

Proposed Amendments for the OBRA Pension Plan in Response to 2023 WI Act 12, by recommending adoption of the following:

**A RESOLUTION/ORDINANCE**

WHEREAS, Milwaukee County (the County) sponsors the Omnibus Budget Reconciliation Act (OBRA), 1990 Retirement System a defined benefit plan, for the exclusive benefit of certain County employees; and

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

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

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

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

WHEREAS, on July 27, 2023, the County Board adopted the required Ordinances, and the sales tax increase was implemented; and

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

WHEREAS, for the County to elect to participate in WRS, all OBRA members who meet the eligibility requirements must participate in WRS; and

WHEREAS, the Milwaukee County Board of Supervisors wishes to amend the OBRA Ordinances to clarify the eligibility requirements; and

WHEREAS, the Committee on Personnel, at its meeting of December 3, 2024, recommended adoption of File No. 24-957 (vote 3-1); and

WHEREAS, the Committee on Finance, at its meeting of December 12, 2024, recommended adoption of File No. 24-957 (vote 7-0); and

WHEREAS, the Pension Study Commission, at its meeting of December 19, 2024, recommended adoption of File No. 24-957 (vote 4-0); now, therefore,

BE IT RESOLVED, the Milwaukee County Board of Supervisors hereby amends Sections 203(2.8), (4.1), (4.2), (4.4), and (4.5) of the Milwaukee County Code of General Ordinances by adopting the following:

## AN ORDINANCE

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

**SECTION 1.** Section 203(2.8) of the Milwaukee County Code of General Ordinances is hereby amended as follows:

2.8 - Member.

"Member" means each person who is an employee other than an employee for whom the county is obligated to collect and contribute taxes under the Federal Insurance Contributions Act (other than the Medicare portion of the FICA tax described in Internal Revenue Code section 3121(u)) with respect to such employee either by virtue of a voluntary agreement between the state and the Secretary of Health and Human Services regarding voluntary coverage under section 218 of the Social Security Act or by any other provision of federal law.

**Effective January 1, 2025, Member shall exclude any employee eligible for the Wisconsin Retirement System pursuant to Chapter 40 of the Wisconsin State Statutes.**

**SECTION 2.** Section 203(4.1) of the Milwaukee County Code of General Ordinances is hereby amended as follows:

4.1 - Normal retirement pension.

In the case of a member who terminates **all County** employment on his/her normal retirement date, his/her normal retirement pension shall commence on the member's normal retirement date. Such pension shall cease upon the member's death. The monthly amount of such pension shall be equal to (A) one-twelfth times (B) two (2) percent of the member's average compensation times (C) the member's years of service (not in excess of thirty (30) years).

**SECTION 3.** Section 203(4.2) of the Milwaukee County Code of General Ordinances is hereby amended as follows:

4.2 - Late retirement pension.

In the case of a member who works in County employment past his/her normal retirement date, such member's pension, as determined in section 4.1, shall nevertheless commence to be paid on his/her normal retirement date. Such pension shall cease upon the member's death. For each plan year subsequent to the plan year in which his/her normal retirement date occurs during which he/she continues in the employment of the county and earning service credit in OBRA, the amount of his/her pension shall be recomputed. The amount of such recomputed pension for each month during any such plan year shall be equal to (A) one-twelfth times (B) two (2) percent of the member's average compensation computed through the end of the prior plan year times (C) the member's years of service (not in excess of thirty (30) years) computed through the end of the prior plan year; provided, however, that any increase in such recomputed pension over the pension previously payable shall be offset by the actuarial equivalent value, ~~(determined using the UP-1984 mortality table and an interest rate of eight and five-tenths (8.5) compounded annually)~~ as defined by Pension Board Rule of pension benefits actually distributed during the prior plan year.

**SECTION 4:** Section 203(4.4)(b) and (c) of the Milwaukee County Code of General Ordinances is hereby amended as follows:

4.4. - Small benefits.

(a) If at the time a pension would otherwise become payable to a member under either section 4.1, 4.2 or 4.3 the actuarial equivalent lump sum value of that pension does not exceed five thousand dollars (\$5,000.00), such lump sum value shall be paid to the member in lieu of any monthly pension payments which would otherwise have been payable under section 4.1, 4.2 or 4.3. Any mandatory lump sum payments of between one thousand dollars (\$1,000.00) and five thousand dollars (\$5,000.00) made under this section after March 28, 2005, will be paid directly into an individual retirement account (IRA) in the member's name, unless the member requests otherwise.

(b) In the case of a member who is working in the employment of the county after his/her normal retirement date and who had received a lump sum distribution of his/her pension pursuant to paragraph (a) of this section 4.4, such individual shall receive a single sum distribution in the month of January following each year in which he/she has employment that results in additional OBRA service credit subsequent to his/her normal retirement date if the amount determined in the next sentence does not exceed the five-thousand-dollar-amount (as adjusted) described in paragraph (a) above. The

amount of such distribution shall be equal to (i) the actuarial equivalent lump sum value of a lifetime monthly pension equal to (A) one-twelfth ( 1/12 ) times (B) two (2) percent of the member's average compensation computed through the end of the prior plan year times (C) the member's years of service (not in excess of thirty (30) years) computed through the end of the prior plan year minus (ii) the amount of any lump sum distribution(s) which he/she has previously received from the system. If the amount determined in the preceding sentence exceeds the five-thousand-dollar-amount (as adjusted) described in paragraph (a) above, then a lifetime monthly pension shall instead commence in such month of January, and the amount of such pension shall equal (A) one-twelfth ( $\frac{1}{2}$ ) times (B) two (2) percent of the member's average compensation computed through the end of the prior plan year times (C) the years of service earned in the prior plan year.

If a member begins receiving a lifetime monthly pension pursuant to the preceding paragraph, then for each plan year subsequent to the plan year in which his or her lifetime monthly pension commenced during which he or she continues in the employment of the county, **and earning service credit in OBRA**, the amount of his or her pension shall be recomputed. The amount of such recomputed pension for each month during any such plan year shall be equal to (A) one-twelfth ( $\frac{1}{2}$ ) times (B) two (2) percent of the member's average compensation computed through the end of the prior plan year times (C) the member's years of service (not in excess of thirty (30)) computed through the end of the prior plan year (but not taking into account any years of service earned prior to the member's normal retirement date or for which the member received a single lump sum distribution after his/her normal retirement date); provided, however, that any increase in such recomputed pension over the pension previously payable shall be offset by the actuarial equivalent value ~~(determined using the UP-1984 mortality table and an interest rate of eight and five tenths (8.5) compounded annually)~~ of pension benefits actually distributed during the prior plan year.

(c) Lump sum actuarial equivalent value shall be computed under this section 4.4 ~~using the UP-1984 unisex mortality table and an interest rate equal to eight and five tenths (8.5) percent compounded annually pursuant to Pension Board Rule.~~

**SECTION 5.** 203(4.5) of the Milwaukee County Code of General Ordinances is hereby amended as follows:

4.5. - Mandatory cash out.

(a) *Eligibility for mandatory cash out.* A member shall not receive the pension described in section 4.1, 4.2, or 4.3, and shall instead receive a single lump sum distribution of his or her benefit if, before attaining his or her normal retirement date and before death:

- 175  
176 (1) The member terminates all county employment.  
177  
178 (2) The member is absent from all county employment for a period of five  
179 (5) years.  
180  
181 (3) The actuarial equivalent lump sum present value of his or her pension is  
182 five thousand dollars (\$5,000.00) or less, and  
183  
184 (4) An employee who became a member of OBRA prior to January 1, 1994,  
185 consents to the cash out.  
186

187 The mandatory cash out required under this subsection 4.5(a) shall be paid to  
188 the member as soon as practicable after the close of the plan year in which the  
189 member satisfies the conditions for the mandatory cash out. Any mandatory  
190 lump sum payments of between one thousand dollars (\$1,000.00) and five  
191 thousand dollars (\$5,000.00) made under this section after March 28, 2005, will  
192 be paid directly into an individual retirement account (IRA) in the member's  
193 name, unless the member requests otherwise. No amount will be payable with  
194 respect to a member who dies after satisfying the conditions for a mandatory  
195 cash out but before the system makes payment in the following plan year.  
196

197 (b) *Buy back after cash out.* Should any member who received a mandatory  
198 cash out under subsection 4.5(a) return to county employment, his service  
199 which he or she had at the time of such cash out shall be restored to him or her,  
200 provided he or she renders two (2) years of service subsequent to his or her  
201 restoration to membership and provided further that within the two-year period,  
202 he or she redeposits the amount of the mandatory cash out he or she received  
203 pursuant to subsection 4.5(a), with interest thereon to the date of redeposit. If  
204 he or she does not elect to restore his or her prior service by redepositing the  
205 amount of the mandatory cash out during this period of reemployment, the prior  
206 service shall remain canceled, and service shall be credited only from the date  
207 his or her most recently reemployment period with the county commenced.  
208 Interest for this purpose shall equal the aggregate rate of return earned by the  
209 system's assets during the period beginning on the date the member received  
210 the mandatory cash out and ending on the date the member redeposits the  
211 mandatory cash out (with interest).  
212

213 (c) *Actuarial equivalent.* Lump sum actuarial equivalent value shall be  
214 computed under this section 4.5 ~~using the UP-1984 unisex mortality table~~  
215 ~~and an interest rate equal to eight and five tenths (8.5) percent~~  
216 ~~compounded annually pursuant to Pension Board Rule.~~  
217

218 **SECTION 6.** The provisions of this Ordinance shall become effective upon passage  
219 and publication.  
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223 12/12/24  
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