

From the Director of Retirement Plan Services, Department of Human Resources, requesting amendments to Chapters 201.24(2.4), (2.7), (2.9), (2.18), (3.11), (4.1), (4.2), (4.3), (4.4), (4.5), (5.16), and (8.7) and requesting the creation of a new Chapter 201.24(8.25) of the Milwaukee County Code of General Ordinances reflecting eligibility changes to ERS as required by State law, by recommending adoption of the following:

A RESOLUTION/ORDINANCE

WHEREAS, Milwaukee County (the County) sponsors the Employees Retirement System (ERS) of the County of Milwaukee, a defined-benefit plan, for the exclusive benefit of certain employees; and

WHEREAS, ERS is a tax-qualified retirement plan that must adhere to United States Internal Revenue Service requirements for defined-benefit plans, including that ERS be administered in accordance with its written plan document; and

WHEREAS, on June 20, 2023, the State of Wisconsin (the State) Legislature adopted State Act 12 (Act 12); and

WHEREAS, Act 12 provided an avenue for the County to implement an increase to its sales tax; and

WHEREAS, as part of Act 12, if the County implemented the sales tax, certain changes, including the transition of new County employees to the Wisconsin Retirement System (WRS), were required; and

WHEREAS, on July 27, 2023, the Milwaukee County Board of Supervisors (County Board) adopted the required amendments to the Milwaukee County Code of General Ordinances (the Code), and the sales tax was implemented; and

WHEREAS, effective January 1, 2025, the County will elect to join WRS; and

WHEREAS, pursuant to Act 12, all new County employees who meet the requirements for WRS must participate in WRS; and

WHEREAS, Act 12 also revised the formula that the County must use to determine mandatory employee contributions to only take into account the normal cost of benefits; and

WHEREAS, the County Board desires to amend the Code to clarify the eligibility requirements for ERS and the mandatory employee contributions; and

WHEREAS, the Committee on Personnel, at its meeting of December 3, 2024, recommended adoption of File No. 24-1053 (vote 3-1); and

WHEREAS, the Committee on Finance, at its meeting of December 12, 2024, recommended adoption of File No. 24-1053 (vote 7-0); and

WHEREAS, the Pension Study Commission, at its meeting of December 19, 2024, recommended adoption of File No. 24-1053 (vote 4-0); now, therefore,

BE IT RESOLVED, the Milwaukee County Board of Supervisors hereby amends Sections 201.24(2.4), (2.7), (2.9), (2.18), (3.11), (4.1), (4.2), (4.3), (4.4), (4.5), (5.16), and (8.7), and creates a new Chapter 201.24(8.25) of the Milwaukee County Code of General Ordinances by adoption of the following:

AN ORDINANCE

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

SECTION 1. Section 201.24(2.4) of the Milwaukee County Code of General Ordinances is hereby amended as follows:

2.4. - Employeee.

Employeee shall mean any person regularly employed by the county at an annual wage or salary including any person who is employed by the state but receives part of his/her wage or salary from the county, as well as any person regularly employed by the state but who was previously employed by the county and who has, pursuant to a state statute, continued to be a member of ERS during such state employment and for whom the state shall reimburse the county the employer required contributions related to such employee's membership, **but shall not include any person who was not in Active Service on December 31, 2024, due to a bona fide termination of employment and who is hired by the County after December 31, 2024, with respect to the position to which the person is hired after that date, irrespective of whether the person was previously an employee of the County. Such a person may not accrue any further service under ERS.**

In the event of a question arising as to the right of any person in the service of the county to be classified as an employee under this act, the decision of the ~~b~~Board shall be final. **Notwithstanding the foregoing, if a member previously elected into ERS instead of the County's Plan established under the Omnibus Budget Reconciliation Act of 1990 (OBRA) and if that member is not in Active Service on December 31, 2024, upon reemployment, that member will not be reenrolled in ERS, but will be enrolled in OBRA unless eligible for the Wisconsin Retirement System.**

Employee does not include any individual participating in OBRA or the Wisconsin Retirement System.

Employee shall also exclude any individual who was employed by the County on December 31, 2024, but not earning service credit in ERS and who, on or after January 1, 2025, is promoted or otherwise transferred to what would have been an ERS-eligible position prior to January 1, 2025.

SECTION 2. Section 201.24(2.7) of the Milwaukee County Code of General Ordinances is hereby amended as follows:

2.7. - Earnable compensation.

Earnable compensation shall mean gross wages or salary paid to an ~~e~~**E**mployee for services rendered in the course of his or her employment **while earning service credit in ERS**, plus all payments for authorized overtime but excluding payments in lieu of vacations and sick leave. Where service is credited during periods of absences from County employment due to military service as provided in section 201.24(2.10) or for absences while receiving Workers Compensation pursuant to state statute for injuries received while ~~in County ERS covered service an Employee~~, the ~~e~~**E**mployee shall be considered to have ~~e~~**E**arnable ~~e~~**C**ompensation during such periods of absence as if the employee had continued to work in his or position. In cases where compensation includes maintenance, the ~~Pension~~ Board shall fix the value of that portion of the compensation not payable in money. Where the county pays less than the full rate of compensation for a position and the balance is payable by some other government, company or individual, the amount paid by the county shall be considered the Earnable Compensation for such period of service, except Earnable Compensation shall also include amounts paid by the state for ~~e~~**E**mployees described in section 201.24(2.4) who are regularly employed by the state but who were previously employed by the county and who has, pursuant to state statute, continued to be ~~a member of ERS an~~ **Employee**. The annual earnable compensation of each member taken into account for determining all benefits provided under the system for any year shall not exceed the annual compensation limit pursuant to Internal Revenue Code section 401(a)(17); provided, however, that this limitation shall apply only with respect to members who first commence participation in the system after 1995. The annual compensation limit shall be adjusted annually for increases in the cost of living by the Secretary of the Treasury or his/her delegate, except that the dollar increase in effect on January 1 of any calendar year is effective for years beginning in such calendar year. The "annual compensation limit" is two hundred thousand dollars (\$200,000.00), as indexed.

SECTION 3. Section 201.24(2.9) of the Milwaukee County Code of General Ordinances is hereby amended as follows:

2.9. - Service.

Service shall mean service as an ~~e~~**E**mployee of the county or of any municipal subdivision of the county in departments the operation of which is taken over by the county, provided such employee is a member of the system as defined by Pension Board Rules 202, 203, and 204. Service shall also include any period of service provided for in section 201.24(8.7); any period of employment by the county or in any department of any town, village, city or metropolitan sewerage commission in the county, which has been absorbed by the county, prior to January 1, 1938; any period of continuous employment with the City of Milwaukee which terminated between September 1 and December 31, 1937; and any prior service granted to new members brought into the system by any amendment effective subsequent to January 1, 1938.

Notwithstanding any other provision in these Ordinances, any person who is hired by the County after December 31, 2024, and who was not in Active Service on December 31, 2024, shall not be eligible to return to Active Service and may not accrue any further ERS service credit. Such persons shall instead be enrolled in the Wisconsin Retirement System, subject to the eligibility requirements of ch. 40, Wis. Stats.

SECTION 4. Section 201.24(2.18) of the Milwaukee County Code of General Ordinances is hereby amended as follows:

2.18. - Normal retirement age.

- (1) Except as provided in subsections (2), (3), (4), and (5), normal retirement age for all members shall be age sixty (60).
- (2) Normal retirement age shall be age fifty-seven (57) for a member who is a sworn law enforcement officer at the time his **Active Service** employment terminates.
- (3) Normal retirement age shall be age sixty-four (64) for the following members whose initial membership date in the retirement system began on or after January 1, 2010:
 - (a) A member who is not covered by a collective bargaining agreement and who is not an elected official at the time his **Active Service** employment terminates; or
 - (b) A member who is represented by the International Association of Machinists and Aerospace Workers at the time his **Active Service** employment terminates; or
 - (c) A member who is represented by the Technicians, Engineers and Architects of Milwaukee County at the time his **Active Service** employment terminates; or

(d) A member who is represented by the Association of Milwaukee County Attorneys at the time his Active Service employment terminates.

(4) Normal retirement age shall be age sixty-four (64) for a member who is represented by the American Federation of State, County and Municipal Employes District Council 48 at the time his Active Service employment terminates and whose initial membership date is on or after August 1, 2011.

(5) Normal retirement age shall be age sixty-four (64) for a member who is represented by the Federation of Nurses and Health Professionals or by the Milwaukee Building and Construction Trades Council at the time his Active Service employment terminates and whose initial membership date is on or after January 1, 2012.

SECTION 5. Section 201.24(3.11) of the Milwaukee County Code of General Ordinances is hereby amended as follows:

3.11. - Employee~~e~~ contribution.

- (1) *Mandatory employee contributions.* Each ~~member of the employees' retirement system~~ Employee shall contribute to the retirement system a percentage of the "mMember's compensation" according to subsections 3.11(2) and (3) ~~based on the following schedule:~~ below effective with the first pay period containing January 1, 2024.
- ~~(a) Effective January 1, 2011 through July 23, 2011, for any member who is not covered by the terms of a collective bargaining agreement, or who is covered by a collective bargaining agreement that has adopted this ordinance, other than members who make a contribution to the system under section 3.3(2), the member shall contribute the amount provided in subsection (3)(a);~~
- ~~(b) Effective January 1, 2011 through July 23, 2011, for any member who is an elected official, the member shall contribute the amount provided in subsection (3)(b);~~
- ~~(c) Except as provided in paragraph (g), effective July 24, 2011, any member who is, or on a subsequent date becomes, (1) not covered by the terms of a collective bargaining agreement, or (2) an elected official, or (3) covered by a collective bargaining agreement with the American Federation of State, County and Municipal Employes (AFSCME), shall contribute the amount provided in subsection (3)(c);~~
- ~~(d) Effective July 24, 2011, any member whose initial date of membership in the retirement system is on or after July 24, 2011 and who (1) is not covered by the terms of a collective bargaining agreement, or (2) is an elected official, or (3) is covered by a collective bargaining agreement with the~~

220 American Federation of State, County and Municipal Employees
 221 (AFSCME), or (4) is covered by a collective bargaining
 222 agreement with the Milwaukee Deputy Sheriffs Association, or
 223 (5) is covered by a collective bargaining agreement with the
 224 Milwaukee County Firefighters Association, shall contribute
 225 the amount provided in subsection (3)(c);
 226 (e) ~~Effective January 1, 2012, a member who is covered by a~~
 227 ~~collective bargaining agreement with (1) the Association of~~
 228 ~~Milwaukee County Attorneys, or (2) the Federation of Nurses~~
 229 ~~and Health Professionals, or (3) the Milwaukee Building and~~
 230 ~~Trades Council, or (4) the Technicians, Engineers, and~~
 231 ~~Architects of Milwaukee County, or (5) the International~~
 232 ~~Association of Machinists and Aerospace Workers, shall~~
 233 ~~contribute the amount provided in subsection (3)(c);~~
 234 (f) ~~Any member whose initial date of membership in the~~
 235 ~~retirement system is on or after January 1, 2012 and who is~~
 236 ~~covered by the terms of a collective bargaining agreement with~~
 237 ~~(1) the Association of Milwaukee County Attorneys, or (2) the~~
 238 ~~Federation of Nurses and Health Professionals, or (3) the~~
 239 ~~Milwaukee Building and Trades Council, or (4) the~~
 240 ~~Technicians, Engineers, and Architects of Milwaukee County,~~
 241 ~~or (5) the International Association of Machinists and~~
 242 ~~Aerospace Workers, shall contribute the amount provided in~~
 243 ~~subsection (3)(c);~~
 244 (g) ~~Any member who, on July 24, 2011, was a nonrepresented law~~
 245 ~~enforcement or firefighting managerial employee, as set forth in~~
 246 ~~s. 59.875, Wis. Stats., and any member who, on July 24, 2011,~~
 247 ~~was a represented law enforcement or firefighting employee~~
 248 ~~and who becomes, after July 24, 2011, a nonrepresented law~~
 249 ~~enforcement or firefighting managerial employee, as set forth in~~
 250 ~~s. 59.875, Wis. Stats., shall contribute the same amount~~
 251 ~~respectively as represented law enforcement and firefighting~~
 252 ~~employees whose initial date of membership in the retirement~~
 253 ~~system was prior to July 24, 2011.~~
 254 (2) Notwithstanding anything to the contrary in a collective bargaining
 255 agreement, Member ~~e~~Compensation shall include all salaries and wages
 256 of the memberEmployee, except for the following: educational pay;
 257 uniform pay; bonuses and tips; effective January 1, 2013, through
 258 the first pay period containing January 1, 2025, hazard pay; overtime
 259 earned and paid; and any expiring time paid such as overtime, and
 260 holiday; and injury time paid; and any supplemental time paid such
 261 as vacation or earned retirement.

- (3) ~~Contribution percentage. The percentage shall be as follows:~~
- (a) ~~Two (2) percent of member's compensation earned between January 9, 2011 and June 11, 2011 and three (3) percent of member's compensation earned between June 12, 2011 and July 23, 2011;~~
- (b) ~~Two (2) percent of member's compensation earned between January 9, 2011 and July 23, 2011.~~
- (c) ~~A~~ An Employee shall contribute a percentage of ~~m~~Member's ~~e~~Compensation as established by the county board based on a recommendation from the retirement system actuary. The county board shall set forth in its annual adopted budget the required percentage of Member Compensation necessary to comply with the statutorily required contribution. The percentage of Member Compensation may vary from year to year and shall be applicable for twenty-six (26) pay periods and shall apply on a prospective basis beginning with the first pay period each year.
- (b) Except as described in subsection (c) below, the percentage of m~~Member's e~~Compensation to be contributed to the System shall be derived from the "actual contribution required for the current year" as set forth in section 3.1 of chapter 201.24 of the ordinances, actuarially required normal cost contributions for funding benefits of general employees, with ~~members~~Employees being responsible for the contribution required by state statute. ~~The county board shall set forth in its annual adopted budget the percentage of a member's compensation required to comply with the statutorily required contribution. The percentage of a member's compensation may vary from year to year and shall be applicable for twenty-six (26) pay periods and shall apply on a prospective basis beginning with the first pay period each year.~~
- (c) For employees listed below, the percentage of Member Compensation to be contributed to the system shall be derived from the actuarially required normal cost contributions for funding benefits of these public safety employees, with Employees being responsible for half this amount as required by State statute.
- i. Employees represented by the Milwaukee Deputy Sheriffs' Association;
 - ii. Employees represented by the Milwaukee County Fire Fighters' Association International Association of Fire Fighters Local 1072;
 - iii. Non-represented sworn law enforcement officers;
 - iv. Chief and Deputy Chief Investigators and District Attorney Investigators; and

v. **Chief and Assistant Chief Air Rescue and Fire
Fighter.**

- (4) *Pick-up contributions.* Notwithstanding the preceding, contributions shall be made by the county in lieu of contributions by the ~~e~~**E**~~mployee~~ even though the contribution is designated as an employee contribution. Members have no option to choose to receive the contributions provided for in this section directly instead of having the contribution paid by the county to the retirement system. The contribution shall be made on a pre-tax basis, and there shall be a corresponding reduction in compensation actually paid to the member. These contributions shall qualify as pick-up contributions (pursuant to Internal Revenue Code section 414(h)(2)). These contributions shall have no impact on internal plan contribution limits or forms of benefit payment under the retirement system. The pick-up of these contributions shall not be construed to reduce the salary upon which ~~f~~**F**~~inal~~ ~~a~~**A**~~verage~~ ~~s~~**S**~~alary~~ is calculated, as defined in section 2.8. Unless specified otherwise, these contributions do not impact the calculation of a member's benefit. The designation and qualification of these contributions as pick-up contributions pursuant to Internal Revenue Code section 414(h)(2) does not, however, result in the county paying the required contribution on behalf of the ~~e~~**E**~~mployee~~ in a manner inconsistent with state statutory requirements and its prohibition of an employer making the payment on behalf of the employee.

Notwithstanding the preceding, contributions made under this section by optional members, as defined in section 3.3(2), shall not be picked up and made on a pre-tax basis as provided in this subsection unless and until the county receives a favorable private letter ruling from the IRS authorizing such pick-up. Corporation counsel shall determine if and when a favorable private letter ruling has been received and pick up of these contributions shall then commence for optional employees.

- (5) *Determination of accumulated contributions.* A member's accumulated contributions shall be equal to the sum of his mandatory employee contributions.
- (6) *Refund of accumulated contributions.*
- (a) *Refund Deadline.* Refunds of all accumulated contributions made under this section 3.11 shall be made on the same conditions and under the same circumstances as refunds under section 3.5, but may only be paid in the form of a lump sum payment. Interest at the rate of five (5) percent per annum will accrue until the earlier of: (1) the date a refund is paid; or (2) 180 days after termination of **all** **County** employment.

- 348 Any refund of accumulated contributions must be requested within
349 five (5) years after termination of all county employment. The
350 Retirement Office shall send an ~~an employe~~ **member** who terminates
351 employment a written notice of the refund option via U.S. mail, or
352 an equivalent service, to the member's address on file with the
353 system.
- 354 (b) Notice Requirement. If a member does not receive written notice of
355 the refund option, then the ~~Pension~~ Board, or the Retirement Office
356 as delegated by the ~~Pension~~ Board, may allow the individual to
357 receive a refund of accumulated contributions later than the refund
358 period in section 3.11(a) above. A determination that notice was not
359 received can be based on the Retirement Office and/or ~~Pension~~
360 Board finding that notice was either not sent by the Retirement
361 Office or not received by the member. The member shall have the
362 burden of proving notice was not received, and the ~~Pension~~ Board
363 or Retirement Office shall have the sole and exclusive authority to
364 determine whether the individual received written notice. The
365 appeal rules of the ~~Pension~~ Board shall apply to refund requests
366 under this paragraph.
- 367 (c) All Contributions Refunded. If a member requests and receives a
368 refund of accumulated contributions under this section and
369 section 3.5, the member shall receive a refund of all amounts
370 included in the member's membership account at that time.
- 371 (d) Termination of ERS Service. Members receiving a refund or on
372 whose behalf a refund is paid under this subsection shall cease to
373 be a member of the employees' retirement system and shall have no
374 further right to any benefit under this plan.
- 375 (e) Application. The provisions of section 11.1 shall not apply to
376 accumulated contributions withdrawn by members under this
377 section.
378

379 **SECTION 6.** Section 201.24(4.1) of the Milwaukee County Code of General Ordinances
380 is hereby amended as follows:
381

382 4.1. - Normal retirement.
383

- 384 (1) (a) ~~An member~~ **Employee in Active Service** shall be eligible
385 for a normal pension if the ~~member's County Employee's Active~~
386 **Service** employment terminates on or after the following:
387 (i) the member has submitted a completed
388 retirement application to RPS as described in
389 Ordinance section 4.6; and

- 390
391
392 (ii) The member has attained one of the following:
393 (A) Age fifty-five (55) with thirty (30) years of service,
394 (B) Normal Retirement Age as defined in section 2.18,
395 (C) If the member is a sworn law enforcement officer,
396 age fifty-seven (57) regardless of the number of
397 years of service or age fifty-five (55) with at least
398 fifteen (15) years of service.

399 In order to be eligible for a normal retirement benefit under Sections 4.1(1) or (2)
400 the ~~member~~Employee must submit an application to retire on or before the date of the
401 ~~member's~~Employee's termination of Active Service employment with the County.
402 However, an ~~n~~ memberEmployee may submit a completed application up to one
403 business (1) day after the date of the ~~member's~~Employee's Active Service
404 termination, and ERS shall treat the application as if it was received on the date of
405 termination. A member who is a County employee at the time of retirement ~~but not~~
406 ~~employed in an ERS-covered position and earning service credit in OBRA~~ may still
407 retire under Section 4.1(1) if the member otherwise meets the requirements.

- 407 (2) Rule of 75. ~~Members~~ Employees in a ~~Active~~ sService as defined in
408 Ordinance section 201.24(2.24) at the time of retirement may be eligible
409 for the Rule of 75 if they meet one of the following requirements:

- 410 (a) ~~An~~ member Employee who, on September 29, 2011, is employed
411 and is not covered by the terms of a collective bargaining
412 agreement, and whose initial membership in the retirement system
413 under section 201.24 began prior to January 1, 2006, and who
414 retires on and after September 1, 1993, shall be eligible for a
415 normal pension when the age of the member when added to the
416 ~~member~~Employee's years of service equals seventy-five (75), but
417 this provision shall not apply to any ~~m~~Member eligible under
418 section 4.5 nor to any nonrepresented deputy sheriff who was hired
419 as a deputy sheriff after December 31, 1993 and whose
420 appointment to a nonrepresented position was first effective after
421 June 30, 2009, nor to a member who was formerly a represented
422 correction officer who was hired as a correction officer after
423 December 31, 1993 and who was appointed to a nonrepresented
424 position effective after May 1, 2011.

- 425 (b) ~~An~~ memberEmployee who, on September 29, 2011, is employed
426 and is covered by the terms of a collective bargaining agreement
427 with the American Federation of State, County and Municipal
428 Employees District Council 48, or with the Technicians, Engineers
429 and Architects of Milwaukee County, or with the International
430 Association of Machinists and Aerospace Workers, and whose
431 initial membership date is prior to January 1, 1994, shall be eligible
432 for a normal pension when the age of the ~~member~~Employee when
433 added to the ~~member~~Employee's years of ERS service equals
434 seventy-five (75), but this provision shall not apply to any member
435 eligible under section 4.5.

- (c) An member Employee who, on December 31, 2012, is employed and is covered by the terms of a collective bargaining agreement with the Federation of Nurses and Health Professionals, shall be eligible for a normal pension when the age of the memberEmployee when added to the memberEmployee's years of service equals seventy-five (75), but this provision shall not apply to any member eligible under section 4.5.
- (d) An memberEmployee who, on September 29, 2011, is employed and is covered by the terms of a collective bargaining agreement with the Association of Milwaukee County Attorneys, and whose initial membership date is prior to January 1, 2006, shall be eligible for a normal pension when the age of the memberEmployee when added to the memberEmployee's years of service equals seventy-five (75), but this provision shall not apply to any member eligible under section 4.5.
- (e) An memberEmployee who, on September 29, 2011, is employed and is covered by the terms of a collective bargaining agreement with the Milwaukee Building and Construction Trades Council, and whose initial membership date is prior to February 21, 2006, shall be eligible for a normal pension when the age of the memberEmployee when added to the memberEmployee's years of service equals seventy-five (75), but this provision shall not apply to any member eligible under section 4.5.
- (f) An memberEmployee who was employed and covered by the terms of a collective bargaining agreement with the Milwaukee Deputy Sheriffs Association on September 29, 2011, and whose initial membership date is prior to January 1, 1994, and who is not represented by the Milwaukee Deputy Sheriffs Association at the time of the ~~e~~Employee's retirement, shall be eligible for a normal pension when the age of the memberEmployee when added to the memberEmployee's years of service equals seventy-five (75), but this provision shall not apply to any member eligible under section 4.5.
- (g) An memberEmployee who was employed and covered by the terms of a collective bargaining agreement with the Milwaukee County Firefighters Association (IAFF Local 172) on September 29, 2011, and whose initial membership date is prior to December 2, 1996, and who is not represented by the Milwaukee County Firefighters Association (IAFF Local 172) at the time of the ~~e~~Employee's retirement, shall be eligible for a normal pension when the age of the memberEmployee when added to the memberEmployee's years of service equals seventy-five (75), but this provision shall not apply to any member eligible under section 4.5.

SECTION 7. Section 201.24(4.2) of the Milwaukee County Code of General Ordinances is hereby amended as follows:

4.2. - Early retirement.

An memberEmployee shall be eligible for an early normal retirement pension if the memberEmployee meets the following requirements:

- 1) The memberEmployee's Active Service employment is terminated on or after the memberEmployee's 55th birthday; and
- 2) The memberEmployee must submit a retirement application to RPS on or before termination of Active Service employment; and
- 3) The memberEmployee must have completed fifteen (15) or more years of ERS service at the time of application.

The pension of any memberEmployee who retires under this Section 4.2 shall be reduced as provided in section 5.2.

A member who is a County employee at the time of retirement ~~but not employed in an ERS-covered position and earning service credit in OBRA~~ may still retire under this Section 4.2 if the member otherwise meets the requirements. Notwithstanding subsection (2) above, a member may submit a completed application up to one (1) business day after the date of the member's termination, and ERS shall treat the application as if it was received on the date of termination.

SECTION 8. Section 201.24(4.3)(1) of the Milwaukee County Code of General Ordinances is hereby amended as follows:

4.3. - Accidental disability retirement.

- 1) *General Requirements.* An memberEmployee shall be eligible for an accidental disability pension if his Active Service employment is terminated prior to his normal retirement age by reason of total and permanent incapacity for any duty as the natural and proximate result of one (1) of the following:
 - (a) an accident occurring at some definite time and place while in the actual performance of duty; or
 - (b) for the membersEmployees meeting the requirements, one (1) of the impairments or diseases listed in Section 3 below.

The last payment shall be made, if disability ceases prior to his normal retirement date, the first day of the month in which disability ceases.

Disability shall be considered total and permanent if the medical board, after a medical examination of such memberEmployee, shall certify that such memberEmployee is mentally or physically incapacitated to perform any job that the memberEmployee is reasonably suited for by means of education, training or experience. Disability must be as a result of such service accident or disease (as described in Section 3 below) and such incapacity is likely to be permanent.

An ~~member~~**Employee** shall not be entitled to both an accidental disability pension and ordinary disability pension.

SECTION 9. Section 201.24(4.4) of the Milwaukee County Code of General Ordinances is hereby amended as follows:

4.4. - Ordinary disability retirement.

An ~~member~~**Employee** shall be eligible for an ordinary disability pension if his **Active Service** employment is terminated by reason of ordinary disability, provided he has completed fifteen (15) or more years of **ERS** service. The last payment shall be made, if disability ceases prior to his normal retirement date, the first day of the month in which disability ceases.

Disability shall be considered total and permanent if the medical board, after a medical examination of such ~~member~~**Employee**, shall certify that such ~~member~~**Employee** is mentally or physically incapacitated for further duty and such incapacity is likely to be permanent.

SECTION 10. Section 201.24(4.5) of the Milwaukee County Code of General Ordinances is hereby amended as follows:

4.5. - Deferred vested retirement.

- (1) A member shall be eligible for a deferred vested pension if the member's **CountyActive Service** employment is terminated for any cause, other than fault or delinquency on the member's part, prior to the member fulfilling the requirements of Normal Retirement in Ordinance section 201.24(4.1), provided that the member elects not to withdraw any part of the member's membership account and that the member's pension when the member qualifies for a normal retirement as defined in section 4.1 is at least ten dollars (\$10.00) per month.
- (2) Notwithstanding the foregoing provisions of this section 4.5, the following vesting provisions will apply:
 - (a) For members whose last period of continuous **ERS** membership began on or after January 1, 1971, but prior to January 1, 1982, those members shall not be eligible for a deferred vested pension if the member's **Active Service** employment is terminated prior to the member's completion of six (6) years of **ERS** service.
 - (b) For members who first became a member of ERS on or after January 1, 1982, those members shall not be eligible for a deferred vested pension if the member's **Active Service** employment is terminated prior to the member's completing ten (10) years of **ERS** service.

(c) Any member who attains normal retirement age as defined in Ordinance section 201.24(2.18) while in ~~active ERS-covered County~~**Active Service** employment shall be vested and eligible for a deferred vested benefit if the member terminates **CountyActive Service** employment prior to retirement. ~~This provision shall apply to members who previously received a benefit under this portion of the vesting schedule. For members who would have received a benefit under this vesting schedule, ERS will pay a prospective benefit to those individuals commencing with the adoption of this amendment.~~

(d) Due to the participation freeze, members who meet the following requirements shall be fully vested as of January 1, 2025:

- i. **Are not in Active Service on December 31, 2024; and**
- ii. **Have current service credit in ERS, meaning that the member's service credit was not cancelled under Ordinance section 201.24(2.11) and the member did not take a withdrawal of their contributions after termination pursuant to Ordinance section 201.24(3.11)(6).**

(3) Notwithstanding the foregoing provisions of this section, any nonrepresented Doyme ~~eEmployee~~ **who was a member of the employe's retirement system** and any ~~member~~**Employee** who was represented by the Federation of Nurses & Health Professionals when they voluntarily resigned their employment between September 1, 1995, and December 31, 1995, at the time of, and in lieu of, a layoff from county service as a direct result of the sale/lease of John L. Doyme Hospital and ~~eEmployees~~ of the School of Nursing who resign from county service in lieu of being laid off due to the closure of the School of Nursing who left county service with seven (7) or more years of **ERS** service shall be vested for a deferred vested pension.

(4) Payment of a deferred vested pension may commence as early as the first of the month following the member's normal retirement date, but in no event until the first day of the month following the date a timely application, as described in Ordinance section 201.24(4.6), has been submitted to RPS.

If a member has at least fifteen (15) years of ERS service, the member may commence the member's deferred vested pension as of the member's 55th birthday, or as of any date after any such birthday, which precedes the member's normal retirement date. However, the deferred vested pension amount thereof shall be reduced as provided in section 5.5.

If the member is a sworn law enforcement officer at the time the member's ~~ERS-covered~~Active Service employment terminates, upon timely application, the member is eligible to commence a deferred vested pension benefit upon attaining age fifty-seven (57), regardless of the number of years of service, or age fifty-five (55) with at least fifteen (15) years of ERS service.
The last payment shall be made as of the date of death of the retired member.

SECTION 11. Section 201.24(5.16) of the Milwaukee County Code of General Ordinances is hereby amended as follows:

5.16. - Back drop pension benefit.

- (1) The provisions of this section shall apply to ~~a~~an ~~Active s~~memberEmployee in ~~a~~Active sService eligible for a Normal Retirement benefit under Ordinance section 201.24(4.1) and whose application to retire is filed and effective after January 1, 2001, but shall not apply to any member of the retirement system who
 - (a) Is an elected official, or who was in a position that was not in a certified collective bargaining unit on June 29, 2011, and who began membership in said system on or after March 15, 2002,
 - (b) Was in a position in a certified collective bargaining unit represented by the American Federation of State, County and Municipal Workers on June 29, 2011 and who began membership on or after February 1, 2007,
 - (c) Was in a position in a certified collective bargaining unit represented by the Milwaukee Building and Construction Trades Council on June 29, 2011 and who began membership on or after February 21, 2006,
 - (d) Was in a position in a certified collective bargaining unit represented by the Association of Milwaukee County Attorneys on June 29, 2011 and who began membership on or after January 1, 2006,
 - (e) Was in a position in a certified collective bargaining unit represented by the International Association of Machinists or by the Technicians, Engineers and Architects of Milwaukee County on June 29, 2011, and who began membership on or after November 4, 2005,
 - (f) Was in a position in a certified collective bargaining unit represented by the Federation of Nurses and Health Professionals on June 29, 2011, and who began membership on or after December 16, 2005,

- (g) Was in a position in a certified collective bargaining unit represented by the Milwaukee County Firefighters Association on June 29, 2011, and who began membership on or after June 19, 2007,
- (h) Was formerly a represented deputy sheriff and who was appointed to a non-represented position effective after June 30, 2009,
- (i) Is eligible for a deferred pension benefit under section 201.24(4.5) or a disability pension benefit under sections 201.24(5.3), (5.31) or (5.4),
- (j) Is an elected official whose membership began prior to March 15, 2002, if such elected official consents irrevocably in writing filed with the system to waive the right to elect to receive a "back drop" pension benefit, or
- (k) Who is employed by the County ~~in a non-ERS covered position~~ **but not in Active Service** at the time the individual terminates County employment.

(2) Upon retirement, the provisions as hereafter described shall be the sole method for calculating retirement benefits under this section. A member eligible under paragraph (1) may opt for a "back drop" pension benefit as follows:

- (a) ~~An memberEmployee~~ may request a "monthly pension benefit" based on accrued ~~pensionERS~~ service credit and ~~fFinal aAverage sSalary~~ calculation as of a specific date in the past which shall be referred to as the "back drop date." The "back drop date" may not be prior to the earliest date that the ~~memberEmployee~~ was eligible to retire, and shall not be less than one (1) year prior to the date the ~~memberEmployee~~ leaves ~~active-county-service~~ **Active Service**. The monthly pension benefit the ~~memberEmployee~~ was eligible to receive as of the "back drop date" shall be referred to as the "monthly pension benefit."
- (b) In addition to the monthly pension benefit set forth in paragraph (a), ~~an memberEmployee~~ will receive a "total drop benefit" equal to the total amount of the benefit' payments, as defined in paragraph (c), the ~~memberEmployee~~ would have received (including the annual two (2) percent pension increase) between the "back drop date" and the date the ~~memberEmployee~~ is removed from the county payroll due to actual retirement (after exhausting all accrued time balances as documented by an ETCR form), plus interest earnings (compounded monthly) equal to the pension fund rate of return used by the ERS actuary.

- (c) (1) If the backdrop date requested by the memberEmployee is on or after April 1, 2013, then the "monthly drop benefit" utilized for calculating the "total drop benefit" in paragraph (b) shall be the monthly amount calculated based on the memberEmployee's fFinal aAverage sSalary, service credit and applicable multiplier(s) as of April 1, 2013. If such an memberEmployee was not employed on April 1, 2013, but returns to countyActive Service employment thereafter, then the "monthly drop benefit" shall be the monthly amount calculated based on the memberEmployee's fFinal aAverage sSalary, service credit and applicable multiplier(s) as of his or her last day of employment prior to April 1, 2013.
- (2) If the backdrop date requested by the memberEmployee is prior to April 1, 2013, then the "monthly drop benefit" utilized for calculating the "total drop benefit" in paragraph (b) shall be the "monthly pension benefit" in paragraph (a) on the "back drop date" requested by the memberEmployee.
- (3) Notwithstanding subparagraphs (c)(1) and (2), if the memberEmployee is represented at the time of retirement by the Milwaukee County Firefighters Association, then the "monthly drop benefit" utilized for calculating the "total drop benefit" in paragraph (b) shall be the "monthly pension benefit" in paragraph (a) on the "back drop date" requested by the memberEmployee.
- (3) If the memberEmployee opts for a "back drop" pension benefit the "total drop benefit" shall be paid to the memberEmployee with appropriate deductions for state and federal taxes; or if permitted by IRS regulations, the memberEmployee may "roll over" all or a portion of the "total drop benefit" to an IRA.
- (4) The standard pension options shall be available to an memberEmployee who opts for a "back drop benefit", and the retention incentives incorporated into the pension benefit effective January 1, 2001, shall be included when calculating the "monthly pension benefit" or the "monthly drop benefit." Therefore, an memberEmployee who opts for a "back drop benefit" with a "back drop date" prior to January 1, 2001, shall be eligible for the retention incentives which became effective as of January 1, 2001, based on continued ERS service after January 1, 2001.
- (5) An memberEmployee who opted for a "back drop benefit" upon retirement and later returns to aActive sService and is eligible to earn additional pensionERS service credit, shall cease receiving the monthly pension benefit until the memberEmployee once again terminates aActive sService. Upon once again retiring, the memberEmployee shall have any new ERS service credit added to the service credit used to calculate the "monthly pension benefit", and the memberEmployee's fFinal aAverage sSalary shall be recalculated to incorporate the most recent earnings.

(6) ~~Notwithstanding Rule 711, a surviving spouse who was eligible for and received a protective survivorship option under Ordinance section 201.24(7.1)(3) may elect a back drop if such back drop was previously elected between January 1, 2002 and December 31, 2004.~~

SECTION 12. Section 201.24(8.7) of the Milwaukee County Code of General Ordinances is hereby amended as follows:

8.7. - Service credited.

- (a) The ~~b~~**B**oard shall fix and determine by appropriate rules and regulations how much Active sService in any year is equivalent to one (1) year of ERS service, but in no case shall more than one (1) year of service be creditable for all service in one (1) calendar year. ~~Member~~**Employees** shall not accrue credit as service for any period of more than one (1) month's duration during which the employee was absent without Earnable Compensation, except under subsections (b), (c), and (d) of this section 8.7.
- (b) Employees furloughed as a result of COVID-19 Coronavirus and the budgetary shortfalls resulting from COVID-19 Coronavirus.
- (c) ~~Employees~~**Employees** receiving worker's compensation for injuries received while in ~~ERS-eligible County Service~~**Active Service** shall receive ERS service credit for the period of time not otherwise credited under proper application therefor to the secretary.
- (d) ~~Employee~~**Employees** granted military service credit pursuant to section 201.24(2.10).
- (e) Accrual of service credit in excess of one (1) month during which the employee was absent without Earnable Compensation is not a vested property right.
- (f) No member shall earn service credit in ERS for a period of time that they are earning service credit in the Wisconsin Retirement System or OBRA for that same time.

SECTION 13. A new Section 201.24(8.25) of the Milwaukee County Code of General Ordinances is hereby created as follows.

8.25 - Amendment and Termination.

(1) **Amendment.** Subject to applicable Wisconsin law and the Internal Revenue Code, the County Board may create Ordinances or amend or repeal these Ordinances at any time. However, except as required for compliance with Federal law, no Ordinance or Ordinance amendment may increase or in any way enhance the benefits for Employees.

(2) **Termination.** In accordance with any requirements of the Internal Revenue Code as applicable for governmental plans, the County Board shall terminate ERS not later than a practicable time after the final payment has been made to members and beneficiaries. At no time after January 1, 2024, may the County create a new retirement system under this Chapter 201.24.

SECTION 14. The provisions of this Ordinance shall become effective upon passage and publication.

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