



Milwaukee County
Department of Human Resources
INTER-OFFICE COMMUNICATION

Date: November 13, 2023

To: Marcelia Nicholson, Chairwoman, Milwaukee County Board of Supervisors

From: Erika Bronikowski, Retirement Plan Services Director *EJ B*

Subject: Proposed Amendments for Retirement Applications, Survivor Pension Benefits, and Pension Plan Revisions to Align with State and Federal Law

Background

The Employees' Retirement System of the County of Milwaukee ("ERS") is a tax-qualified retirement plan under the Internal Revenue Code ("Code"). In order to maintain its tax-qualified status, ERS must comply with Code requirements applicable to governmental plans, including being administered in accordance with the Plan document, which consists of Milwaukee County Ordinance section 201.24 and Appendix B. The Ordinance changes in this package are updates to the Plan document.

In 2023, the Milwaukee County Board of Supervisors adopted the local option sales tax permitted by 2023 WI Act 12 which requires a future closure of the ERS. This package is preparation for the closure of the ERS and includes a variety of provisions as detailed in this document and the resolution. The various changes include required ordinance changes, ordinance clarification, and proposed policy changes:

- The Retirement Plan Services ("RPS") team that administers ERS has identified a number of Ordinance provisions that would benefit from simplification and clarification. Such changes are meant to better explain the benefit requirements for ERS members and RPS, which leads to better administration and fewer errors.
- Additionally, the Wisconsin legislature previously passed laws relating to accidental disability benefits provided by certain retirement systems, including Milwaukee County. These laws have been incorporated into RPS' administration but have not been updated in Ordinance. These have been included with this file.
- Finally, the Pension Board and Retirement Plan Services have prepared a response to the elevated volume of member appeals related to requesting refunds of their employee contributions. This requested policy change would extend the window that former employees have for requesting refunds to reduce the number of appeals on the window.

Based on this, RPS is asking the County Board to consider Ordinance amendments aimed at clarifying the benefit application requirements, providing a clear definition of active service, incorporating State law, and streamlining some of the survivor benefit and pension contribution withdrawal provisions.

Summary of Request

RPS is asking the County Board to consider Ordinance amendments aimed at clarifying benefit application requirements, providing a clear definition of active service, incorporating State law, and streamlining some of the survivor benefit provisions.

To summarize, the changes include the following:

- Clarifying the requirements for retiring from active service
- Clarifying eligibility for survivor benefits and removing administratively burdensome provisions of survivor benefit eligibility
- Extending the window for former employees to request a refund of their employee contributions from 180 days to five years while maintaining that interest shall not accrue beyond 180 days
- Incorporating State of WI language related to disability retirement
- Incorporating updates to the Required Start Date as provided in the Secure Act 2.0

RPS has worked with the Pension Board, Corporation Counsel, and external Counsel to the Pension Board and has consulted with the Comptroller's Office on these outlined pension changes to the Milwaukee County Code of General Ordinances.

Description of Proposed Ordinance Amendments

Section 1 of the Resolution – Retirement Application Requirements

Background.

The amendments regarding retirement application requirements are in Ordinance Section 201.24 (2.19). They provide the following:

- “Retirement” means terminating employment, applying for a pension, and commencing pension payments
- A member must submit an application in order to begin receiving their pension

Proposed Amendments.

Ordinance section 201.24(2.19)(1) and (2). The proposed amendments to Ordinance section 201.24(2.19)(1) and (2) revise the sections to include a requirement that members submit applications in order to commence pension payments.

Effective Date. Effective upon passage

Section 2 of the Resolution – Definition of Active Service

Background.

The amendments regarding the definition of active service include the creation of Ordinance Section 201.24 (2.24). They provide the following:

- A definition of “active service” for the purpose of being eligible to receive certain pension benefits from the ERS

Proposed Amendments.

Ordinance section 201.24(2.24). The proposed creation of Ordinance section 201.24(2.24) provides that the term “active service” shall mean current employment with Milwaukee County as an employee in an ERS-covered position. This is necessary for defining eligibility for other pension benefits.

Effective Date. Effective upon passage

Section 3 of the Resolution – Employee Pension Contribution Withdrawal Window

Background.

The amendments regarding employee pension contribution withdrawals are in Ordinance Section 201.24 (3.11). They provide the following:

- A request for refund of employee contributions must be made within five years from terminating employment
- Interest will be applied through the date of payment or, if earlier, through 180 days from termination.

In 2011, Milwaukee County employees began making contributions to share the cost of the pension with Milwaukee County as required by 2011 WI Act 10. Milwaukee County employees who are members of the ERS make pre-tax contributions to the pension fund through deductions from their paychecks. At separation from employment for any reason other than retirement or death, employees may request to withdraw the contributions they’ve made to the pension fund in lieu of maintaining their pension service. The Pension Board regularly hears appeals from former employees who wish to withdraw the pension contributions they have made outside of the statutory 180-day window. The Pension Board has implemented numerous mitigating measures to reduce the number of appeals heard on this topic including:

- an enhanced partnership with Human Resources to educate and inform employees about their contributions,
- additional communications directly to employees from Retirement Plan Services on the topic,
- creation of instructional materials in the form of trainings, webinars, newsletter content, and an AMOP, and
- the establishment of a streamlined process that permits members to certify non-receipt of the Contribution Withdrawal Request packet to reset the deadline.

Despite these mitigating measures, the Pension Board continues to receive requests for appeals related to the 180-day pension contribution withdrawal window. These repeated requests are a drain on resources. They occupy Pension Board time, the legal analysis of the appeals increases the administrative costs to the fund, and Retirement Plan Services staff spends time responding to frequent requests on the topic.

This Ordinance change attempts to address the volume of appeals on pension contribution withdrawals by extending the window from 180 days to five years. This is in closer alignment with Milwaukee County's other pension benefit, OBRA, with the City of Milwaukee Employees' Retirement System and the Wisconsin Retirement System, as well as many other public pension plans who provide a five-year window for pension contribution withdrawal.

Proposed Amendments.

Ordinance section 201.24(3.11)(6). The proposed amendments to Ordinance section 201.24(3.11)(6) revise and renumber section (6) to provide that interest will continue to be applied to pension contributions through the earlier of the refund date or 180 days and that the window for requesting a refund will be five years from termination of employment.

Effective Date. Effective upon passage. Former employees who terminated employment in the last five year and who terminate in the future will be permitted to request a refund of their pension contributions.

Section 4 of the Resolution – Interest on Pension Contribution Refunds

Background.

The amendments regarding the interest on pension contribution refunds are in Ordinance Section 201.24 (3.5) They provide the following:

- Interest will be applied through the date of payment or, if earlier, through 180 days from termination.

Proposed Amendments.

Ordinance section 201.24(3.5). The proposed amendments to Ordinance section 201.24(3.5) revise section 201.24(3.5) to provide that interest will continue to be applied to pension contributions through the earlier of the refund date or 180 days. It also removes obsolete references to a member's "Savings Account" because these types of accounts have not been permitted by the Plan for years.

Effective Date. Effective upon passage.

Section 5 of the Resolution – Normal Retirement Requirements

Background.

The amendments regarding normal retirement requirements are in Ordinance Section 201.24 (4.1). They provide the following:

- Members must submit a retirement application in order to begin receiving a normal pension on, before, or within one day of terminating employment
- Members who are in active service at the time of retirement are eligible for the Rule of 75

Proposed Amendments.

Ordinance section 201.24(4.1). The proposed amendments to Ordinance section 201.24(3.1)(1) provide that a member must submit a retirement application in order to commence their normal retirement benefit.

Additionally, the proposed amendments to Ordinance section 201.24(4.1)(2) clarify that only members who are in active service can retire under the Rule of 75 provision.

Effective Date. Effective upon passage

Section 6 of the Resolution – Early Retirement Requirements

Background.

The amendments regarding early retirement requirements are in Ordinance Section 201.24 (4.2). They provide the following:

- Members must submit a retirement application in order to begin receiving an early normal pension on, before, or within one day of terminating employment

Proposed Amendments.

Ordinance section 201.24(4.2). The proposed amendments to Ordinance section 201.24(4.2) provide that a member must submit a retirement application in order to commence their early normal retirement benefit.

Effective Date. Effective upon passage

Section 7 of the Resolution – WI State Law Assumptions

Background.

The amendments regarding WI State Law Assumptions are in Ordinance Section 201.24 (4.3). They provide the following:

- Revises the Accidental Disability Retirement standards to incorporate the extraordinary stress standard for mental injury applications as required by the State of Wisconsin
- Revises the Accidental Disability Retirement standards to incorporate the presumptions for certain impairments and diseases as required by the State of Wisconsin

Proposed Amendments.

Ordinance section 201.24(4.3). The proposed amendments to Ordinance section 201.24(4.3)(1) add section (b) which clarifies that a member may be eligible for an Accidental Disability Retirement benefit if they have certain impairments as required by the State of Wisconsin.

The proposed amendments to Ordinance section 201.24(4.3)(2) revise eligibility for an Accidental Disability Retirement benefit to comply with the extraordinary stress standards for mental injuries as required by the State of Wisconsin Statute 59.88.

The proposed amendments to Ordinance section 201.24(4.3)(3) provide the disabling conditions that are presumed to be caused by work for certain types of employees as required by the State of Wisconsin.

Effective Date. Effective upon passage

Section 8 of the Resolution – Deferred Vested Retirement Requirements

Background.

The amendments regarding deferred vested retirement requirements are in Ordinance Section 201.24 (4.5). They provide the following:

- Members are eligible for a deferred vested retirement benefit if they are vested and do not receive a normal retirement benefit
- Members who are not sworn law enforcement who reach 15 years of service and are eligible for a deferred vested pension may age into the early retirement age 55 requirement
- Members who are sworn law enforcement who reach 15 years of service and are eligible for a deferred vested pension may age into the age 55 early unreduced benefit requirement

Proposed Amendments.

Ordinance section 201.2(4.5). The proposed amendments to Ordinance section 201.24(4.5) clarify eligibility for a deferred vested retirement benefit. The proposed amendments to Ordinance section 201.24(4.5)(1) revise the Ordinance to clarify that a member who is vested who does not meet the requirements for a normal retirement benefit are eligible for a deferred vested benefit.

The proposed amendments to Ordinance section 201.24(4.5)(4) revise the Ordinance to clarify the eligibility requirement at age 55 with 15 years of service. General employees may receive a reduced pension benefit early if they have 15 years of service and reach age 55. Additionally, sworn law enforcement employees may receive an unreduced pension benefit early if they have 15 years of service and reach age 55. This revision clarifies that if a member separates service with 15 years of service, they may age into the age 55 requirement and do not need to reach age 55 in active service.

Effective Date. Effective upon passage

Section 9 of the Resolution – Retirement Application Expiration and Required Start Dates

Background.

The amendments regarding Retirement Application Expiration and Required Start Dates are in Ordinance Section 201.24 (4.6). They provide the following:

- Members and beneficiaries eligible for benefits payable from the ERS must submit applications to begin receiving those benefits
- Applications are valid for 180 days
- The required start date for the ERS is increased from 70 ½ to 73 as permitted by the SECURE ACT 2.0 federal legislation

Proposed Amendments.

Ordinance section 201.24(4.6). The proposed amendments to Ordinance section 201.24(4.6)(1) clarify that for various benefits payable from the ERS, an application is required and that retirement applications will be valid for up to 180 days.

The proposed amendments to Ordinance section 201.24(4.6)(2) revise Ordinance section 201.24(4.6)(2) to incorporate the revised required start dates for members who do not apply for benefits to the updated dates provided by the Secure Act 2.0. This is done through reference to the Internal Revenue Code 401(a).

Effective Date. Effective upon passage

Section 10 of the Resolution – Clarifying Eligibility for BackDROP

Background.

The amendments regarding Clarifying Eligibility for BackDROP are in Ordinance Section 201.24 (5.16). They provide the following:

- Clarify that to receive a BackDROP an otherwise eligible member must complete a normal retirement and retire from active service
- Clarify that employees who are not in ERS positions are not eligible for the BackDROP

Proposed Amendments.

Ordinance section 201.24(5.16). The proposed amendments to Ordinance section 201.24(5.16) add clarification. Specifically, language is added to Ordinance section 201.24(5.16)(1) that clarifies a member is only eligible for BackDROP if they complete a Normal Retirement, not a Deferred Vested Retirement.

The proposed amendments to Ordinance section 201.24(5.16)(1)(k) clarify that members who are not in ERS positions are not eligible for BackDROP.

Effective Date. Effective upon passage

Section 11 of the Resolution – WI State Law Assumptions and Eligibility for Certain Death Benefits

Background.

The amendments regarding Wisconsin State Law Assumptions and Eligibility for Certain Death Benefits are in Ordinance Section 201.24 (6.1). They provide the following:

- Incorporate the Wisconsin State Law Assumptions from section 7 of the resolution for Accidental Disability Retirement into the Accidental Death Benefit provisions
- Removes the remarriage requirement for death benefit eligibility for survivors
- Clarifies that only one survivor annuity is payable to a survivor

Proposed Amendments.

Ordinance section 201.24(6.1). The proposed amendments to Ordinance section 201.24(6.1) revise the Ordinance to incorporate the disease presumptions as required by the State of Wisconsin in Section 7. They provide a list of the disabling diseases that are presumed to be caused by work for certain types of employees.

The proposed amendments to Ordinance section 201.24(6.1)(a) and (b) remove the requirement that to be eligible for the Accidental death benefit for deputy sheriffs, a survivor cannot remarry.

Additionally, the proposed amendments to Ordinance section 201.24(6.1) revise the Ordinance to insert language that clarifies that survivors can only receive one survivor annuity.

Effective Date. Effective upon passage

Section 12 of the Resolution – Clarify Eligibility for Employee Death Benefits

Background.

The amendments regarding eligibility for employee death benefits are in Ordinance Section 201.24 (6.3). They provide the following:

- Clarification that the lump sum death benefit is payable to a survivor only if the member passes away in active service

Proposed Amendments.

Ordinance section 201.24(6.3). The proposed amendment to Ordinance section 201.24(6.3) adds language that clarifies that this lump sum death benefit is only payable if the member passes away in active service.

Effective Date. Effective upon passage

Section 13 of the Resolution – Remove Administrative Complexities for Death Benefits

Background.

The amendments regarding the removal of administrative complexities for death benefits are in Ordinance Section 201.24 (6.4). They provide the following:

- Survivor benefits payable under this section cannot commence until an application is received
- Removal of the requirement that survivor benefits payable under this section to a dependent child are contingent on the child being in school from ages 18 to 22
- Clarification that the deferred spousal survivor benefit in this section is calculated using the multiplier provisions in effect when the benefit is payable, not the provisions in effect when the member passed away
- Clarification that if an application is not completed, a default benefit is payable

Proposed Amendments.

Ordinance section 201.24(6.4). The proposed amendments to Ordinance section 201.24(6.4) revise the Ordinance to include a requirement that dependent spouse and dependent child survivor benefits cannot start until an application is received. Additionally, language regarding eligibility for dependent child annuity payments is revised to remove the requirement for a dependent child to remain in school from the ages of 18 to 22 in order to receive the dependent child annuity benefit.

The proposed amendments to Ordinance section 201.24(6.4) further revise the Ordinance to clarify that the deferred spousal survivor benefit is calculated using the multiplier provisions in effect when the benefit is payable, not the provisions in effect when the member passed away.

The proposed amendments also remove the language in Ordinance section 201.24(6.4) that permits a member to waive a survivor annuity in lieu of the balance of their pension contributions. Language is added that clarifies if a dependent child survivor never applies for their annuity survivor benefit, they shall receive the balance of the member's pension contributions.

Effective Date. Effective upon passage

Section 14 of the Resolution – Clarifying Eligibility for only one Survivor Annuity

Background.

The amendments regarding Clarifying eligibility for only one survivor annuity are in Ordinance Section 201.24 (7.1). They provide the following:

- Clarify that only one survivor annuity is payable

Proposed Amendments.

Ordinance section 201.24(7.1). The proposed amendments to Ordinance section 201.24(7.1) clarify that only one survivor annuity is payable. The language that is removed permitted two benefits to be payable, the benefits from either Ordinance section 201.24 (6.1) or (6.4) plus the annuity payable from Ordinance section 201.24 (7.1), though the total of the two was the benefit payable from Ordinance section 201.24 (7.1).

Effective Date. Effective upon passage

Section 15 of the Resolution – Permitting Withholding of Retiree Insurance Premiums

Background.

The amendments regarding withholding retiree insurance premiums from pension are in Ordinance Section 201.24 (11.7). They provide the following:

- Members may have retiree health insurance premiums deducted from their pension

Proposed Amendments.

Ordinance section 201.24(11.7). The proposed amendments to Ordinance section 201.24(11.7) add language that clarifies that retirees receiving a pension benefit from the ERS may have Milwaukee County retiree health insurance premiums deducted from their ERS pension on a post-tax basis.

Effective Date. Effective upon passage

CC: Supervisor Liz Sumner, Chair, Finance Committee
Supervisor Willie Johnson Jr., Chair, Personnel Committee
David Crowley, County Executive
Margo Franklin, Chief Human Resources Officer
Finance Committee
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Mary Jo Meyers, Chief of Staff, Office of the County Executive
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