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From the Director of Retirement Plan Services, Milwaukee County Department of Human Resources, clarifying the Milwaukee County Code of General Ordinances regarding eligibility for normal pension benefits, deferred vested pension benefits, survivor benefits, eligibility for contribution refunds, and adopting State presumptions for disability benefits and requesting authorization to amend Chapters 201.24(2.19), (3.11), (3.5), (4.1), (4.2), (4.3), (4.5), (4.6), (5.16), (6.1), (6.3), (6.4), (7.1), (11.7) and creating a new Chapter 201.24(2.24) of the Milwaukee County Code of General Ordinances to reflect these changes, by recommending adoption of the following:

**A REVISED RESOLUTION/ORDINANCE**

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

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

WHEREAS, Retirement Plan Services has identified a number of areas where the Milwaukee County Code of General Ordinances (the Code) could be amended to help clarify eligibility for benefits arising from normal retirement, benefits arising from deferred vested retirement, eligibility for survivor benefits, and eligibility for a refund of contributions; and

WHEREAS, the Pension Board is requesting that the Milwaukee County Board of Supervisors (County Board) consider extending the time period within which a member may request a refund of the member's employee contributions; and

WHEREAS, by the Code, members must currently request a refund within 180 days of termination, which can lead to nonvested members receiving no refund and no benefit from ERS; and

WHEREAS, the Pension Board hears multiple appeals each year dealing with the refund period, and a five-year refund period would significantly reduce the number of appeals; and

WHEREAS, the State of Wisconsin (the State) previously adopted certain presumptions related to accidental disability benefits and death benefits as well as a different standard for mental injuries where the member is applying for an accidental disability benefits; and

WHEREAS, these State laws apply to ERS and should be reflected in the Code; and

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WHEREAS, retired members receiving monthly benefit payments from ERS and retiree health insurance provided by the County may voluntarily elect to withhold a post-tax portion of each monthly benefit payment to pay health care premiums; and

WHEREAS, the withholding of health care premiums should be excluded from the anti-alienation requirements of Section 201.24(11.7) of the Code; and

WHEREAS, the County Board desires to amend the Code to clarify these areas of eligibility; and

WHEREAS, the Committee on Finance, at its meeting of December 14, 2023, recommended adoption of File No. 23-1016 (vote 5-0); and

WHEREAS, the Pension Study Commission, at its meeting of December 18, 2023, recommended adoption of File No. 23-1016 (vote 4-0); now, therefore,

BE IT RESOLVED, the Milwaukee County Board of Supervisors hereby amends Chapters 201.24(2.19), (3.11), (3.5), (4.1), (4.2), (4.3), (4.5), (4.6), (5.16), (6.1), (6.3), (6.4), (7.1), (11.7) and creates a new Chapter 201.24(2.24) 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(2.19) of the General Ordinances of Milwaukee County is hereby amended as follows:

2.19 – Retirement.

- (1)** Retirement shall mean termination of employment ~~after a member has fulfilled and subsequent commencement of benefits after a member has fulfilled~~ all requirements for a pension under the Ordinances and Rules, including submission of a completed retirement application to RPS as described in Ordinance section 4.6.
- (2)** For all new applications filed on or after July 1, 2019, all retirements, including disability retirements, as well as any other benefit enhancements, such as those conferred under section 201.24(5.16) and related ERS ordinances and rules, a member's retirement effective date shall only commence on the first day of the month immediately following a member's last day of employment (or authorized leave of absence, if later), and be on the first day of the month following the month the member fulfills all

93 **requirements to retire, including termination of employment and**  
94 **submission of an application to RPS.** ~~a~~Any retirement or annuity  
95 benefit payable to a member or beneficiary shall terminate upon the  
96 last day of the month of the date of death of the retiree or beneficiary  
97 under the applicable option.  
98

99 **SECTION 2.** A new Section 201.24(2.24) of the General Ordinances of Milwaukee  
100 County is hereby created as follows:  
101

102 **2.24. Active Service.**  
103

104 **The term “active service” shall mean current employment with Milwaukee County**  
105 **as an employee in an ERS-covered position.**  
106

107 **SECTION 3.** Section 201.24(3.11)(6) of the General Ordinances of Milwaukee County  
108 is hereby amended as follows:  
109

110 3.11. - Employee contribution.  
111

112 (6) *Refund of accumulated contributions.*  
113

114 (a) **Refund Deadline.** Refunds of all accumulated contributions made under this  
115 section 3.11, ~~with interest at the rate of five (5) percent per annum,~~ shall be  
116 made on the same conditions and under the same circumstances as refunds  
117 under section 3.5, but may only be paid in the form of a lump sum payment.  
118 **Interest at the rate of five (5) percent per annum will accrue until the**  
119 **earlier of: (1) the date a refund is paid; or (2) 180 days after termination of**  
120 **employment.**  
121

122 Any refund of accumulated contributions must be requested within ~~one~~  
123 **hundred eighty (180) days five (5) years** after termination of county  
124 employment. The Retirement Office shall send an employe who terminates  
125 employment a written notice of the refund option via U.S. mail, or an equivalent  
126 service, to the member's address on file with the system.  
127

128 (b) **Notice Requirement.** If a member does not receive written notice of the refund  
129 option, then the Pension Board, or the Retirement Office as delegated by the  
130 Pension Board, may allow the individual to receive a refund of accumulated  
131 contributions later than the refund period ~~of this in~~ section 3.11 **(a) above.** A  
132 determination that notice was not received can be based on the Retirement  
133 Office and/or Pension Board finding that notice was either not sent by the  
134 Retirement Office or not received by the member. The member shall have the  
135 burden of proving notice was not received, and the Pension Board or  
136 Retirement Office shall have the sole and exclusive authority to determine  
137 whether the individual received written notice. The appeal rules of the Pension  
138 Board shall apply to refund requests under this paragraph.

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**(c) All Contributions Refunded.** If a member requests and receives a refund of accumulated contributions under this section and section 3.5, the member shall receive a refund of all amounts included in ~~his or her~~ **the member's** membership account at that time.

~~(b)~~ **(d) Termination of ERS Service.** Members receiving a refund or on whose behalf a refund is paid under this subsection shall cease to be a member of the employees' retirement system and shall have no further right to any benefit under this plan.

~~(e)~~ **(e) Application.** The provisions of section 11.1 shall not apply to accumulated contributions withdrawn by members under this section.

**SECTION 4.** Section 201.24(3.5) of the General Ordinances of Milwaukee County is hereby amended as follows:

3.5. - Refunds upon severance or death.

Notwithstanding the following, a member **or beneficiary** shall not be eligible to receive a refund of the portion of ~~his~~ **the member's** membership account attributable to accumulated contributions contributed under section 3.11 if the member's employment was terminated due to fault or delinquency on the member's part under section 4.5 or if the member or a beneficiary of the member is eligible, at the time the request for a refund is made, for the present receipt of any monthly annuity benefit under sections 4.1, 4.5, 6.1, 6.2, 6.4, ~~or 7.1 or 7.2~~ of chapter 201.24 of the ordinances. Upon termination of employment, for reason other than death or retirement, a member shall be entitled to receive a refund of the balance as of the date of termination of his membership account and his savings account, accumulated at interest as set from time to time by the board. However, a member whose employment terminated after reaching normal retirement age, who is eligible for the present receipt of a benefit, whose pension benefit, as calculated pursuant to Ordinance section 201.24(4.1) or (4.5), is below one-hundred (\$100) per month, and who so elected at the time of retirement (or who so elects in accordance with section 3.11 for retirements after June 1, 2020), may receive a refund of the member's membership account instead of receiving an annuity.

Upon termination of employment, for reason other than death or retirement, a member shall be entitled to receive a refund of the balance as of the date of termination of ~~his~~ **the member's** membership account ~~and his savings account, plus interest (as described in Rule 403) through the date of disbursement, plus applicable interest as set forth in section 3.11(a).~~ However, if a member who is eligible for a deferred vested pension withdraws ~~his~~ **the member's** membership account, ~~the~~ **member** shall forfeit all rights to a deferred vested pension. If a member requests, under this paragraph, a refund of assets in ~~his or her~~ **the member's** membership account related to contributions made pursuant to sections 3.11 or 3.3, the member shall receive a refund of all assets contained in ~~his or her~~ **the member's** membership

185 account at that time, with interest as provided above in section 3.11(a), provided that  
186 the request is made within the time limits contained in section 3.11.

187

188 Upon termination of employment by reason of a member's death or upon the  
189 death of a member who is eligible for a deferred vested pension, the member's  
190 beneficiary shall be paid in lump sum the balance, plus interest (as described in Rule  
191 403) through the date of disbursement, of ~~his the~~ membership account and ~~his~~  
192 ~~savings account as well as~~ any applicable benefit under Ordinance section  
193 201.24(6.3), provided that if a joint and survivor option under section VII is effective or a  
194 survivorship benefit under section VI (excluding section 6.3) is payable, the membership  
195 account shall not be paid to the beneficiary.

196

197 ~~Upon retirement of a member, the balance of his savings account shall be~~  
198 ~~paid in one (1) of the following forms as determined by the board:~~

199

200 (a) ~~Lump sum payment.~~

201

202 (b) ~~Life annuity with full cash refund or on a term certain basis.~~

203

204 (c) ~~Installments of a designated amount or over a designated~~  
205 ~~period of time.~~

206

207 If under any of the above options a benefit becomes payable to some other  
208 person as a result of the death of the retired member, payment shall be made to the  
209 beneficiary designated by the member or, in the absence of a valid designation, than as  
210 provided in section 2.16.

211

212 **SECTION 5.** Section 201.24(4.1)(1)(a) and (2) of the General Ordinances of Milwaukee  
213 County is hereby amended as follows:

214

215 4.1. - Normal retirement.

216

217 (1) (a) A member shall be eligible for a normal pension if his the member's  
218 County employment ~~is terminated~~ on or after he the following:

219

220 i) the member has submitted a completed retirement application  
221 to RPS as described in Ordinance section 4.6; and

222

223 ii) the member has attained one of the following:

224

225 (A) age fifty-five (55) ~~and has completed with~~ thirty (30) years of  
226 service,

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228 (B) ~~or if his employment is terminated on or after he has attained~~  
229 Normal Retirement Age as defined in section 2.18;

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**(C) Sworn law enforcement officers shall be eligible to retire at if the member is a sworn law enforcement officer,** age fifty-seven (57) regardless of their number of years of service, or **at** age fifty-five (55) with at least fifteen (15) years of **creditable pension** service.

**In order to be eligible for a normal retirement benefit under Sections 4.1(1) or (2) the member must submit an application to retire on or before the date of the member's termination of employment with the County. However, a member may submit a completed application up to one calendar (1) 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. A member who is a County employee at the time of retirement but not employed in an ERS-covered position may still retire under Section 4.1(1) if the member otherwise meets the requirements.**

(2) Rule of 75.

**Members in active service as defined in Ordinance section 201.24(2.24) at the time of retirement may be eligible for the Rule of 75 if they meet one of the following requirements:**

- (a) A member who, on September 29, 2011, is employed and is not covered by the terms of a collective bargaining agreement, and whose initial membership in the retirement system under section 201.24 began prior to January 1, 2006, and who retires on and after September 1, 1993, shall be eligible for a normal pension when the age of the member when added to **his the member's** years of service equals seventy-five (75), but this provision shall not apply to any member eligible under section 4.5 nor to any nonrepresented deputy sheriff who was hired as a deputy sheriff after December 31, 1993 and whose appointment to a nonrepresented position was first effective after June 30, 2009, nor to a member who was formerly a represented correction officer who was hired as a correction officer after December 31, 1993 and who was appointed to a nonrepresented position effective after May 1, 2011.
- (b) A member who, on September 29, 2011, is employed and is covered by the terms of a collective bargaining agreement with the American Federation of State, County and Municipal Employees District Council 48, or with the Technicians, Engineers and Architects of Milwaukee County, or with the International Association of Machinists and Aerospace Workers, and whose initial membership date is prior to January 1, 1994, shall be eligible for a normal pension when the age of the member when added to **his the**

- 277 member's years of service equals seventy-five (75), but this  
278 provision shall not apply to any member eligible under section 4.5.  
279
- 280 (c) A member who, on December 31, 2012, is employed and is covered  
281 by the terms of a collective bargaining agreement with the  
282 Federation of Nurses and Health Professionals, shall be eligible for  
283 a normal pension when the age of the member when added to ~~his~~  
284 the member's years of service equals seventy-five (75), but this  
285 provision shall not apply to any member eligible under section 4.5.  
286
- 287 (d) A member who, on September 29, 2011, is employed and is covered  
288 by the terms of a collective bargaining agreement with the  
289 Association of Milwaukee County Attorneys, and whose initial  
290 membership date is prior to January 1, 2006, shall be eligible for a  
291 normal pension when the age of the member when added to ~~his~~ the  
292 member's years of service equals seventy-five (75), but this  
293 provision shall not apply to any member eligible under section 4.5.  
294
- 295 (e) A member who, on September 29, 2011, is employed and is  
296 covered by the terms of a collective bargaining agreement with the  
297 Milwaukee Building and Construction Trades Council, and whose  
298 initial membership date is prior to February 21, 2006, shall be  
299 eligible for a normal pension when the age of the member when  
300 added to ~~his~~ the member's years of service equals seventy-five  
301 (75), but this provision shall not apply to any member eligible under  
302 section 4.5.  
303
- 304 (f) A member who was employed and covered by the terms of a  
305 collective bargaining agreement with the Milwaukee Deputy Sheriffs  
306 Association on September 29, 2011, and whose initial membership  
307 date is prior to January 1, 1994, and who is not represented by the  
308 Milwaukee Deputy Sheriffs Association at the time of the employee's  
309 retirement, shall be eligible for a normal pension when the age of  
310 the member when added to ~~his~~ the member's years of service  
311 equals seventy-five (75), but this provision shall not apply to any  
312 member eligible under section 4.5.  
313
- 314 (g) A member who was employed and covered by the terms of a  
315 collective bargaining agreement with the Milwaukee County  
316 Firefighters Association (IAFF Local 172) on September 29, 2011,  
317 and whose initial membership date is prior to December 2, 1996,  
318 and who is not represented by the Milwaukee County Firefighters  
319 Association (IAFF Local 172) at the time of the employee's  
320 retirement, shall be eligible for a normal pension when the age of  
321 the member when added to ~~his~~ the member's years of service

322 equals seventy-five (75), but this provision shall not apply to any  
323 member eligible under section 4.5.  
324

325 **SECTION 6.** Section 201.24(4.2) of the General Ordinances of Milwaukee County is  
326 hereby amended as follows:  
327

328 4.2. - Early retirement.  
329

330 A member shall be eligible for an early normal retirement pension if ~~his the~~  
331 member meets the following requirements:  
332

- 333 **1) The member's** employment is terminated on or after ~~his the member's~~ 55th  
334 birthday; ~~and provided he has~~  
335  
336 **2) The member must submit a retirement application to RPS on or before**  
337 **termination of employment; and**  
338  
339 **3) The member must have,** completed fifteen (15) or more years of ERS  
340 service ~~but the amount thereof~~ at the time of application.  
341

342 The pension of any member who retires under this Section 4.2 shall be reduced as  
343 provided in Section 5.2.  
344

345 A member who is a County employee at the time of retirement but not employed  
346 in an ERS-covered position may still retire under this Section 4.2 if the member  
347 otherwise meets the requirements. Notwithstanding subsection (2) above, a  
348 member may submit a completed application up to one (1) calendar day after the  
349 date of the member's termination, and ERS shall treat the application as if it was  
350 received on the date of termination.  
351

352 **SECTION 7.** Section 201.24(4.3) of the General Ordinances of Milwaukee County is  
353 hereby amended as follows:  
354

355 4.3. - Accidental disability retirement.  
356

357 **1) General Requirements.** A member shall be eligible for an accidental  
358 disability pension if his employment is terminated prior to his normal  
359 retirement age by reason of total and permanent incapacity for any duty as  
360 the natural and proximate result of one of the following:  
361

362 **a)** an accident occurring at some definite time and place while in the  
363 actual performance of duty; or  
364

365 **b) for the members meeting the requirements, one of the**  
366 **impairments or diseases listed in Section 3 below.**  
367



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

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Disability shall be considered total and permanent if the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated to perform any job that the member 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.

A member shall not be entitled to both an accidental disability pension and ordinary disability pension.

**2) Mental Injuries. In accordance with s. 59.88, Wis. Stats., if a member's accidental disability application is based on a mental injury, an accidental disability pension will only be granted under this section if:**

**(a) The mental injury resulted from a situation of greater dimensions than the day-to-day mental stresses and tensions and post-traumatic stress that all similarly situated employees must experience as part of the employment; and**

**(b) The member's employer certifies that the mental injury is a duty-related injury.**

**3) Disability Presumptions for Certain Safety Workers. In reviewing a member's disability retirement application for benefits under this section, the Pension Board will take into account the assumptions provided below to the extent the member satisfies the applicable requirements.**

**(a) Heart or Respiratory Impairment or Disease. As provided by s. 891.45, Wis. Stats., a County fire fighter, defined as any person employed by the County whose duties primarily include active fire suppression or prevention, shall be entitled to a presumption that the fire fighter's impairment or disease was caused by employment if:**

**i.) at the time of the filing of the application for disability benefits, the individual has served a total of 5 years as a state, County or municipal fire fighter (must be certified by the employer);**

**ii.) a qualifying medical examination given prior to the time of the individual becoming a fire fighter showed no evidence of heart or respiratory impairment or disease; and**

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iii.) the member's disability is found to be caused by heart or respiratory impairment or disease.

**(b) Infectious Disease.**

**i.) Definitions.**

- A. "Correctional Officer" means any person employed by the County as a guard or officer whose principal duties are the supervision and discipline of inmates.**
- B. "Emergency Medical Service Provider" means a person employed by the County as an emergency medical technician or first responder.**
- C. "Fire Fighter" means any person employed by the County whose duties primarily include active fire suppression or prevention.**
- D. "Law Enforcement Officer" means any person employed by the County for the purpose of detecting and preventing crime and enforcing laws or ordinances, who is authorized to make arrests for violations of the laws or ordinances which the individual is employed to enforce.**
- E. "Infectious Disease" means the human immunodeficiency virus, acquired immunodeficiency syndrome, tuberculosis, hepatitis A, hepatitis B, hepatitis C, hepatitis D, diphtheria, meningococcal meningitis, methicillin-resistant staphylococcus aureus, and severe acute respiratory syndrome.**

**ii.) Presumption. As provided by s. 891.453, Wis. Stats., a Correctional Officer, Emergency Medical Services Provider, Fire Fighter or Law Enforcement Officer shall be entitled to a presumption that the member's Infectious Disease was caused by his or her employment if:**

- A. a qualifying medical examination given prior to the time of the member becoming a Correctional Officer, an Emergency Medical Service Provider, a Fire Fighter, or a Law Enforcement Officer showed no evidence of an Infectious Disease; and**
- B. the member's disability is found to be caused by the Infectious Disease.**

455 (c) Cancer. As provided by s. 891.455, Wis. Stats., a fire fighter, defined  
456 as any County employee whose duties primarily include active fire  
457 suppression or prevention, is entitled to a presumption that the  
458 member's cancer was caused by his or her employment if:

459  
460 i.) at the time of filing of the application, the fire fighter has served  
461 a total of 10 years as a fire fighter for the County, State or  
462 Wisconsin municipality (must be certified by the employer);

463 ii.) a qualifying medical examination given prior to the time of the  
464 individual becoming a fire fighter showed no evidence of  
465 cancer; and

466  
467 iii.) the disability is found to be caused by cancer.  
468 This presumption shall only apply to cancers affecting the skin,  
469 breasts, central nervous system or lymphatic, digestive,  
470 hematological, urinary, skeletal, oral or reproductive systems.

471  
472 (d) Qualifying Medical Examination. For all presumptions described  
473 above, a member may satisfy the requirements of a qualifying  
474 medical examination by providing one of the following:

475  
476 i.) a copy of the qualifying medical examination given prior to the  
477 time the member entered into the covered occupation for that  
478 employer;

479  
480 ii.) certification from the member's employer that there is no record  
481 of a medical examination, but there is supporting  
482 documentation that shows the member did not have the  
483 disability prior to employment; or

484 iii.) certification from the member's employer that there is no  
485 supporting documentation, but that the member would not have  
486 been hired unless a pre-employment examination, or other  
487 supporting documentation, showed no evidence of cancer,  
488 heart or respiratory impairment, or infectious disease.

489  
490 **SECTION 8.** Section 201.24(4.5) of the General Ordinances of Milwaukee County is  
491 hereby amended as follows:

492  
493 4.5. - Deferred vested retirement.

494  
495 (1) A member shall be eligible for a deferred vested pension if ~~his~~ the  
496 member's County employment is terminated for any cause, other than  
497 fault or delinquency on ~~his~~ the member's part, prior to the member  
498 fulfilling the requirements of Normal Retirement in Ordinance section  
499 201.24(4.1), provided that the member elects not to withdraw any part of  
500 his the member's membership account and that ~~his~~ the member's

501 pension when ~~his~~ **the member's** qualifies for a normal retirement as  
502 defined in section 4.1 is at least ten dollars (\$10.00) per month.

503  
504 (2) Notwithstanding the foregoing provisions of this section 4.5 the following  
505 vesting provisions will apply:

506  
507 (a) For members whose last period of continuous membership began  
508 on or after January 1, 1971, but prior to January 1, 1982, those  
509 members shall not be eligible for a deferred vested pension if ~~his~~  
510 ~~or her~~ **the member's** employment is terminated prior to ~~his or her~~  
511 **the member's** completion of six (6) years of service.

512  
513 (b) For members who first became a member of ERS on ~~and or~~ after  
514 January 1, 1982, those members shall not be eligible for a deferred  
515 vested pension if ~~his or her~~ **the member's** employment is  
516 terminated prior to ~~his or her~~ **the member's** completion ~~of~~ ten  
517 (10) years of service.

518  
519 (c) Any member who attains normal retirement age as defined in  
520 Ordinance section 201.24(2.18) while in active ERS-covered  
521 County employment shall be vested and eligible for a deferred  
522 vested benefit if the member terminates County employment prior  
523 to retirement. This provision shall apply to members who  
524 previously received a benefit under this portion of the vesting  
525 schedule. For members who would have received a benefit under  
526 this vesting schedule, ERS will pay a prospective benefit to those  
527 individuals commencing with the adoption of this amendment.

528  
529 (3) Notwithstanding the foregoing provisions of this section, any  
530 nonrepresented Doyme employe who was a member of the employe's  
531 retirement system and any member who was represented by the Federation  
532 of Nurses & Health Professionals when they voluntarily resigned their  
533 employment between September 1, 1995, and December 31, 1995, at the  
534 time of, and in lieu of, a layoff from county service as a direct result of the  
535 sale/lease of John L. Doyme Hospital and employes of the School of  
536 Nursing who resign from county service in lieu of being laid off due to the  
537 closure of the School of Nursing who left county service with seven (7) or  
538 more years of service shall be vested for a deferred vested pension.

539  
540 (4) Payment of a deferred vested pension ~~shall may~~ commence as ~~of early as~~  
541 **the first of the month following** the member's normal retirement date, but  
542 in no event until **the first day of the month following the date a** timely  
543 application ~~for the deferred vested pension is filed with the board.~~  
544 **However, as described in Ordinance Section 201.24(4.6), has been**  
545 **submitted to RPS.**  
546

547 ~~if~~ a member has at least fifteen (15) years of **ERS** service, ~~the~~ **member** may  
548 ~~may request the board to authorize~~ commencement of ~~his~~ **the member's**  
549 deferred vested pension as of ~~his~~ **the member's** 55<sup>th</sup> birthday, or as of any date  
550 after ~~his 55th birthday~~ **any such birthday**, which precedes ~~his~~ **the member's**  
551 normal retirement date, and ~~if the board consents thereto, his pension shall~~  
552 ~~commence as of the date so requested but~~ **However**, the **deferred vested**  
553 **pension** amount thereof shall be reduced as provided in section 5.5.

554  
555 **If the member is a sworn law enforcement officer at the time the member's**  
556 **ERS-covered employment terminates, upon timely application, the member**  
557 **is eligible to commence a deferred vested pension benefit upon attaining**  
558 **age fifty-seven (57), regardless of the number of years of service, or age**  
559 **fifty-five (55) with at least fifteen (15) years of ERS service.**

560  
561 The last payment shall be made as of the date of death of the retired member.

562  
563 **SECTION 9.** Section 201.24(4.6)(1) and (2) of the General Ordinances of Milwaukee  
564 County is hereby amended as follows:

565  
566 4.6. - Distribution requirements.

567  
568 (1) In order **for a member or beneficiary** to receive **any pension benefit**  
569 **or other distribution from ERS, including benefits under Ordinance**  
570 **sections 201.24(3.5), (4.1), (4.2), (4.3), (4.4), (4.5), or Sections VI or**  
571 **VII, a member or beneficiary** shall **first** file with **RPS** ~~the board~~ a  
572 written application ~~therefore~~ on a form **prescribed by the board**  
573 **approved by the Office of Corporation Counsel.**

574  
575 **No benefit shall be payable unless and until such application is submitted and**  
576 **no retroactive benefit commencement dates are allowed, except for the one-**  
577 **day grace period in Sections 4.1 and 4.2.**

578  
579 **A retirement application will remain valid for 180 days after the date of**  
580 **submission to RPS. After 180 days, if the member has not retired or is still**  
581 **actively working for the County in an ERS-covered position, the retirement**  
582 **application is void.**

583  
584 (2) A member who files with ~~the board~~ **RPS** a **timely** completed  
585 application for benefits from the system shall be entitled to have ~~his~~  
586 benefits commence no later than the 60th day after the close of the  
587 year in which the later of the following occurs:

588  
589 (a) The member attains ~~his~~ normal retirement age; or

590  
591 (b) The member terminates employment.

592 Notwithstanding the preceding, regardless of whether a member files an  
593 application for benefits, in all events, payments shall commence no later than the  
594 member's ~~r~~Required ~~b~~Beginning ~~d~~Date, ~~which is the April 1 following the~~  
595 ~~calendar year in which the member attains age seventy and one-half (70 1/2).~~  
596 Required Beginning Date means the April 1 of the calendar year following the  
597 calendar year in which the member attains the applicable age as defined in  
598 Code section 401(a)(9)(C)(v) or, if later, the calendar year in which the member  
599 retires.

601 All distributions made under sections (4.6) and (4.7) shall ~~be determined and~~  
602 ~~made in accordance with~~ conform to a reasonable and good faith interpretation  
603 of Internal Revenue Code section 401(a)(9) and corresponding Treasury regulations  
604 as applicable to governmental plans. Notwithstanding the other provisions of this  
605 section 4.6 and section 4.7, distributions may be made under a designation made  
606 before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and  
607 Fiscal Responsibility Act (TEFRA) and the provisions of ordinance section  
608 201.24(4.8) that relate to section 242(b)(2) of TEFRA.

609  
610 **SECTION 10.** Section 201.24(5.16) of the General Ordinances of Milwaukee County is  
611 hereby amended as follows:

612  
613 5.16. - Back drop pension benefit.

- 614  
615 (1) The provisions of this section shall apply to ~~any~~ member in active service  
616 eligible for a Normal Retirement benefit under Ordinance section  
617 201.24(4.1) and whose application to retire is filed and effective after  
618 January 1, 2001, but shall not apply to any member of the retirement system  
619 who  
620  
621 (a) is an elected official, or who was in a position that was not in a  
622 certified collective bargaining unit on June 29, 2011, and who began  
623 membership in said system on or after March 15, 2002,  
624  
625 (b) was in a position in a certified collective bargaining unit represented  
626 by the American Federation of State, County and Municipal Workers  
627 on June 29, 2011 and who began membership on or after  
628 February 1, 2007,  
629  
630 (c) was in a position in a certified collective bargaining unit represented  
631 by the Milwaukee Building and Construction Trades Council on  
632 June 29, 2011 and who began membership on or after February 21,  
633 2006,  
634  
635 (d) was in a position in a certified collective bargaining unit represented  
636 by the Association of Milwaukee County Attorneys on June 29, 2011  
637 and who began membership on or after January 1, 2006,

- 638 (e) was in a position in a certified collective bargaining unit represented  
639 by the International Association of Machinists or by the Technicians,  
640 Engineers and Architects of Milwaukee County on June 29, 2011  
641 and who began membership on or after November 4, 2005,  
642
- 643 (f) was in a position in a certified collective bargaining unit represented  
644 by the Federation of Nurses and Health Professionals on June 29,  
645 2011 and who began membership on or after December 16, 2005,  
646
- 647 (g) was in a position in a certified collective bargaining unit represented  
648 by the Milwaukee County Firefighters Association on June 29, 2011  
649 and who began membership on or after June 19, 2007,  
650
- 651 (h) was formerly a represented deputy sheriff and who was appointed  
652 to a non-represented position effective after June 30, 2009,  
653
- 654 (i) is eligible for a deferred pension benefit under section 201.24(4.5)  
655 or a disability pension benefit under sections 201.24(5.3), (5.31) or  
656 (5.4), ~~or~~  
657
- 658 (j) is an elected official whose membership began prior to March 15,  
659 2002, if such elected official consents irrevocably in writing filed with  
660 the system to waive the right to elect to receive a "back drop"  
661 pension benefit; or  
662
- 663 **(k) who is employed by the County in a non-ERS covered position**  
664 **at the time the individual terminates County employment.**  
665

666 **SECTION 11.** Section 201.24(6.1) of the General Ordinances of Milwaukee County is  
667 hereby amended as follows:  
668

669 6.1. - Accidental death benefit for deputy sheriffs.  
670

671 If the death of a member who is a deputy sheriff occurs in active service as  
672 the natural and proximate result of an accident occurring at some definite time and  
673 place while the member was in the actual performance of duty, **or for members**  
674 **meeting the requirements, due to the contraction of a disease as provided in**  
675 **Ordinance section 201.24(4.3)(3)(b),** as determined by the board on the basis of  
676 acceptable evidence presented to it, the board shall grant a survivorship pension **in**  
677 **accordance with this section.**  
678

679 **The survivorship pension shall** equal to fifty (50) percent of the final average salary  
680 of such deceased member **and be payable:**  
681

- 682 (a) To a surviving spouse for life ~~or until remarriage.~~  
683

- 684 (b) If there be no surviving spouse, or if the surviving spouse dies ~~or~~  
685 **remarries** before every child of such deceased member attains the  
686 age of eighteen (18) years, then to ~~his~~ **the member's** child(ren)  
687 under said age divided in such manner as the board in its discretion  
688 shall determine, to continue as a joint and survivor pension until  
689 every such child dies or attains said age; or  
690  
691 (c) If there be no surviving spouse or child under the age of eighteen  
692 (18) years surviving such deceased member, then to ~~his~~ **the**  
693 **member's** dependent father or mother, as the deceased member  
694 shall have nominated by written designation duly acknowledged and  
695 filed with the board; or if there be no such nomination, then to ~~his~~  
696 **the member's** dependent father or to ~~his~~ **the member's** dependent  
697 mother as the board in its discretion shall direct, to continue for life.  
698  
699 (d) The monthly benefit payable hereunder to a spouse or child shall at  
700 no time be less than the amount of the monthly benefit to which they  
701 would have been entitled under section 6.2 if death had not  
702 occurred in performance of duty.  
703

704 **If a benefit is payable under this Section 6.1, no Protective Survivorship Option**  
705 **shall be payable to any beneficiary under Ordinance section 201.24(7.1)(3).**  
706

707 **SECTION 12.** Section 201.24(6.3) of the General Ordinances of Milwaukee County is  
708 hereby amended as follows:  
709

710 6.3. - Lump sum benefit upon death.  
711

712 Upon the receipt of proper proofs of the death of a member **in active service**, if  
713 such member has completed one (1) or more years of creditable service, and no  
714 survivors' benefits are payable under sections 6.1, 6.2, 6.4 or 7.1, there shall be paid a  
715 lump sum benefit of one-half (1/2) the final average salary of such deceased member,  
716 but not to exceed two thousand dollars (\$2,000.00). The member may designate as  
717 beneficiary a trustee(s) named or to be named by will.  
718

719 **SECTION 13.** Section 201.24(6.4) of the General Ordinances of Milwaukee County is  
720 hereby amended as follows:  
721

722 6.4 - Survivor pensions for members other than deputy sheriffs.  
723

724 In the event of the death of a member in active service prior to satisfying the  
725 applicable age and service eligibility conditions for a normal pension (as described in  
726 **Ordinance** section 4.1) and after completing at least one (1) year of service, ~~his~~ **the**  
727 **member's** surviving dependent spouse or child shall receive a survivor pension-  
728 **commencing on the first day of the month following the month RPS receives a**  
729 **completed application for such benefits along with proof of eligibility.**



730 **For deaths occurring on or after the effective date of the passage of this**  
731 **Ordinance, the pension to a dependent spouse shall be payable for life or until**  
732 **remarriage, and the pension to a child shall be payable until the child reaches age**  
733 **eighteen (18) or marries, or until attainment of age twenty-two (22) while not**  
734 **married and a full-time student in attendance at an educational institution**  
735 **including periods of nonattendance not in excess of four (4) months and in**  
736 **accordance with such rules and regulations as may be established by the board**  
737 **from time to time.**

738  
739 A dependent spouse is a spouse of a member:

- 740
- 741 (a) Who ~~is over~~ **has attained** age sixty (60) or who is under age sixty (60)
  - 742 and has a child who is eligible for a pension hereunder.
  - 743
  - 744 (b) Who was married to the member at least one (1) year prior to **his the**
  - 745 **member's** death.
  - 746

747 The monthly pension payable to a dependent spouse prior to age sixty (60)

748 and while with a child eligible for a pension hereunder shall be forty (40) percent of

749 the rate of monthly salary of the member paid by the county for the year of **his the**

750 **member's** death less monthly survivors benefits payable to such spouse under the

751 federal social security law. Commencing with **the first day of the month following**

752 **receipt of an application for continued benefits, but no earlier than** the month

753 immediately following attainment of age sixty (60), a dependent spouse shall be paid

754 a monthly pension equal to fifty (50) percent of the normal pension which would

755 have been payable to the member if **his the member's** service had continued to the

756 date **the member** would have satisfied the applicable age and service eligibility

757 conditions for a normal pension (as described in section 4.1) with the same final

758 average salary as determined at the date of **his** death **and the same multiplier in**

759 **effect at the time this survivor benefit is calculated.**

760

761 The monthly pension payable to an eligible child shall be equal to ten (10)

762 percent of the rate of monthly salary of the member paid by the county for the year of

763 **his the member's** death less social security benefits payable to the child under the

764 federal social security law, provided that if there are more than five (5) eligible children,

765 the children's pension shall be reduced pro rata so that the total of the dependent

766 spouse's pension and the pensions payable to the children, when added to monthly

767 survivors benefits payable to them from federal social security, does not exceed ninety

768 (90) percent of the rate of monthly salary of the member paid by the county. The social

769 security laws in effect as of the date of death of the member shall be used in

770 determining the social security benefits payable to the surviving spouse and children.

771

772 ~~The monthly pensions provided herein for a dependent spouse and~~

773 ~~children shall not be payable where a member has designated a beneficiary(ies)~~

774 ~~to receive in lieu of the monthly pensions a lump sum payment of the balance in~~

775 ~~his membership account plus the death benefit payable under section 6.3.~~

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**Notwithstanding the foregoing, no pension benefit shall be payable to a child until the first day of the month following the month RPS receives a completed benefit application. No retroactive benefits are payable. If an eligible child attains age 22 before applying for this benefit or as required under Ordinance section 201.24(4.7), instead of a pension benefit under this section, the child will receive a lump sum benefit of \$2,000 and a refund of the member's employee contributions to the extent allowable under Section 3.5.**

**SECTION 14.** Section 201.24(7.1)(3), (4) and (5) of the General Ordinances of Milwaukee County is hereby amended as follows:

7.1. - Optional benefits.

- (3) Any member in active service who, pursuant to section 4.1 or a collective bargaining agreement, has **met the age and service requirements attained eligibility** to retire and receive a **Normal Retirement** pension may elect a protective survivorship option by selecting the one hundred (100%) or fifty percent (50%) survivor benefit in the manner hereinafter set forth, which option shall then become effective at the member's death **while in active service** with the same force and effect as if such member had retired under such option immediately prior to ~~his or her~~ death. The election of such option shall be in writing on a form **prescribed approved** by the ~~board~~ **Office of Corporation Counsel** and may be revoked at any time prior to retirement. If the designated beneficiary shall die or if the designated beneficiary is the member's spouse and a divorce is granted prior to the member's retirement, the election shall be automatically revoked. If any member eligible to elect an **protective survivorship** option ~~shall under this section~~ **dies** in active service **and while married**, without electing a one hundred (100%) survivor benefit, the member's surviving spouse shall be paid a survivorship pension equal to the amount that would have been payable if such member had retired and elected a one hundred (100%) survivor benefit immediately prior to ~~his or her~~ death.

**Notwithstanding the foregoing, if a benefit is payable under Ordinance section 201.24(6.1), no Protective Survivorship Option shall be payable under this Section 7.1(3).**

- ~~(4) During any month in which a survivor's pension is payable under section 6.1 or 6.4 the amount of the survivorship pension payable under this section shall be reduced by such amounts.~~

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~~(5)~~ (4) Notwithstanding the foregoing, if a member elects a non-spouse beneficiary to receive a benefit and the benefit is subject to the Internal Revenue Code's minimum distribution incidental benefit requirements, the member will only be eligible to elect a survivor benefit in a form that does not exceed the Code requirements. If a member elects a form of benefit that does not comply with such requirements, ERS will automatically reduce the member's benefit to the highest survivor benefit option the member was eligible to elect.

**SECTION 15.** Section 201.24(11.7) of the General Ordinances of Milwaukee County is hereby amended as follows:

11.7. - Exemption of funds and benefits from taxation, execution and assignment.

All moneys and assets of the retirement system and all benefits and pensions and every portion thereof, both before and after payment to any member or beneficiary, granted under the retirement system shall be exempt from any state, county, or municipal tax, and from attachment or garnishment process, and shall not be seized, taken, detained or levied upon by virtue of any executions, or any process or proceeding whatsoever issued out of or by any court of this state, for the payment and ratification in whole and in part of any debt, claim, damage, demand or judgment against any member of or beneficiary under the retirement system, and no member of or beneficiary under the retirement system shall have any right to assign his benefit or allowance, or any part thereof, either by way of mortgage or otherwise, provided, however, that the pension board may at its option and under rules and regulations promulgated by it permit retired members to assign a portion of their pension for the regular monthly payment of medical, surgical and hospital care. The exemption from taxation contained herein shall not apply with respect to any tax on income. This section shall not prohibit the forfeiture or garnishment of benefits and pensions pursuant to:

- (a) Applicable requirements of Wisconsin Statutes or Milwaukee County Ordinances;
- (b) RPS's compliance with a lien, levy or similar request for payment imposed on the member or beneficiary by the Internal Revenue Service; or
- (c) RPS's compliance with a lien, levy or similar request for payment imposed on the member or beneficiary by the Wisconsin or other state Department of Revenue.

864 **Additionally, members receiving monthly benefit payments from ERS may**  
865 **voluntarily elect to withhold a post-tax portion of each monthly benefit payment**  
866 **to pay health care premiums for retiree health insurance provided by Milwaukee**  
867 **County.**  
868

869 **SECTION 16.** The provisions of this Ordinance shall become effective upon passage  
870 and publication.  
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12/18/23

S:\Committees\2023\December\PSC\Resolution\23-1016 REVISION II Pension Resolution Ordinance ars.docx