

1 By Supervisor Lipscomb

File No.

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A RESOLUTION/ORDINANCE

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to amend Section 201.24(5.16) of the Milwaukee County Code of General Ordinances as it pertains to the “backdrop benefit.”

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WHEREAS, the backdrop pension benefit has cost Milwaukee County significant amounts in increased contributions to the Employees Retirement System; and

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WHEREAS, Milwaukee County eliminated the backdrop pension benefit for all employees whose membership in the retirement system began after various dates, depending on the employee’s union status at retirement; and

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WHEREAS, Milwaukee County sued the actuarial firm that provided advice at the time of the adoption of the backdrop benefit and obtained a settlement amount of \$45 million; and

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WHEREAS, 2011 Wis. Act 10 prohibits Milwaukee County from collective bargaining concerning pension benefits, except with collective bargaining units representing public safety workers, and therefore allows Milwaukee County to modify pension benefits for non-public safety worker employees; and

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WHEREAS, Milwaukee County must collectively bargain any changes in the backdrop pension benefit with members represented by the Milwaukee County Firefighters Association and therefore the changes set forth herein do not apply to such members; and

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WHEREAS, because of the past, current and future costs to Milwaukee County and its pension fund related to the backdrop, it is appropriate and desirable to modify the backdrop benefit to reduce those costs, to the extent legally permissible; and

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WHEREAS, the proposed modification of the backdrop benefit does not affect the benefit of any employee currently eligible to retire and receive a backdrop benefit and, further, it does not reduce the benefit that has been accrued by any other employee as of September 1, 2012; and

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WHEREAS, the Pension Study Commission reviewed the actuary’s report on _____, _____, 2012 and has recommended the County Board adopt the proposed changes (Vote X-X); and

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WHEREAS, the Pension Board was provided an opportunity to comment on the proposed change and its response has been received; now, therefore,

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41 BE IT RESOLVED, that the Milwaukee County Board of Supervisors
42 hereby amends Section 201.24(5.16) of the Milwaukee County Code of
43 General Ordinances by adopting the following:

44 **AN ORDINANCE**

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

47 **SECTION 1.** Section 201.24(4.1) of the General Ordinances of Milwaukee
48 County is amended as follows:

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50 **5.16 Back drop pension benefit.**

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52 (1) The provisions of this section shall apply to any member whose
53 application to retire is filed and effective after January 1, 2001, but shall not apply
54 to any member of the retirement system who

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56 (a) is an elected official, or who was in a position that was not in a
57 certified collective bargaining unit on June 29, 2011, and who began
58 membership in said system on or after March 15, 2002,

59 (b) was in a position in a certified collective bargaining unit represented
60 by the American Federation of State, County and Municipal Workers on
61 June 29, 2011 and who began membership on or after February 1, 2007,

62 (c) was in a position in a certified collective bargaining unit represented
63 by the Milwaukee Building and Construction Trades Council on June 29,
64 2011 and who began membership on or after February 21, 2006,

65 (d) was in a position in a certified collective bargaining unit represented
66 by the Association of Milwaukee County Attorneys on June 29, 2011 and
67 who began membership on or after January 1, 2006,

68 (e) was in a position in a certified collective bargaining unit represented
69 by the International Association of Machinists or by the Technicians,
70 Engineers and Architects of Milwaukee County on June 29, 2011 and who
71 began membership on or after November 4, 2005,

72 (f) was in a position in a certified collective bargaining unit represented
73 by the Federation of Nurses and Health Professionals on June 29, 2011
74 and who began membership on or after December 16, 2005,

75 (g) was in a position in a certified collective bargaining unit represented
76 by the Milwaukee County Firefighters Association on June 29, 2011 and
77 who began membership on or after June 19, 2007,

78 (h) or to a member who was formerly a represented deputy sheriff and
79 who was appointed to a non-represented position effective after June 30,
80 2009,

81 (i) or who is eligible for a deferred pension benefit under section
82 201.24(4.5) or a disability pension benefit under sections 201.24(5.3),
83 (5.31) or (5.4)-or

84 (j) ~~The "back drop" pension benefit under this section 5.16 shall not~~
85 ~~apply to any~~ is an elected official whose membership began prior to March
86 15, 2002, if such elected official consents irrevocably in writing filed with
87 the system to waive the right to elect to receive a "back drop" pension
88 benefit.

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90 (2) Upon retirement, the provisions as hereafter described shall be the sole
91 method for calculating retirement benefits under this section. A member eligible
92 under paragraph (1) may opt for a "back drop" pension benefit as follows:
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94 ~~(a)(4)~~ A member may request a "monthly pension benefit" based on
95 accrued pension service credit and final average salary calculation as of a
96 specific date in the past which shall be referred to as the "back drop date." The
97 "back drop date" may not be prior to the earliest date that the member was
98 eligible to retire, and shall not be less than one (1) year prior to the date the
99 member leaves active county service. The monthly pension benefit the member
100 was eligible to receive as of the "back drop date" shall be referred to as the
101 "monthly pension drop benefit."
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103 ~~(b)(2)~~ In addition to the monthly pension benefit set forth in paragraph (a),
104 a member will receive a "total drop benefit" equal to ~~t~~The total amount of the
105 "monthly drop benefit" payments, as defined in paragraph (c), the member would
106 have received (including the annual two (2) percent pension increase) between
107 the "back drop date" and the date the member is removed from the county
108 payroll due to actual retirement (after exhausting all accrued time balances as
109 documented by an ETCR form), plus interest earnings (compounded monthly)
110 equal to the pension fund rate of return used by the ERS actuary, ~~shall be~~
111 ~~referred to as the "total drop benefit."~~
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113 (c)(1) If the backdrop date requested by the member is on or after
114 September 1, 2012, then the "monthly drop benefit" utilized for calculating the
115 "total drop benefit" in paragraph (b) shall be the monthly amount calculated
116 based on the member's final average salary, service credit and applicable
117 multiplier(s) as of September 1, 2012. If such a member was not employed on
118 September 1, 2012, but returns to county employment thereafter, then the
119 "monthly drop benefit" shall be the monthly amount calculated based on the
120 member's final average salary, service credit and applicable multiplier(s) as of his
121 or her last day of employment prior to September 1, 2012.
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123 (2) If the backdrop date requested by the member is prior to September 1,
124 2012, then the "monthly drop benefit utilized for calculating the "total drop
125 benefit" in paragraph (b) shall be the "monthly pension benefit" in paragraph (a)
126 on the "back drop date" requested by the member.

127 (3) Notwithstanding subparagraphs (c)(1) and (2), if the member is
128 represented at the time of retirement by the Milwaukee County Firefighters
Association, then the "monthly drop benefit utilized for calculating the "total drop

129 benefit" in paragraph (b) shall be the "monthly pension benefit" in paragraph (a)
130 on the "back drop date" requested by the member.

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132 (3) If the member opts for a "back drop" pension benefit:

133 a. ~~The~~ "total drop benefit" shall be paid to the member with appropriate
134 deductions for state and federal taxes; or if permitted by IRS regulations, the
135 member may "roll over" all or a portion of the "total drop benefit" to an IRA.

136 b. ~~The "monthly drop benefit" shall be paid to the member.~~

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138 (4) The standard pension options shall be available to a member who opts for a
139 "back drop benefit", and the retention incentives incorporated into the pension
140 benefit effective January 1, 2001, shall be included when calculating the "monthly
141 pension benefit" or the "monthly drop benefit." Therefore, a member who opts for
142 a "back drop benefit" with a "back drop date" prior to January 1, 2001, shall be
143 eligible for the retention incentives which became effective as of January 1, 2001,
144 based on continued service after January 1, 2001.

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146 (5) A member who opted for a "back drop benefit" upon retirement and later
147 returns to active service and is eligible to earn additional pension service credit,
148 shall cease receiving the monthly ~~pension drop~~ benefit until the member once
149 again terminates active service. Upon once again retiring, the member shall have
150 any new service credit added to the service credit used to calculate the "monthly
151 ~~pension drop~~ benefit", and the member's final average salary shall be
152 recalculated to incorporate the most recent earnings.