

1
2 By Supervisor

ORD 11-8
Journal,

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4
5 **A RESOLUTION AND ORDINANCE**
6

7 To amend Sections 201.24(3.3), (3.5) and (3.11) of the Milwaukee County
8 General Ordinances as it pertains to pension benefits.
9

10 WHEREAS, the State of Wisconsin adopted State Statute section 59.875,
11 as part of 2011 Wisconsin Act 10, mandating that Milwaukee County collect from
12 employees one half of the actuarially required contribution for funding benefits of
13 the retirement system, and
14

15 WHEREAS, the State of Wisconsin adopted 2011 Wisconsin Act 32, the
16 biennial budget, containing amendments to section 59.875; and
17

18 WHEREAS, any employee contributions that may be mandated by state
19 law can only be made on a post-tax basis under current county ordinances; and;
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21 WHEREAS, an amendment to county ordinances is required in order for
22 any state mandated employee pension contributions to be made on a pre-tax
23 basis; and
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25 WHEREAS, pursuant to Section 201.24(8.17) of the Milwaukee County
26 Code of General Ordinances, the proposed changes have been referred to the
27 Pension Board and the Pension Board has been given thirty (30) days to
28 comment upon the proposed changes, and
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30 WHEREAS, the proposed changes have been referred to the pension
31 fund actuary whose actuarial analysis indicates the changes will have no
32 actuarial effect on the retirement system, but will result in reduced contributions
33 by Milwaukee County; and
34

35 WHEREAS, the Pension Study Commission reviewed the actuary's report
36 on July 22, 2011 and has recommended the County Board adopt the proposed
37 changes (Vote X-X); now therefore
38

39 BE IT RESOLVED, that the Milwaukee County Board of Supervisors,
40 consistent with section 201.24(3.11)(3)(c) below, establishes the amount of
41 contribution for any required contributions during 2011 as four and seven-tenths
42 percent (4.7%);
43

44 BE IT FURTHER RESOLVED, that the Milwaukee County Board of
45 Supervisors hereby amends Section 201.24 of the Milwaukee County Code of
46 General Ordinances by adopting the following:

47
48 AN ORDINANCE
49

50 The County Board of Supervisors of the County of Milwaukee does ordain
51 as follows:
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53 **SECTION 1.** Section 201.24(3.11) of the General Ordinances of Milwaukee
54 County is amended and restated in its entirety as follows:
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56 **3.11 Employee Contribution**
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58 (1) Mandatory Employee Contributions. Each member of the Employees'
59 Retirement System shall contribute to the retirement system a percentage
60 of the "Member's Compensation" according to subsections 3.11(2) and (3)
61 based on the following schedule:

62 (a) Effective January 1, 2011 through July 23, 2011, for any
63 member who is not covered by the terms of a collective bargaining
64 agreement, ~~who is an elected official,~~ or who is covered by a collective
65 bargaining agreement that has adopted this ordinance, other than
66 members who make a contribution to the System under section 3.3(2),
67 the member shall contribute the amount provided in subsection (3)(a);

68 (b) Effective January 1, 2011 through July 23, 2011, for any
69 member who is an elected official, the member shall contribute the
70 amount provided in subsection (3)(b);

71 (c) Except as provided in paragraph (g), effective July 24, 2011,
72 any member who is, or on a subsequent date becomes, (1) not covered
73 by the terms of a collective bargaining agreement, or (2) an elected
74 official, or (3) covered by a collective bargaining agreement with the
75 American Federation of State, County and Municipal Employees
76 (AFSCME), shall contribute the amount provided in subsection (3)(c);

77 (d) Effective July 24, 2011, any member whose initial date of
78 membership in the retirement system is on or after July 24, 2011 and who
79 (1) is not covered by the terms of a collective bargaining agreement, or
80 (2) is an elected official, or (3) is covered by a collective bargaining
81 agreement with the American Federation of State, County and Municipal
82 Employees (AFSCME), or (4) is covered by a collective bargaining
83 agreement with the Milwaukee Deputy Sheriffs Association, or (5) is
84 covered by a collective bargaining agreement with the Milwaukee County
85 Firefighters Association, shall contribute the amount provided in
86 subsection (3)(c);

87 (e) Effective January 1, 2012, a member who is covered by a
88 collective bargaining agreement with (1) the Association of Milwaukee
89 County Attorneys, or (2) the Federation of Nurses and Health
90 Professionals, or (3) the Milwaukee Building and Trades Council, or (4)
91 the Technicians, Engineers, and Architects of Milwaukee County, or (5)

92 the International Association of Machinists and Aerospace Workers, shall
93 contribute the amount provided in subsection (3)(c);

94 (f) Any member whose initial date of membership in the retirement
95 system is on or after January 1, 2012 and who is covered by the terms of
96 a collective bargaining agreement with (1) the Association of Milwaukee
97 County Attorneys, or (2) the Federation of Nurses and Health
98 Professionals, or (3) the Milwaukee Building and Trades Council, or (4)
99 the Technicians, Engineers, and Architects of Milwaukee County, or (5)
100 the International Association of Machinists and Aerospace Workers, shall
101 contribute the amount provided in subsection (3)(c);

102 (g) Any member who, on July 24, 2011, was a nonrepresented law
103 enforcement or firefighting managerial employee, as set forth in section
104 59.875 of the statutes, and any member who, on July 24, 2011, was a
105 represented law enforcement or firefighting employee and who becomes,
106 after July 24, 2011, a nonrepresented law enforcement or firefighting
107 managerial employee, as set forth in section 59.875 of the statutes, shall
108 contribute the same amount respectively as represented law enforcement
109 and firefighting employees whose initial date of membership in the
110 retirement system was prior to July 24, 2011.

111
112 ~~shall contribute to the retirement system a percentage of the "Member's~~
113 ~~Compensation" according to subsection 3.11(2).~~

114 (2) "Member Compensation" shall include all salaries and wages of the
115 member, except for the following: overtime earned and paid; any expiring
116 time paid such as overtime, and holiday; and injury time paid; and any
117 supplemental time paid such as vacation or earned retirement.

118
119 ~~(23)~~ Contribution Percentage: The percentage shall be as follows:

120
121 (a) Two (2) percent of Member's Compensation earned between
122 January 9, 2011 and June 11, 2011;

123 ~~(b) Tand three (3) percent of Member's Compensation earned~~
124 ~~between June 12, 2011 and July 23, 2011~~ ~~December 10, 2011;~~

125 ~~(c) Fand four (4) percent of Member's Compensation earned on or~~
126 ~~after December 11, 2011;~~

127 ~~(db) Notwithstanding the sections 3.11(2)(a) and (c), elected~~
128 ~~officials shall contribute tTwo (2) percent of Member's Compensation~~
129 ~~earned on and after between January 9, 2011 and July 23, 2011.~~

130 (c) A percentage of Member's Compensation as established by the
131 County Board based on a recommendation from the retirement system
132 actuary. The percentage of Member's Compensation shall be derived
133 from the "actual contribution required for the current year" as set forth in
134 section 3.1 of chapter 201.24 of the ordinances, with members being
135 responsible for the contribution required by State statute. The County
136 Board shall set forth in its annual adopted budget the percentage of a
137 Member's Compensation required to comply with the statutorily required

138 contribution. The percentage of a Member's Compensation may vary
139 from year to year and shall be applicable for 26 pay periods and shall
140 apply on a prospective basis beginning with the first pay period each year.

141
142 ~~(34)~~ Pick-Up Contributions. Notwithstanding the preceding, contributions
143 shall be made by the County in lieu of contributions by the employee even
144 though the contribution is designated as an employee contribution.
145 Members have no option to choose to receive the contributions provided
146 for in this section directly instead of having the contribution paid by the
147 County to the retirement system. The contribution shall be made on a
148 pre-tax basis, and there shall be a corresponding reduction in
149 compensation actually paid to the member. These contributions shall
150 qualify as pick-up contributions (pursuant to Internal Revenue Code
151 section 414(h)(2)). These contributions shall have no impact on internal
152 plan contribution limits or forms of benefit payment under the retirement
153 system. The pick-up of these contributions shall not be construed to
154 reduce the salary upon which final average salary is calculated, as
155 defined in section 2.8. Unless specified otherwise, these contributions do
156 not impact the calculation of a member's benefit. The designation and
157 qualification of these contributions as pick-up contributions pursuant to
158 Internal Revenue Code section 414(h)(2) does not, however, result in the
159 County paying the required contribution on behalf of the employee in a
160 manner inconsistent with State statutory requirements and its prohibition
161 of an employer making the payment on behalf of the employee.

162
163 Notwithstanding the preceding, contributions made under this section by
164 optional members, as defined in section 3.3(2), shall not be picked up and
165 made on a pre-tax basis as provided in this subsection unless and until
166 the County receives a favorable private letter ruling from the IRS
167 authorizing such pick-up. Corporation Counsel shall determine if and
168 when a favorable private letter ruling has been received and pick up of
169 these contributions shall then commence for optional employees.

170
171 ~~(45)~~ Determination of Accumulated Contributions. A member's
172 accumulated contributions shall be equal to the sum of his mandatory
173 employee contributions.

174
175 ~~(56)~~ Refund of Accumulated Contributions.

176 (a) Refunds of all accumulated contributions made under this
177 section 3.11, with interest at the rate of five percent (5%) per annum, shall
178 be made on the same conditions and under the same circumstances as
179 refunds under section 3.5, but may only be paid in the form of a lump sum
180 payment. For an employee terminating employment with the County, any
181 refund of accumulated contributions must be requested within 60 days
182 after termination.

183 (b) Members receiving a refund or on whose behalf a refund is paid
184 under this subsection shall cease to be a member of the Employees'
185 Retirement System and shall have no further right to any benefit under
186 this plan.

187 (c) The provisions of section 11.1 shall not apply to accumulated
188 contributions withdrawn by members under this section.
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190 **SECTION 2.** Section 201.24(3.3) of the General Ordinances of Milwaukee
191 County is amended and restated in its entirety as follows:
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193 **3.3. Employee membership accounts.**
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195 (1) In addition to the contributions required by section 3.1, the county,
196 commencing with the 4th day of January 1969, shall contribute to the
197 system the following percentage of the earnable compensation of each
198 member, except members listed in paragraph (2):

199 (a) Employes, other than deputy sheriffs and elected officials, six
200 (6) percent.

201 (b) Deputy sheriffs, eight (8) percent.

202 (c) Elected officials, eight (8) percent.

203 All such sums contributed by the county for members whose last period of
204 employment began prior to January 1, 1971, shall be credited to the
205 employe's membership account in addition to contributions made by the
206 employe, other than voluntary savings. The contributions provided for in
207 this section 3.3(1) shall be considered separate and distinct from the
208 employe contributions required under section 3.11.
209

210 (2) In addition to the contributions required by section 3.11, ~~t~~The
211 following members, who have elected to become optional members of
212 ERS, shall also contribute to the system, by payroll deduction, six (6)
213 percent of their earnable compensation:

214 (a) All interns, students and trainees employed in non-civil-service
215 positions.

216 (b) All resident physicians employed in non-civil-service positions.

217 (c) Seasonal employes, except those whose last period of
218 continuous membership began prior to December 24, 1967.

219 (d) Employes serving under emergency appointments except:

220 (1) Employes whose last period of continuous membership
221 began prior to December 24, 1967.

222 (2) Employes on leave of absence to accept an emergency
223 appointment.

224 (3) Employes whose positions have been reclassified.

225 Every member required to make the above contribution shall be deemed
226 to consent and agree to the payroll deductions made and provided herein.

227 All sums contributed by a member shall be credited to his membership
228 account. The contributions provided for in this section 3.3(2) shall be

229 considered separate and distinct from the employe contributions required
230 under section 3.11.

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232 **SECTION 3.** Section 201.24(3.3) of the General Ordinances of Milwaukee
233 County is amended and restated in its entirety as follows:

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235 **3.5. Refunds upon severance or death.**

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237 Notwithstanding the following, a member shall not be eligible to receive a
238 refund of the portion of his membership account attributable to
239 accumulated contributions contributed under section 3.11 if the member's
240 employment was terminated due to fault or delinquency on the member's
241 part under section 4.5 or if the member or a beneficiary of the member is
242 eligible, at the time the request for a refund is made, for the present
243 receipt of any monthly annuity benefit under sections 4.1, 4.5, 6.1, 6.2,
244 6.4, 7.1 or 7.2 of the Chapter 201.24 of the ordinances. Upon termination
245 of employment, for reason other than death or retirement, a member shall
246 be entitled to receive a refund of the balance as of the date of termination
247 of his membership account and his savings account, accumulated at
248 interest as set from time to time by the board. However, if a member who
249 is eligible for a deferred vested pension withdraws his membership
250 account, he shall forfeit all rights to a deferred vested pension.

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252 Upon termination of employment by reason of a member's death or upon
253 the death of a member who is eligible for a deferred vested pension, the
254 member's beneficiary shall be paid in lump sum the balance, as of the
255 date of death, of his membership account and his savings account,
256 provided that if a joint and survivor option under section VII is effective or
257 a survivorship benefit under section VI is payable, the membership
258 account shall not be paid to the beneficiary. However, if the amount of the
259 membership account at the date of a member's death exceeds the total of
260 the amount of the payments made to the spouse and children under
261 sections 6.1, 6.2, 6.4 and 7.1, after all payments due thereunder have
262 been made, such excess shall be paid in a lump sum to the member's
263 beneficiaries.

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

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(a) Lump sum payment.

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

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(c) Installments of a designated amount or over a designated

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period of time.

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If under any of the above options a benefit becomes payable to some

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other person as a result of the death of the retired member, payment shall

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be made to the beneficiary designated by the member or, in the absence of a valid designation, than as provided in section 2.16.

SECTION 4. The provisions of this ordinance shall be effective upon passage and publication.