (20) years of service.

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98 ~~(b) Notwithstanding any other provision in this section, an employee shall not receive~~
99 ~~payment for unused vacation credit upon any termination of employment, including, but~~
100 ~~not limited to, a retirement, unless the employee has received payment for two thousand~~
101 ~~eighty (2,080) straight time hours after the employee's initial date of hire or rehire.~~

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103 (b) Notwithstanding any other provision in this section, an employee shall not receive
104 payment for unused vacation credit upon any termination of employment, including,
105 but not limited to, a retirement, unless the employee has completed one (1) year of
106 service after the employee's initial date of hire or rehire.

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108 (c) The following employees shall not receive payment of unused vacation hours upon
109 termination of employment:

110 (i) a classified employee who is discharged for cause by the Personnel Review
111 Board,

112 (ii) an unclassified employee who is discharged for cause by the employee's
113 appointing authority,

114 (iii) an employee who is separated from employment during a probationary
115 period,

116 (iv) an employee who is separated during a re-evaluation period that was
117 approved or ordered by the Personnel Review Board,

118 (v) an employee who is terminated from employment as a result of the
119 termination of a temporary or emergency appointment,

120 (vi) an employee who is resigned in absentia under Civil Service Rule VIII,
121 section 6,

122 (vii) an employee who is involuntarily terminated from employment in a situation
123 not otherwise addressed by this subsection (c) or by subsection (d).

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125 (d) The following employees shall receive payment for unused vacation credit upon
126 termination of employment:

127 (i) an employee who resigns,

128 (ii) an employee who retires from active employment,

129 (iii) an employee who is laid off,

130 (iv) an employee who dies.

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Section 2. Section 17.175 is amended to read as follows:

17.175. - Payment for ~~earned vacation and overtime~~ upon death.

Final payment due to an employe in the classified service, upon death, shall include all ~~authorized unused vacation allowance and authorized,~~ unliquidated overtime, ~~not exceeding one hundred twenty (120) hours,~~ except that the payment for overtime shall not be granted if an employe is not entitled, by ordinance, to receive compensation for overtime.

Section 3. This provisions of this ordinance amendment shall become effective upon passage and publication.

jmj
01/28/16
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