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(ITEM) From the Pension Board of the Employees' Retirement System of the County of Milwaukee, requesting authorization to amend various sections within Chapter 201.24 of the Milwaukee County Code of General Ordinances to comply with Internal Revenue Service code requirements, by recommending adoption of the following:

A RESOLUTION

WHEREAS, the Employees' Retirement System of the County of Milwaukee ("ERS") is a tax-qualified governmental retirement plan that must comply with the applicable provisions of the Internal Revenue Code of 1986, as amended (the "IRS Code"); and

WHEREAS, the Pension Board of the ERS (the "Pension Board") acts as the fiduciary for and oversees administration of ERS, and as such, the Pension Board seeks to ensure that ERS maintains its tax-qualified status; and

WHEREAS, the United States Congress and the Internal Revenue Service ("IRS") adopted various pieces of legislation and regulations, respectively, impacting tax-qualified retirement plans, including the Economic Growth and Tax Relief Reconciliation Act of 2001, the Pension Protection Act of 2005, and the Heroes Earnings Assistance and Relief Tax Act of 2008; and

WHEREAS, the Pension Board requested that ERS be amended to comply with required legislative and regulatory changes; and

WHEREAS, the proposed amendments have been referred to the pension fund actuary, whose analysis indicates their cost will be immaterial; and

WHEREAS, the Pension Study Commission reviewed the actuary's report on May 13, 2014, and has recommended the Milwaukee County Board of Supervisors ("County Board") adopt the proposed amendments; now, therefore,

BE IT RESOLVED, as requested by the Pension Board, that the Employees' Retirement System is hereby amended to comply with the laws governing tax-qualified retirement plans required by legislative and regulatory changes; and

BE IT FURTHER RESOLVED, that to ensure the above-noted revisions are properly codified, the County Board does hereby adopt the following:

40 **AN ORDINANCE**

41
42 To amend Chapter 201.24 of the Milwaukee County Code of General Ordinances
43 as appropriate to comply with federal legislative and regulatory changes related to tax-
44 qualified retirement plans that impact the Employees' Retirement System of the County of
45 Milwaukee.

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

49
50 **Section 1.** Effective January 1, 2002 section 201.24(2.7) is amended to read as follows:

51
52 Earnable compensation shall mean total compensation that would be payable to a
53 member if he worked the full normal working time for his position, plus all
54 payments for authorized overtime but excluding payments in lieu of vacations,
55 provided that where service is credited during periods of absences as provided in
56 section 2.9 hereof, the employe shall be considered to have earnable compensation
57 during such periods of absence equivalent to his earnable compensation as of the
58 last month of employment prior to the beginning of such absences. In cases where
59 compensation includes maintenance, the board shall fix the value of that portion of
60 the compensation not payable in money. Where the county pays less than the full
61 rate of compensation for a position and the balance is payable by some other
62 government, company or individual, the amount paid by the county shall be
63 considered the earnable compensation for such period of service. The annual
64 earnable compensation of each member taken into account for determining all
65 benefits provided under the system for any year shall not exceed the annual
66 compensation limit pursuant to Internal Revenue Code section 401(a)(17); provided,
67 however, that this limitation shall apply only with respect to members who first
68 commence participation in the system after 1995. The annual compensation limit
69 shall be adjusted annually for increases in the cost of living by the Secretary of the
70 Treasury or his delegate, except that the dollar increase in effect on January 1 of any
71 calendar year is effective for years beginning in such calendar year. The "annual
72 compensation limit" is two one-hundred fifty-thousand dollars (\$20150,000.00), as
73 indexed.

74
75 **Section 2.** Effective January 1, 2007 or as noted below, the following shall be added to the
76 end of section 201.24(2.10):

77
78 To the extent required by the Heroes Earnings Assistance and Relief Tax Act of 2008
79 (HEART Act) and as applicable for the system, the following provisions apply:

- 80
81 (a) Effective January 1, 2007, if a member dies while performing qualified
82 military service, the survivors of the member shall be entitled to any
83 additional benefits (other than contributions relating to the period of

84 qualified military service) provided under the system as if the member
85 had been reemployed on the day prior to death and then severed
86 employment on the actual date of death.

87 (b) Effective for payments made on or after January 1, 2009, compensation
88 for purposes of section 2.4 includes any differential wage payments (as
89 defined in Internal Revenue Code section 3401(h)(2)) to an individual
90 who does not currently perform services for the county by reason of
91 qualified military service while on active duty for a period of more than
92 thirty (30) days and represents all or a portion of the wages the individual
93 would have received from the county if the individual was performing
94 services for the county. Such differential wage payment shall be treated
95 as a payment of wages by the county to the member.

96 Qualified military service for the purposes of the above provisions is determined pursuant
97 to Internal Revenue Code section 414(u)(5).

98

99 **Section 3.** Effective January 1, 2003, section 201.24(4.6) is amended to read as follows:

100

101 (1) In order to receive a pension, a member shall file with the board a written
102 application therefor on a form prescribed by the board.

103 (2) A member who files with the board a completed application for benefits from
104 the system shall be entitled to have his benefits commence no later than the 60th
105 day after the close of the year in which the later of the following occurs:

106 (a) The member attains his normal retirement age; or

107 (b) The member terminates employment.

108 Notwithstanding the preceding, regardless of whether a member files an
109 application for benefits, in all events, payments shall commence no later than the
110 member's required beginning date, which is the April 1 following the calendar year
111 in which the member attains age seventy and one-half (70 1/2) or, if later, the
112 calendar year in which the member retires. All distributions made under sections
113 (4.6) and (4.7) shall be determined and made in accordance with Internal Revenue
114 Code section 401(a)(9) and corresponding Treasury regulations. Notwithstanding
115 the other provisions of this section 4.6 and section 4.7, distributions may be made
116 under a designation made before January 1, 1984, in accordance with section
117 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions
118 of Ordinance section 201.24(4.8) that relate to section 242(b)(2) of TEFRA. ~~For a~~
119 ~~retired member who attained age seventy and one-half (70 1/2) after December 31,~~
120 ~~1987 and before January 1, 1989, payments shall commence not later than April 1,~~
121 ~~1990.~~

122 (3) Benefits may not be distributed to any member under a method of payment
123 which, as of the member's required beginning date, does not satisfy the minimum
124 distribution requirements of Internal Revenue Code section 401(a)(9) and applicable

125 Treasury regulations, including the minimum distribution incidental benefit
126 requirements of proposed Treasury regulation Section 1.401(a)(9)-2, which the
127 system hereby incorporates by reference. Life expectancy is computed by use of the
128 Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations. Section II(6)
129 permits a member to receive a pension in the form of an annuity (i.e., periodic
130 payments payable at regular intervals). If a member receives his pension benefit in
131 the form of an annuity, payments under the annuity shall satisfy the following
132 requirements:

133 (a) The amount that must be distributed on or before the member's required
134 beginning date (or, if the member dies before distributions begin, the date
135 distributions are required to begin under sections 4.7(2)(a) or (b) below) is
136 the payment that is required for one payment interval. The second payment
137 need not be made until the end of the next payment interval even if that
138 payment interval ends in the next calendar year. Payment intervals are the
139 periods for which payments are received, e.g., bi-monthly, monthly, semi-
140 annually, or annually. All of the member's benefit accruals as of the last day
141 of the first distribution calendar year will be included in the calculation of
142 the amount of the annuity payments for payment intervals ending on or after
143 the member's required beginning date; ~~The amount to be distributed each~~
144 ~~year must be at least an amount equal to the quotient obtained by dividing~~
145 ~~the member's entire interest by the life expectancy of the member or the~~
146 ~~joint and last survivor expectancy of the member and designated beneficiary~~

147 (b) Life expectancy (a joint life and last survivor expectancy), for purposes for
148 determining the period certain, shall be determined without recalculation of
149 life expectancy;

150 (c) Life expectancy of a member and the joint life expectancy of a member
151 and his beneficiary for all other purposes shall be determined in accordance
152 with applicable law and regulations, provided that the member or his spouse
153 may elect to recalculate life expectancy for one (1) or both lives no more
154 frequently than annually, provided such election is made prior to the
155 member's required distribution date;

156 (d) Once payments have begun over a period certain, the period certain may
157 not be lengthened even if the period certain is shorter than the maximum
158 permitted;

159 (e) Annuity distributions must be paid in periodic payments made at intervals
160 not longer than one (1) year;

161 (f) Life (or joint and survivor) annuity payments will satisfy the minimum
162 distribution incidental benefit requirements of A-2 of Treasury regulation
163 section 1.401(a)(9)-6; and

164 (g) Payments will either be nonincreasing or increase only as follows (and
165 only if so allowed by and provided for in other Ordinance provisions):

- 166 (i) By an annual percentage increase that does not exceed the annual
167 percentage increase in an eligible cost-of-living index (as defined
168 under A-14 of Treasury regulation section 1.401(a)(9)-6) for a twelve-
169 (12-) month period ending in the year during which the increase
170 occurs or a prior year;
- 171 (ii) By a percentage increase that occurs at specified times and does
172 not exceed the cumulative total of annual percentage increases in an
173 eligible cost-of-living index (as defined under A-14 of Treasury
174 regulation section 1.401(a)(9)-6) since the annuity starting date, or if
175 later, the date of the most recent percentage increase, provided (in the
176 case of a cumulative increase), an actuarial increase may not be
177 provided to reflect that increases were not provided in the interim
178 years;
- 179 (iii) To the extent of the reduction in the amount of the member's
180 payments to provide for a survivor benefit upon death, but only if
181 there is no longer a survivor benefit because the beneficiary whose
182 life was being used to determine the distribution period described in
183 section 4.7(2) dies or is no longer the member's beneficiary pursuant
184 to a domestic relations order within the meaning of Rule 1017;
- 185 (iv) To allow a beneficiary to convert the survivor portion of a joint
186 and survivor annuity into a single sum distribution upon the member's
187 death;
- 188 (v) To pay increased benefits that result from an Ordinance
189 amendment; or
- 190 (vi) To the extent increases are otherwise permitted under A-14 of
191 Treasury regulation section 1.401(a)(9)-6.
- 192 (h) Any additional benefits accruing to the member in a calendar year after
193 the first distribution calendar year will be distributed beginning with the first
194 payment interval ending in the calendar year immediately following the
195 calendar year in which such amount accrues.
- 196 (4) Requirements for annuity distributions that commence during a member's
197 lifetime.
- 198 (a) Joint Life Annuities Where the Beneficiary Is Not the Member's Spouse. If
199 the member's interest is being distributed in the form of a joint and survivor
200 annuity for the joint lives of the member and a nonspouse beneficiary,
201 annuity payments to be made on or after the member's required beginning
202 date to the designated beneficiary after the member's death must not at any
203 time exceed the applicable percentage of the annuity payment for such

204 period that would have been payable to the member as determined for
205 individuals less than age seventy and one-half (70 1/2) at the member's
206 annuity starting date using the table set forth in A-2 of section 1.401(a)(9)-6 of
207 the Treasury regulations. If the form of distribution combines a joint and
208 survivor annuity for the joint lives of the member and a nonspouse
209 beneficiary and a period certain annuity, the requirement in the preceding
210 sentence will apply to annuity payments to be made to the designated
211 beneficiary after the expiration of the period certain.

212 (b) Period Certain Annuities. Unless the member's spouse is the sole
213 designated beneficiary and the form of distribution is a period certain and no
214 life annuity, the period certain for an annuity distribution commencing
215 during the member's lifetime may not exceed the applicable distribution
216 period for the member under the Uniform Lifetime Table set forth in section
217 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains
218 the annuity starting date.

219 If the member's spouse is the member's sole designated beneficiary and the
220 form of distribution is a period certain and no life annuity, the period certain
221 may not exceed the longer of the member's applicable distribution period, as
222 determined under this section, or the joint life and last survivor expectancy
223 of the member and the member's spouse as determined under the Joint and
224 Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury
225 regulations.

226 **Section 4.** Effective January 1, 2003, section 201.24(4.7) is amended to read as follows:

227
228 (1) If the member dies after his required beginning date, as determined under
229 section 4.6(2), or, if earlier, the date he commences an irrevocable annuity, any
230 remaining benefit must continue to be distributed at least as rapidly as under the
231 method of distribution in effect prior to the member's death.

232 (2) If the member dies before his distributions begin and before his required
233 beginning date, as determined under subsection 4.6(2), distribution of the member's
234 entire benefit shall be completed by December 31 of the calendar year containing
235 the 5th anniversary of the member's death, unless an election is made to receive
236 distributions in accordance with subsections (a) or (b) below.

237 (a) If any portion of the member's benefit is payable to a designated
238 beneficiary, distributions shall commence ~~may be made either (i) over the~~
239 ~~life of the designated beneficiary or (ii) over a period certain not greater than~~
240 ~~the life expectancy of the designated beneficiary commencing on or before~~
241 December 31 of the calendar year immediately following the calendar year
242 in which the member died.

243 (b) If the designated beneficiary is the member's spouse, the date
244 distributions are required to begin in accordance with section (a) above shall

245 not be earlier than the later of (i) December 31 of the calendar year
246 immediately following the calendar year in which the member died, or (ii)
247 December 31 of the calendar year in which the member would have attained
248 age seventy and one-half (70 1/2).

249 If the member has not made an election pursuant to this section by the time of his
250 death, the member's designated beneficiary must elect the method of distribution no
251 later than the earlier of (a) December 31 of the calendar year in which distributions
252 would be required to begin under this section, or (b) December 31 of the calendar
253 year which contains the 5th anniversary of the date of death of the member. If the
254 member has no designated beneficiary, or if the beneficiary fails to elect a method
255 of distribution, distribution of the member's entire interest must be completed by
256 December 31 of the calendar year containing the 5th anniversary of the member's
257 death.

258 If the surviving spouse dies after the member, but before payments commence, the
259 above provisions, with the exception of subsection (b) above, shall be applied as if
260 the surviving spouse were the member.

261 (3) Requirements for Minimum Distributions Where Member Dies Before Date
262 Distributions Begin.

263 (a) Member Survived by Designated Beneficiary. If the member dies before the
264 date distribution of his interest begins and there is a designated beneficiary, the
265 member's entire interest will be distributed, beginning no later than the time
266 described in sections 4.7(2)(a) or (b), over the life of the designated beneficiary
267 or over a period certain not exceeding:

268 (i) The applicable distribution period determined under A-5 of Treasury
269 regulations section 1.401(a)(9)-5, unless the annuity starting date is before
270 the first distribution calendar year. For purposes of sections 4.6 and 4.7, the
271 first distribution calendar year is the calendar year immediately preceding
272 the calendar year which contains the member's required beginning date.
273 For distributions beginning after the member's death, the first distribution
274 calendar year is the calendar year in which distributions are required to
275 begin under section 4.7(2)(a) or (b).

276 (ii) The life expectancy of the designated beneficiary is determined using the
277 beneficiary's age as of the beneficiary's birthday in the calendar year that
278 contains the annuity starting date, if the annuity starting date is before the
279 first distribution calendar year.

280 (b) No Designated Beneficiary. If the member dies before the date distributions
281 begin and there is no designated beneficiary as of September 30 of the year
282 following the year of the member's death, distribution of the member's entire
283 interest will be completed by December 31 of the calendar year containing the
284 fifth anniversary of the member's death.

285 (c) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin.
286 If the member dies before the date distribution of his interest begins, the
287 member's surviving spouse is the member's sole designated beneficiary, and
288 the surviving spouse dies before distributions to the surviving spouse begin, this
289 section will apply as if the surviving spouse were the member, except that the
290 time by which distributions must begin will be determined without regard to
291 section 4.7(2)(a) above.

292 (34) The board shall, upon the member's written request, or in the case of a
293 distribution described in subsection (2)(b) above, upon written request of the
294 member's surviving spouse, may recalculate his and/or his spouse's life expectancy
295 for purposes of calculating the minimum distribution. The member must make such
296 an election not later than his required beginning date as defined in section 4.6(2). A
297 member's surviving spouse must make such an election no later than the December
298 31 date described in subsection (2)(b) above. This election is irrevocable. A
299 recalculation election applicable to a joint life expectancy payment where the
300 survivor is a nonspouse may not take into account any adjustment to any life
301 expectancy other than the member's life expectancy. In the absence of a
302 recalculation election, the system does not permit recalculation of applicable life
303 expectancy.

304

305 **Section 5.** Effective January 1, 2003, section 201.24(4.8)(4) is hereby amended to read as
306 follows:

307 (4) If a designation is revoked, any subsequent distribution must satisfy the
308 requirements of Internal Revenue Code section 401(a)(9) and the proposed
309 regulations thereunder. If a designation is revoked subsequent to the date
310 distributions are required to begin, the trust must distribute, by the end of the
311 calendar year following the calendar year in which the revocation occurs, the total
312 amount not yet distributed which would have been required to have been
313 distributed to satisfy Internal Revenue Code section 401(a)(9) and the proposed
314 regulations thereunder, including the minimum incidental benefit requirements of
315 ~~proposed regulation Section 401(a)(9)-2.~~ Any changes in the designation will be
316 considered to be a revocation of the designation. However, the mere substitution or
317 addition of another beneficiary (one not named in the designation) under the
318 designation will not be considered to be a revocation of the designation, so long as
319 such substitution or addition does not alter the period over which distributions are
320 to be made under the designation, directly or indirectly (for example, by altering the
321 relevant measuring life).

322

323 **Section 6.** Effective January 1, 2008, section 201.24(12.1)(3) is hereby restated to read as
324 follows:

325

326 ~~(3) If a member has never participated in an includable arrangement which provides~~
327 ~~an annual addition as defined in section 12.2 (other than one (1) or more qualified~~
328 ~~defined benefit plans), the limitation in subsection 12.2(a) above is deemed satisfied~~
329 ~~if the annual benefit payable to the member is not more than one thousand dollars~~
330 ~~(\$1,000.00), multiplied by the member's number of years of service or parts thereof~~
331 ~~(not to exceed ten(10)).~~

332 (3) Notwithstanding anything else in this section to the contrary, the benefit
333 otherwise payable to a member under this system shall be deemed not to exceed
334 the maximum permissible benefit if:

335 (a) the retirement benefits payable for a limitation year under any form of
336 benefit with respect to such member under this system and under all other
337 defined benefit plans (without regard to whether a plan has been terminated)
338 ever maintained by the county do not exceed \$10,000 multiplied by a
339 fraction – (i) the numerator of which is the member's number of years (or
340 part thereof, but not less than one year) of service (not to exceed 10) with the
341 county, and (ii) the denominator of which is 10; and

342 (b) the county (or a predecessor employer) has not at any time maintained a
343 qualified defined contribution plan in which the member participated (for
344 this purpose, mandatory employe contributions under a defined benefit plan,
345 individual medical accounts under Internal Revenue Code section 401(h),
346 and accounts for postretirement medical benefits established under Internal
347 Revenue Code section 419A(d)(1) are not considered a separate defined
348 contribution plan).

349
350 **Section 7.** Effective January 1, 2008, section 201.24(12.2)(1) is hereby amended to read as
351 follows:
352

353 (1) "Annual benefits" means the retirement benefit under the system which is
354 payable annually in the form of a straight life annuity. Except as provided in this
355 section, a benefit payable in a form other than a straight life annuity must be
356 adjusted to an actuarially equivalent straight life annuity that begins at the same
357 time as such other forms of benefit and is payable on the first day of each month,
358 before applying the limitations of this section XII. The annual benefit does not
359 include any benefits attributable to ~~employee contributions or~~ rollover contributions
360 or the assets transferred or rolled over from a qualified plan that was not maintained
361 by the county. For members who make contributions to their membership
362 accounts, to the extent the County does not pick up these contributions and to the
363 extent that such contributions are not measured by Internal Revenue Code section
364 415(n), the annual benefit attributable to such contributions shall be determined
365 according to Internal Revenue Code section 411(c)(3) and the Treasury regulations
366 thereunder. No actuarial adjustment to the benefit is required for the following
367 benefits:

368 ~~(a)~~The value of survivor benefits payable to a surviving spouse under a
369 qualified joint and survivor annuity to the extent such benefits would not be
370 payable if the member's benefit were not paid in a qualified joint and
371 survivor annuity;

372 ~~(b)~~The value of benefits that are not directly related to retirement benefits;
373 and

374 ~~(c)~~For members who at retirement do not have the value of the cost of living
375 adjustment described in section 5.7 included in their Internal Revenue Code
376 section 415 compliance calculation, the value of an automatic benefit
377 increase feature, provided the form of benefit is not subject to Internal
378 Revenue Code section 417(e)(3), would otherwise satisfy the limitations of
379 this section XII, and the amount payable under the form of benefit in any
380 limitation year shall not exceed the limits of this section XII and Internal
381 Revenue Code section 415(b) applicable at the annuity starting date. For this
382 purpose, an automatic benefit increase feature is included in a form of
383 benefit if the form of benefit provides for automatic, periodic increases to the
384 benefits paid in that form ~~post-retirement cost of living increases made in~~
385 accordance with Internal Revenue Code section 415(d) and applicable
386 Treasury Regulations.

387 The determination of the annual benefit shall take into account Social Security
388 supplements described in Internal Revenue Code section 411(a)(9).

389 The determination of actuarial equivalence of forms of benefit other than a straight
390 life annuity shall be made in accordance with the following section 12.2(1)(a) or (b).

391 (a) Benefit Forms Not Subject to Internal Revenue Code Section 417(e)(3):
392 The straight life annuity that is actuarially equivalent to the member's form of
393 benefit shall be determined under this section 12.2(1) if the form of the
394 member's benefit is either (1) a nondecreasing annuity (other than a straight
395 life annuity) payable for a period of not less than the life of the member (or,
396 in the case of a qualified pre-retirement survivor annuity, the life of the
397 surviving spouse), or (2) an annuity that decreases during the life of the
398 member merely because of (a) the death of the survivor annuitant (but only if
399 the reduction is not below fifty (50) percent of the benefit payable before the
400 death of the survivor annuitant), or (b) the cessation or reduction of Social
401 Security supplements or qualified disability payments (as defined in Internal
402 Revenue Code section 401(a)(11)).

403 (i) Limitation Years Beginning Before July 1, 2007. For limitation
404 years beginning before July 1, 2007, the actuarially equivalent straight
405 life annuity is equal to the annual amount of the straight life annuity
406 commencing at the same annuity starting date that has the same
407 actuarial present value as the member's form of benefit computed
408 using whichever of the following produces the greater annual amount:

409 (I) the interest rate specified in Rule 1014(c)(2) and the mortality table
410 specified in Rule 1014(c)(1) for adjusting benefits in the same form;
411 and (II) a five (5) percent interest rate assumption and the applicable
412 mortality table defined in Internal Revenue Code section 417(e) for
413 that annuity starting date.

414 (ii) Limitation Years Beginning on or After July 1, 2007. For limitation
415 years beginning on or after July 1, 2007, the actuarially equivalent
416 straight life annuity is equal to the greater of (1) the annual amount of
417 the straight life annuity (if any) payable to the member under the
418 system commencing at the same annuity starting date as the member's
419 form of benefit; and (2) the annual amount of the straight life annuity
420 commencing at the same annuity starting date that has the same
421 actuarial present value as the member's form of benefit, computed
422 using a five (5) percent interest rate assumption and the applicable
423 mortality table defined in Internal Revenue Code section 417(e) for
424 that annuity starting date.

425 (b) Benefit Forms Subject to Internal Revenue Code Section 417(e)(3): The
426 straight life annuity that is actuarially equivalent to the member's form of
427 benefit shall be determined under this paragraph if the form of the member's
428 benefit is other than a benefit form described in section 12.2(1)(a). In this
429 case, the actuarially equivalent straight life annuity shall be determined as
430 follows:

431 (i) Annuity Starting Date in Limitation Years Beginning After 2005.
432 The actuarially equivalent straight life annuity is equal to the greatest
433 of (I) the annual amount of the straight life annuity commencing at the
434 same annuity starting date that has the same actuarial present value as
435 the member's form of benefit, computed using the interest rate
436 specified in Rule 1014(c)(2) and the mortality table specified in Rule
437 1014(c)(1) for adjusting benefits in the same form; (II) the annual
438 amount of the straight life annuity commencing at the same annuity
439 starting date that has the same actuarial present value as the member's
440 form of benefit, computed using a five and one-half (5.5) percent
441 interest rate assumption and the applicable mortality table defined in
442 Internal Revenue Code section 417(e); and (III) the annual amount of
443 the straight life annuity commencing at the same annuity starting date
444 that has the same actuarial present value as the member's form of
445 benefit, computed using the applicable interest rate defined in Internal
446 Revenue Code section 417(e) and the applicable mortality table
447 defined in Internal Revenue Code section 417(e), divided by one and
448 five one-hundredths (1.05).
449

450 (ii) Annuity Starting Date in Limitation Years Beginning in 2004 or
451 2005. If the annuity starting date of the member's form of benefit is in
452 a limitation year beginning in 2004 or 2005, and if the IRS so
453 requires, the actuarially equivalent straight life annuity is equal to the
454 annual amount of the straight life annuity commencing at the same
455 annuity starting date that has the same actuarial present value as the
456 member's form of benefit, computed using whichever of the following
457 produces the greater annual amount: (I) the interest rate specified in
458 Rule 1014(c)(2) and the mortality table (or other tabular factor)
459 specified in Rule 1014(c)(1) for adjusting benefits in the same form;
460 and (II) a five and one-half (5.5) percent interest rate assumption and
461 the applicable mortality table defined in Rule 1014(b)(1).

462 If the member's chosen form of benefit is subject to Internal Revenue
463 Code section 417(e)(3) and the annuity starting date of the member's
464 benefit is on or after the first day of the first limitation year beginning
465 in 2004 and before December 31, 2004, the application of this
466 section 12.2(1)(b)(ii) shall not cause the amount payable under the
467 member's form of benefit to be less than the benefit calculated under
468 the system, taking into account the limitations of this section XII,
469 except that the actuarially equivalent straight life annuity is equal to
470 the annual amount of the straight life annuity commencing at the
471 same annuity starting date that has the same actuarial present value as
472 the member's form of benefit, computed using whichever of the
473 following produces the greatest annual amount:

474 (I) the interest rate specified in Rule 1014(c)(2) and the
475 mortality table (or other tabular factor) specified in Rule
476 1014(c)(1) for adjusting benefits in the same form;

477 (II) the applicable interest rate defined in Internal Revenue
478 Code section 417 and the applicable mortality table defined in
479 Internal Revenue Code section 417: and

480 (III) the applicable interest rate defined in Internal Revenue
481 Code section 417 (as in effect on the last day of the last
482 limitation year beginning before January 1, 2004, under
483 provisions of the system then adopted and in effect) and the
484 applicable mortality table defined in Internal Revenue Code
485 section 417.

486 **Section 8.** Effective January 1, 2002, section 201.24(12.3)(2) is amended to read as
487 follows:
488

489 (2) If the annual benefit of the member commences on or after age sixty two
490 (62), the general limitations of subsection (1) above shall apply. The defined
491 benefit dollar limitation shall be adjusted if the annuity starting date of the
492 member's benefit is before age 62.

493 (a) Adjustment of Defined Benefit Dollar Limitation for Benefit
494 Commencement Before Age 62.

495 (i) Limitation Years Beginning Before July 1, 2007. If the annuity
496 starting date for the member's benefit is prior to age 62 and occurs in
497 a limitation year beginning before July 1, 2007, the defined benefit
498 dollar limitation for the member's annuity starting date is the annual
499 amount of a benefit payable in the form of a straight life annuity
500 commencing at the member's annuity starting date that is the actuarial
501 equivalent of the defined benefit dollar limitation (adjusted under
502 section 12.3(1) for years of participation less than ten (10), if required)
503 with actuarial equivalence computed using a five (5) percent interest
504 rate assumption and the 1994 GAR mortality table.

505 (ii) Limitation Years Beginning on or After July 1, 2007. If the
506 annuity starting date for the member's benefit is prior to age 62 and
507 occurs in a limitation year beginning on or after July 1, 2007, the
508 defined benefit dollar limitation for the member's annuity starting date
509 is the lesser of: [a] the annual amount of a benefit payable in the form
510 of a straight life annuity commencing at the member's annuity starting
511 date that is the actuarial equivalent of the defined benefit dollar
512 limitation (adjusted under section 12.3(1) for years of participation
513 less than ten (10), if required) with actuarial equivalence computed
514 using a five (5) percent interest rate and the applicable Internal
515 Revenue Code section 417(e) mortality table effective for that annuity
516 starting date and [b] the defined benefit dollar limitation (adjusted
517 under section 12.3(1) for years of participation less than ten (10), if
518 required) multiplied by the ratio of the annual amount of the
519 immediately commencing straight life annuity under the system at the
520 member's annuity starting date to the annual amount of the
521 immediately commencing straight life annuity under the system at age
522 sixty-two (62), both determined without applying the limitations of
523 this section XII (and expressing the participant's age based on
524 completed calendar months as of the annuity starting date).

525 (b) Notwithstanding the other requirements of this section 12.3, no
526 adjustment shall be made to the defined benefit dollar limitation to reflect
527 the probability of a member's death between the annuity starting date and
528 age sixty-two (62) if benefits are not forfeited upon the death of the member

529 prior to the annuity starting date. To the extent benefits are forfeited upon
530 death before the annuity starting date, such an adjustment shall be made.

531 (c) Notwithstanding the other requirements of this section 12.3, no
532 adjustment shall be made to the defined benefit dollar limitation for
533 commencement of a benefit before age sixty-two (62) for a distribution on
534 account of a member's becoming disabled by reason of a personal injury or
535 sickness, or as a result of the death of a member.

536
537 **Section 9.** Effective January 1, 2002, section 201.24(12.3)(3) is amended to read as
538 follows:

539
540 (3) ~~Except as provided in this paragraph, if the annual benefit of the member~~
541 ~~commences prior to age sixty two (62), the defined benefit dollar limitation~~
542 ~~shall be the actuarial equivalent of an annual benefit beginning at age sixty-~~
543 ~~two (62). To determine actuarial equivalence, the interest rate assumption is~~
544 ~~the greater of the rates specified in paragraph (13) of section II or five (5)~~
545 ~~percent. In the event the annual benefit of the member commences between~~
546 ~~age fifty five (55) and sixty two (62), the actuarial reduction of the defined~~
547 ~~benefit dollar limitation shall not result in a dollar limitation which is less~~
548 ~~than seventy-five thousand dollars (\$75,000.00). In the event the annual~~
549 ~~benefit of the member commences prior to age fifty-five (55), the defined~~
550 ~~benefit dollar limitation shall be the greater of (a) the amount which is the~~
551 ~~actuarial equivalent of a seventy five thousand dollar (\$75,000.00) annual~~
552 ~~benefit commencing at age fifty five (55); or (b) the actuarial equivalent of the~~
553 ~~defined benefit dollar limitation beginning at age sixty two (62), both~~
554 ~~calculated using the interest rate specified in the second sentence of this~~
555 ~~section 12.3(3). Notwithstanding the provisions of this section 12.3(2), the~~
556 ~~defined benefit dollar limitation of a "qualified member" shall not be~~
557 ~~actuarially adjusted. For purposes of this section, a "qualified member" is a~~
558 ~~member whose years of service taken into account in determining his benefit~~
559 ~~include at least fifteen (15) years of service as a full-time employe of any~~
560 ~~department of the county which provides police protection, firefighting~~
561 ~~services, or emergency medical services for any area within the jurisdiction~~
562 ~~of the county or is a member of the armed forces of the United States.~~

563
564 **Section 10.** Effective January 1, 2002, section 201.24(12.4)(1) is amended to read as
565 follows:

566
567 (1) The annual addition to a member's savings account and membership
568 account for any limitation year shall not exceed the lesser of:
569
570 (a) ~~the greater of thirty thousand dollars (\$30,000.00) or twenty five (25)~~
571 ~~percent of the defined benefit dollar limitation recited in Internal~~

572 ~~Revenue Code Section 415(b)(1)(A) for such year~~ the defined
573 contribution dollar limitation provided in Internal Revenue Code
574 section 415(c)(1)(A), or such successor provision of the Internal
575 Revenue Code, as adjusted for cost of living adjustments pursuant to
576 Internal Revenue Code section 415(d); or

577
578 (b) ~~twenty five (25)~~ one hundred (100) percent of the compensation paid
579 or made available to the member for such year.

580
581 **Section 11.** Effective January 1, 2002, section 201.24(12.6) is amended to read as follows:
582

583 The defined benefit dollar limitation shall equal One Hundred Sixty Thousand
584 Dollars (\$160,000.00) ~~is ninety thousand dollars (\$90,000.00)~~. Effective January 1,
585 1988 and each January 1 thereafter, the ~~ninety thousand~~ dollar limitation shall be
586 adjusted by multiplying such limit by the cost of living adjustment factor prescribed
587 by the Secretary of the Treasury under Internal Revenue Code section 415(d). The
588 new dollar limitation shall apply to limitation years ending within the calendar year
589 of the date of adjustment.

590
591 **Section 12.** Effective January 1, 2001, section 201.24(12.8) is hereby amended to read as
592 follows:
593

594 Compensation, for the purposes of this section, means "member's compensation,"
595 as defined in Internal Revenue Code section 415(c)(3) and the regulations
596 thereunder, including elective contributions made by the County on behalf of the
597 member that are not includable in income under Internal Revenue Code section
598 125, 132(f)(4), 401(h)(2), 402(e)(3), 402(h) or 403(b).

599
600 **Section 13.** Effective January 1, 2008, section 201.24(12.8) is hereby amended to read as
601 follows:
602

603 Compensation, for the purposes of this section, means "member's compensation,"
604 as defined in Internal Revenue Code section 415(c)(3) and paid prior to the
605 member's severance from employment and the regulations thereunder, including
606 elective contributions made by the County on behalf of the member that are not
607 includable in income under Internal Revenue Code section 125, 132(f)(4), 401(h)(2),
608 402(e)(3), 402(h) or 403(b).

609
610 **Section 14.** Effective January 1, 2002, section 201.24(13.3) is amended to read as follows:
611

612 An eligible retirement plan is an individual retirement account described in Internal
613 Revenue Code section 408(a), an individual retirement annuity described in Internal
614 Revenue Code section 408(b), an individual retirement annuity described in Internal
615 Revenue Code section 403(a), ~~or~~ a qualified trust described in Internal Revenue

616 Code section 401(a) that accepts the distributee's eligible rollover distribution, an
617 eligible deferred compensation plan described in Internal Revenue Code section
618 457(b) which is maintained by an eligible employer described in Internal Revenue
619 Code section 457(e)(1)(A), or an annuity contract described in Internal Revenue
620 Code section 403(b). However, in the case of an eligible rollover distribution to a
621 distributee's surviving spouse, an eligible retirement plan is an individual retirement
622 account or individual retirement account or an individual retirement annuity.
623

624 **Section 15.** Effective January 1, 2010, the following shall be added to the end of section
625 201.24(13.3):

626
627 Effective for eligible rollover distributions made on or after January 1, 2008, an
628 eligible retirement plan shall also mean a Roth individual retirement account
629 described in Internal Revenue Code section 408A provided that eligible rollover
630 distributions made on or after January 1, 2008 are subject to the adjusted gross
631 income limits of Internal Revenue Code section 408A(c)(3)(B), as applicable, and
632 the distribution rules of Internal Revenue Code section 408A(d)((3). For a
633 distributee who is a nonspouse designated beneficiary, the direct rollover may be
634 made only to an individual retirement account or annuity described in Internal
635 Revenue Code section 408(a) or 408(b) that is established on behalf of the
636 designated beneficiary for the purpose of receiving the distribution as an inherited
637 individual retirement account or annuity pursuant to the provisions of Internal
638 Revenue Code section 408(d)(3)(C).
639

640 **Section 16.** Effective January 1, 2010, section 201.24(13.4) of the Milwaukee County
641 Code of General Ordinances is amended to read as follows:

642
643 A distributee includes a member or former member. In addition, the member's or
644 former member's surviving spouse and the member's or former member's spouse or
645 former spouse who is the alternate payee under a qualified domestic relations order,
646 as defined in Internal Revenue Code section 414(p), are distributees with regard to
647 the interest of the spouse or former spouse. A distributee also includes a member or
648 former member's nonspouse beneficiary.
649

650 **Section 17.** The provisions of this ordinance shall be effective as set forth above,
651 but in any event no later than upon passage and publication.
652

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