

1 FROM THE OFFICE OF JOSPEH J. CZARNEZKI

2 MILWAUKEE COUNTY CLERK

3 County Ordinance No. 11-12

4 File No. ORD 11-8

5 AN ORDINANCE

6
7 AN ORDINANCE

8
9 The County Board of Supervisors of the County of Milwaukee does ordain as follows:

10
11 **SECTION 1.** Section 201.24(3.11) of the General Ordinances of Milwaukee County is amended
12 and restated in its entirety as follows:

13
14 **3.11 Employee Contribution**

15
16 (1) Mandatory Employee Contributions. Each member of the Employees' Retirement
17 System shall contribute to the retirement system a percentage of the "Member's
18 Compensation" according to subsections 3.11(2) and (3) based on the following
19 schedule:

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

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

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

32 (d) Effective July 24, 2011, any member whose initial date of membership in the
33 retirement system is on or after July 24, 2011 and who (1) is not covered by the terms of
34 a collective bargaining agreement, or (2) is an elected official, or (3) is covered by a
35 collective bargaining agreement with the American Federation of State, County and
36 Municipal Employees (AFSCME), or (4) is covered by a collective bargaining agreement
37 with the Milwaukee Deputy Sheriffs Association, or (5) is covered by a collective
38 bargaining agreement with the Milwaukee County Firefighters Association, shall
39 contribute the amount provided in subsection (3)(c);

40 (e) Effective January 1, 2012, a member who is covered by a collective
41 bargaining agreement with (1) the Association of Milwaukee County Attorneys, or (2)
42 the Federation of Nurses and Health Professionals, or (3) the Milwaukee Building and
43 Trades Council, or (4) the Technicians, Engineers, and Architects of Milwaukee County,
44 or (5) the International Association of Machinists and Aerospace Workers, shall
45 contribute the amount provided in subsection (3)(c);

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

53 (g) Any member who, on July 24, 2011, was a nonrepresented law enforcement
54 or firefighting managerial employee, as set forth in section 59.875 of the statutes, and
55 any member who, on July 24, 2011, was a represented law enforcement or firefighting
56 employee and who becomes, after July 24, 2011, a nonrepresented law enforcement or
57 firefighting managerial employee, as set forth in section 59.875 of the statutes, shall
58 contribute the same amount respectively as represented law enforcement and
59 firefighting employees whose initial date of membership in the retirement system was
60 prior to July 24, 2011.

61

62 ~~, shall contribute to the retirement system a percentage of the "Member's~~
63 ~~Compensation" according to subsection 3.11(2).~~

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

68

69 (23) Contribution Percentage: The percentage shall be as follows:

70

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

73

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

75

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

77

78 ~~(d) Notwithstanding the sections 3.11(2)(a) and (c), elected officials shall~~
79 ~~contribute Two (2) percent of Member's Compensation earned on and after between~~
~~January 9, 2011 and July 23, 2011.~~

80

81 (c) A percentage of Member's Compensation as established by the County Board
82 based on a recommendation from the retirement system actuary. The percentage of
83 Member's Compensation shall be derived from the "actual contribution required for the
84 current year" as set forth in section 3.1 of chapter 201.24 of the ordinances, with
85 members being responsible for the contribution required by State statute. The County
86 Board shall set forth in its annual adopted budget the percentage of a Member's
87 Compensation required to comply with the statutorily required contribution. The
88 percentage of a Member's Compensation may vary from year to year and shall be
89 applicable for 26 pay periods and shall apply on a prospective basis beginning with the
first pay period each year.

90

91 (34) Pick-Up Contributions. Notwithstanding the preceding, contributions shall be made
92 by the County in lieu of contributions by the employee even though the contribution is
93 designated as an employee contribution. Members have no option to choose to receive
94 the contributions provided for in this section directly instead of having the contribution
95 paid by the County to the retirement system. The contribution shall be made on a pre-
96 tax basis, and there shall be a corresponding reduction in compensation actually paid to
97 the member. These contributions shall qualify as pick-up contributions (pursuant to
98 Internal Revenue Code section 414(h)(2)). These contributions shall have no impact on
99 internal plan contribution limits or forms of benefit payment under the retirement system.
100 The pick-up of these contributions shall not be construed to reduce the salary upon
101 which final average salary is calculated, as defined in section 2.8. Unless specified
102 otherwise, these contributions do not impact the calculation of a member's benefit. The
103 designation and qualification of these contributions as pick-up contributions pursuant to
104 Internal Revenue Code section 414(h)(2) does not, however, result in the County paying
105 the required contribution on behalf of the employee in a manner inconsistent with State
106 statutory requirements and its prohibition of an employer making the payment on behalf
107 of the employee.

108

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

115

116 (45) Determination of Accumulated Contributions. A member's accumulated
117 contributions shall be equal to the sum of his mandatory employee contributions.

118

119 (~~56~~) Refund of Accumulated Contributions.

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

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

128 (c) The provisions of section 11.1 shall not apply to accumulated contributions
129 withdrawn by members under this section.

130

131 **SECTION 2.** Section 201.24(3.3) of the General Ordinances of Milwaukee County is amended
132 and restated in its entirety as follows:

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134 **3.3. Employee membership accounts.**

135

136 (1) In addition to the contributions required by section 3.1, the county, commencing
137 with the 4th day of January 1969, shall contribute to the system the following
138 percentage of the earnable compensation of each member, except members listed in
139 paragraph (2):

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

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

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

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

148

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

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

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

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

156 (d) Employes serving under emergency appointments except:

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

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

160 (3) Employes whose positions have been reclassified.

161 Every member required to make the above contribution shall be deemed to consent and
162 agree to the payroll deductions made and provided herein. All sums contributed by a
163 member shall be credited to his membership account. The contributions provided for in
164 this section 3.3(2) shall be considered separate and distinct from the employe
165 contributions required under section 3.11.

166

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

169

170 **3.5. Refunds upon severance or death.**

171

172 Notwithstanding the following, a member shall not be eligible to receive a refund of the
173 portion of his membership account attributable to accumulated contributions contributed
174 under section 3.11 if the member's employment was terminated due to fault or
175 delinquency on the member's part under section 4.5 or if the member or a beneficiary of
176 the member is eligible, at the time the request for a refund is made, for the present
177 receipt of any monthly annuity benefit under sections 4.1, 4.5, 6.1, 6.2, 6.4, 7.1 or 7.2 of
178 the Chapter 201.24 of the ordinances. Upon termination of employment, for reason
179 other than death or retirement, a member shall be entitled to receive a refund of the
180 balance as of the date of termination of his membership account and his savings
181 account, accumulated at interest as set from time to time by the board. However, if a
182 member who is eligible for a deferred vested pension withdraws his membership
183 account, he shall forfeit all rights to a deferred vested pension.

184

185 Upon termination of employment by reason of a member's death or upon the death of a
186 member who is eligible for a deferred vested pension, the member's beneficiary shall be
187 paid in lump sum the balance, as of the date of death, of his membership account and
188 his savings account, provided that if a joint and survivor option under section VII is
189 effective or a survivorship benefit under section VI is payable, the membership account
190 shall not be paid to the beneficiary. However, if the amount of the membership account
191 at the date of a member's death exceeds the total of the amount of the payments made
192 to the spouse and children under sections 6.1, 6.2, 6.4 and 7.1, after all payments due
193 thereunder have been made, such excess shall be paid in a lump sum to the member's
194 beneficiaries.

195

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

- 198 (a) Lump sum payment.
- 199 (b) Life annuity with full cash refund or on a term certain basis.
- 200 (c) Installments of a designated amount or over a designated period of time.

201

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

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

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Adopted by the Milwaukee County Board of Supervisors

July 28, 2011