

1 FROM THE OFFICE OF JOSPEH J. CZARNEZKI

2
3 MILWAUKEE COUNTY CLERK

4
5 County Ordinance No. 12-2

6
7 File No. 12-54

8
9 AN ORDINANCE

10
11 The County Board of Supervisors of the County of Milwaukee does ordain as
12 follows:

13
14 **Section 1.** Effective January 1, 2002, section 203(2.4) of the General
15 Ordinances of Milwaukee County is amended to read as follows:

16
17 **2.4. Compensation.**

18
19 "Compensation" means for any plan year the total of all amounts paid to
20 an employee by the county defined as wages within the meaning of
21 Internal Revenue Code section 3401(a) (determined without regard to any
22 rules under section 3401(a) that limit the remuneration included in wages
23 based on the nature or location of the employment or the services
24 performed (such as the exception for agricultural labor in section
25 3401(a)(2)) and all other payments of compensation paid to an employee
26 by the county for which the county is required to furnish the employee a
27 written statement under Internal Revenue Code sections 6401(d) and
28 6051(A)(3), exclusive of amounts paid or reimbursed by the county for
29 moving expenses incurred by the employee to the extent that at the time
30 of the payment it is reasonable to believe that these amounts are
31 deductible by the employee under Internal Revenue Code section 217.
32 Further, "compensation" for each plan year shall exclude any amount that
33 is in excess of the Social Security OASDI taxable wage base as in effect
34 for the plan year. In the event that during any plan year an employee
35 spends time in the employment of the county during part of which the
36 county is obligated to collect and contribute taxes under the Federal
37 Insurance Contributions Act (other than the Medicare portion of the FICA
38 tax described in Internal Revenue Code section 3121(u)) with respect to
39 such employee, either by virtue of a voluntary agreement between the
40 state and the Secretary of Health and Human Services pursuant to section
41 218 of the Social Security Act or by any other provision of federal law,
42 he/she shall be credited with compensation hereunder only for the
43 amounts earned during the portion of the year during which the county is
44 not obligated to collect and contribute taxes under the Federal Insurance
45 Contributions Act (other than the Medicare portion of the FICA tax
46 described in Internal Revenue Code section 3121(u)) with respect to such

47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91

employee either by virtue of a voluntary agreement between the state and the Secretary of Health and Human Services pursuant to section 218 of the Social Security Act or by any other provision of federal law. The compensation of each member taken into account for determining all benefits provided under the system for any year shall not exceed the annual compensation limit pursuant to Code section 401(a)(17); provided, however, that this limitation shall apply only with respect to members who first commence participation in the system after 1995. The annual compensation limit shall be adjusted annually for increases in the cost of living by the Secretary of the Treasury or his delegate, except that the dollar increase in effect on January 1 of any calendar year is effective for years beginning in such calendar year. The "annual compensation limit" is two hundred thousand dollars (\$200,000.00), as indexed.

Section 2. Effective January 1, 2002, the following is added as a new paragraph at the end of section 203(2.12) of the General Ordinances of Milwaukee County:

Upon beginning membership, members are 100% vested in their benefit under the system at all times, and will remain 100% vested upon reaching normal retirement date, as defined in section 2.9. Members shall remain fully vested even in the event of a partial plan termination or full plan termination, as contemplated under section 9.1.

Section 3. Effective January 1, 2007, or as noted below, the following is added at the end of section 203(2.12) of the General Ordinances of Milwaukee County:

To the extent required by the Heroes Earnings Assistance and Relief Tax Act of 2008 (the "HEART Act") and as applicable for the system, the following provisions apply:

- (a) Effective January 1, 2007, if a member dies while performing qualified military service, the survivors of the member shall be entitled to any additional benefits (other than contributions relating to the period of qualified military service) provided under the system as if the member had been reemployed on the day prior to death and then severed employment on the actual date of death.
- (b) Effective for payments made on or after January 1, 2009, Compensation for purposes of section 2.4 includes any differential wage payments (as defined in Code section 3401(h)(2)) to an individual who does not currently perform services for the County by reason of qualified military service while on active duty for a period of more than 30 days and represents all or a portion of the wages the individual would have received from the County if the individual was performing services for the County. Such differential wage payment shall be treated as a payment of wages by the County to the member.

- 92 (c) Qualified military service for the purposes of the above provisions is
93 determined pursuant to section 414(u)(5).
94

95 **Section 4.** Effective March 28, 2005, section 203(4.4) of the General
96 Ordinances of Milwaukee County is amended to read as follows:
97

- 98 (a) If at the time a pension would otherwise become payable to a member
99 under either section 4.1, 4.2 or 4.3 the actuarial equivalent lump sum
100 value of that pension does not exceed five thousand dollars (\$5,000.00),
101 such lump sum value shall be paid to the member in lieu of any monthly
102 pension payments which would otherwise have been payable under
103 section 4.1, 4.2 or 4.3. Any mandatory lump sum payments of between
104 \$1,000 and \$5,000 made under this section after March 28, 2005, will be
105 paid directly into an Individual Retirement Account (IRA) in the member's
106 name, unless the member requests otherwise.
107
- 108 (b) In the case of a member who is working in the employment of the county
109 after his/her normal retirement date and who had received a lump sum
110 distribution of his/her pension pursuant to paragraph (a) of this section 4.4,
111 such individual shall receive a single sum distribution in the month of
112 January following each year in which he/she has employment subsequent
113 to his/her normal retirement date if the amount determined in the next
114 sentence does not exceed the five-thousand-dollar-amount (as adjusted)
115 described in paragraph (a) above. The amount of such distribution shall
116 be equal to (i) the actuarial equivalent lump sum value of a lifetime
117 monthly pension equal to (A) one-twelfth times (B) two (2) percent of the
118 member's average compensation computed through the end of the prior
119 plan year times (C) the member's years of service (not in excess of thirty
120 (30) years) computed through the end of the prior plan year minus (ii) the
121 amount of any lump sum distribution(s) which he/she has previously
122 received from the system. If the amount determined in the preceding
123 sentence exceeds the five -thousand-dollar-amount (as adjusted)
124 described in paragraph (a) above, then a lifetime monthly pension shall
125 instead commence in such month of January, and the amount of such
126 pension shall equal (A) one-twelfth times (B) two (2) percent of the
127 member's average compensation computed through the end of the prior
128 plan year times (C) the years of service earned in the prior plan year.
129

130 If a member begins receiving a lifetime monthly pension pursuant to the
131 preceding paragraph, then for each plan year subsequent to the plan year
132 in which his or her lifetime monthly pension commenced during which he
133 or she continues in the employment of the county, the amount of his or her
134 pension shall be recomputed. The amount of such recomputed pension
135 for each month during any such plan year shall be equal to (A) one-twelfth
136 times (B) two (2) percent of the member's average compensation
137 computed through the end of the prior plan year times (C) the member's

138 years of service (not in excess of thirty (30)) computed through the end of
139 the prior plan year (but not taking into account any years of service earned
140 prior to the member's normal retirement date or for which the member
141 received a single lump sum distribution after his/her normal retirement
142 date); provided, however, that any increase in such recomputed pension
143 over the pension previously payable shall be offset by the actuarial
144 equivalent value (determined using the UP-1984 mortality table and an
145 interest rate of eight and five-tenths (8.5) compounded annually) of
146 pension benefits actually distributed during the prior plan year.

147
148 (c) Lump sum actuarial equivalent value shall be computed under this section
149 4.4 using the UP-1984 unisex mortality table and an interest rate equal to
150 eight and five-tenths (8.5) percent compounded annually.

151
152 **Section 5.** Effective March 28, 2005, section 203(4.5)(a) of the General
153 Ordinances of Milwaukee County is amended to read as follows:

154
155 **4.5 Mandatory cash out.**

156
157 (a) *Eligibility for mandatory cashout.* A member shall not receive the pension
158 described in sections 4.1, 4.2 or 4.3, and shall instead receive a single
159 lump sum distribution of his or her benefit if, before attaining his or her
160 normal retirement date and before death:

- 161
162 (1) The member terminates county employment.
163
164 (2) The member is absent from county employment for a period of five
165 years.
166
167 (3) The actuarial equivalent lump sum present value of his or her
168 pension is five thousand dollars (\$5000) or less, and
169
170 (4) An employee who became a member of OBRA prior to January 1,
171 1994 consents to the cashout.

172
173 The mandatory cashout required under this subsection 4.5(a) shall be paid
174 to the member as soon as practicable after the close of the plan year in
175 which the member satisfies the conditions for the mandatory cashout. Any
176 mandatory lump sum payments of between \$1,000 and \$5,000 made
177 under this section after March 28, 2005, will be paid directly into an
178 Individual Retirement Account (IRA) in the member's name, unless the
179 member requests otherwise. No amount will be payable with respect to a
180 member who dies after satisfying the conditions for a mandatory cashout
181 but before the system makes payment in the following plan year.

182

183 **Section 6.** Effective January 1, 2002, section 203(7.1)(a)(ii) of the General
184 Ordinances of Milwaukee County shall be amended to read as follows:

- 185
186 (ii) One hundred sixty thousand dollars (\$160,000) which amount shall
187 be adjusted automatically each plan year to the extent permitted by
188 and in accordance with the Internal Revenue Code and regulations
189 promulgated by the Secretary of the Treasury.

190
191 **Section 7.** Effective January 1, 2002, section 203(7.1)(f) of the General
192 Ordinances of Milwaukee County is amended to read as follows:

- 193
194 (f)(i) If benefits begin prior to age sixty-two (62), the limitation
195 specified in subparagraph (a)(ii) above shall be replaced with a
196 limitation which is the actuarial equivalent of the limitation
197 described at subparagraph (a)(ii) above beginning at age sixty-
198 two (62). Actuarial equivalence for this purpose will be
199 determined using an interest rate of five (5) percent and the
200 mortality table specified by the Internal Revenue Service in
201 Revenue Ruling 2001–62, or any successor Revenue Ruling
202 thereto. As of December 31, 2001, that mortality table is the
203 1994 GAR mortality table.
204
205 (ii) If benefits begin after age sixty five (65), the limitation specified
206 in subparagraph (a)(ii) above shall be increased so that it is the
207 actuarial equivalent of the limit described at subparagraph (a)(ii)
208 above beginning at age sixty-five (65). Actuarial equivalence for
209 this purpose will be determined using an interest rate of five (5)
210 percent and the mortality table specified by the Internal Revenue
211 Service in Revenue Ruling 2001–62, or any successor Revenue
212 Ruling thereto. As of December 31, 2001, that mortality table is
213 the 1994 GAR mortality table.

214
215 **Section 8.** Effective January 1, 2008, section 203(7.1)(f)(ii) of the General
216 Ordinances of Milwaukee County is hereby deleted and section 203(7.1)(f)(i) is
217 renumbered to be section 203(7.1)(f).

218
219 **Section 9.** Effective January 1, 2008, section 203(7.1)(g) of the General
220 Ordinances of Milwaukee County is created to read as follows:

221
222 Except as provided for in this section, where a benefit is payable in a form other
223 than a straight life annuity, the benefit shall be adjusted to an actuarially
224 equivalent straight life annuity that begins at the same time as such other form of
225 benefit and is payable on the first day of each month, before applying the
226 limitations of this article. The determination of the annual benefit shall take into
227 account social security supplements described in section 411(a)(9) of the Internal
228 Revenue Code.

229
230
231
232
233
234
235

236
237
238
239
240
241
242
243
244
245
246
247
248

249
250
251
252
253
254
255
256
257
258
259

260
261
262
263
264
265
266
267
268
269
270

Section 10. Effective January 1, 2008, section 203(7.1)(h) of the General Ordinances of Milwaukee County is created to read as follows:

Effective for distributions in plan years beginning after December 31, 2003, the determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with this section.

- (i) **Benefit Forms Not Subject to Internal Revenue Code section 417(e)(3):** The straight life annuity that is actuarially equivalent to the member's form of benefit shall be determined under this section if the form of the member's benefit is either (1) a nondecreasing annuity (other than a straight life annuity) payable for a period of not less than the life of the member (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse), or (2) an annuity that decreases during the life of the member merely because of (a) the death of the survivor annuitant (but only if the reduction is not below 50% of the benefit payable before the death of the survivor annuitant), or (b) the cessation or reduction of Social Security supplements or qualified disability payments (as defined in Internal Revenue Code section 401(a)(11)).

- (A) **Limitation Years beginning before July 1, 2007.** For Limitation Years beginning before July 1, 2007, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit computed using whichever of the following produces the greater annual amount: (I) an 8.5 percent interest rate assumption and the UP-1984 Mortality Table for adjusting benefits in the same form; and (II) a 5 percent interest rate assumption and the applicable mortality table defined in Internal Revenue Code section 417(e) for that annuity starting date.

- (B) **Limitation Years beginning on or after July 1, 2007.** For Limitation Years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of (1) the annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the member's form of benefit; and (2) the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the member's form of benefit, computed using a 5 percent interest rate assumption and the applicable mortality table defined in Internal Revenue Code section 417(e) for that annuity starting date.

271 (ii) Benefit Forms Subject to Internal Revenue Code section 417(e)(3):
272 The straight life annuity that is actuarially equivalent to the
273 member's form of benefit shall be determined under this paragraph
274 if the form of the member's benefit is other than a benefit form
275 described in section 7.1(h)(i). In this case, the actuarially
276 equivalent straight life annuity shall be determined as follows:

277 (A) Annuity Starting Date in Plan Years Beginning After 2005. If
278 the annuity starting date of the member's form of benefit is in
279 a plan year beginning after 2005, the actuarially equivalent
280 straight life annuity is equal to the greatest of (I) the annual
281 amount of the straight life annuity commencing at the same
282 annuity starting date that has the same actuarial present
283 value as the member's form of benefit, computed using an
284 8.5 percent interest rate assumption and the UP-1984
285 Mortality Table for adjusting benefits in the same form; (II)
286 the annual amount of the straight life annuity commencing at
287 the same annuity starting date that has the same actuarial
288 present value as the member's form of benefit, computed
289 using a 5.5 percent interest rate assumption and the
290 applicable mortality table defined in Internal Revenue Code
291 section 417(e); and (III) the annual amount of the straight life
292 annuity commencing at the same annuity starting date that
293 has the same actuarial present value as the member's form
294 of benefit, computed using the applicable interest rate
295 defined in Internal Revenue Code section 417 and the
296 applicable mortality table defined in Internal Revenue Code
297 section 417(e), divided by 1.05.

298 (B) Annuity Starting Date in Plan Years Beginning in 2004 or
299 2005. If the annuity starting date of the member's form of
300 benefit is in a plan year beginning in 2004 or 2005, and if the
301 IRS so requires, the actuarially equivalent straight life
302 annuity is equal to the annual amount of the straight life
303 annuity commencing at the same annuity starting date that
304 has the same actuarial present value as the member's form
305 of benefit, computed using whichever of the following
306 produces the greater annual amount: (I) an 8.5 percent
307 interest rate assumption and the UP-1984 Mortality Table;
308 and (II) a 5.5 percent interest rate assumption and the
309 applicable mortality table specified by the Internal Revenue
310 Service in Revenue Ruling 2001-62, or any successor
311 Revenue Ruling thereto. As of December 31, 2001, that
312 mortality table is the 1994 GAR mortality table.

313 If the annuity starting date of the member's benefit is on or
314 after the first day of the first plan year beginning in 2004 and

315 before December 31, 2004, the application of this section
316 shall not cause the amount payable under the member's
317 form of benefit to be less than the benefit calculated under
318 the plan, taking into account the limitations of this article,
319 except that the actuarially equivalent straight life annuity is
320 equal to the annual amount of the straight life annuity
321 commencing at the same annuity starting date that has the
322 same actuarial present value as the member's form of
323 benefit, computed using whichever of the following produces
324 the greatest annual amount:

325 (I) an 8.5 percent interest rate assumption and the UP-
326 1984 Mortality Table for adjusting benefits in the
327 same form;

328 (II) the applicable interest rate defined in Internal
329 Revenue Code section 417 and the applicable
330 mortality table defined in Internal Revenue Code
331 section 417; and

332 (III) the interest rate defined in Internal Revenue Code
333 section 417 (as in effect on the last day of the last
334 plan year beginning before January 1, 2004, under
335 provisions of the system then adopted and in effect)
336 and the applicable mortality table defined in Internal
337 Revenue Code section 417.
338

339 **Section 11.** Effective January 1, 2002, section 203(7.2)(a) of the General
340 Ordinances of Milwaukee County is amended to read as follows:

341
342 For purposes of section 7.1, "compensation" shall mean the member's
343 earnings from his/her employment with the county as defined in Internal
344 Revenue Code section 415(c)(3), and, unless otherwise required by
345 regulation, includes bonuses and other taxable payments and elective
346 contributions made on behalf of the County under Internal Revenue Code
347 sections 125, 132(f)(4), 402(e)(3), 402(h), 403(b), 408(p)(2)(A)(i) or 457
348 but excludes deferred compensation, and distributions which received
349 special tax benefits.

350
351 **Section 12.** Effective January 1, 2008, section 203(7.2)(c) of the General
352 Ordinances of Milwaukee County is added to read:

353
354 (c) For purposes of section 7, limitation year shall mean the calendar
355 year.
356

357 **Section 13.** Effective January 1, 2008, section 203(9.3) of the General
358 Ordinances of Milwaukee County is amended to read as follows:

359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400

After termination of the system each member's accrued pension (accrued to the date of termination of the system or earlier cessation of benefit accrual) shall be distributed to him/her in the form of a nontransferable annuity contract which will pay him/her such accrued pension, except that, in lieu of such annuity contract, a lump sum cash distribution of the actuarial equivalent of the member's accrued pension shall be made to any member whose accrued pension is smaller than the minimum amount necessary to meet insurance company annuity requirements; provided, however, no such lump sum distribution shall be made if the actuarial equivalent value of the member's pension exceeds the five thousand dollar (\$5,000) amount (as adjusted) specified in section 4.4. (Such actuarial equivalent lump sum shall be computed using the UP-1984 unisex mortality table and an interest rate equal to eight and five-tenths (8.5) percent compounded annually.)

Section 14. Effective January 1, 2003, section 203(10.7) of the General Ordinances of Milwaukee County is amended to read as follows:

10.7. Code requirements.

All distributions will be made in accordance with the rules of Internal Revenue Code section 401(a)(9) and regulations thereunder. The rules of Internal Revenue Code section 401(a)(9) and regulations thereunder shall override any distribution options described in this system to the extent that the options in this system could be considered to be inconsistent with the requirements of Internal Revenue Code section 401(a)(9).

- (a) The member's benefit will be distributed, or begin to be distributed, to the member no later than the member's required beginning date, defined as the April 1 following the later of the calendar year in which the member attains age 70-1/2 or terminates county employment.
- (b) Unless the member's benefit is distributed in a single sum on or before the required beginning date, distributions shall be made in accordance with section (c) below.
- (c) If the member's benefit is paid in the form of annuity distributions under the system, payments under the annuity will satisfy the following requirements:
 - (1) The annuity distributions will be paid in periodic payments made at uniform intervals not longer than one year;
 - (2) The distribution period will be over the life of the member;

- 401 (3) Payments will either be nonincreasing or increase only as follows (if
402 otherwise provided for in Chapter 203):
- 403 (i) By an annual percentage increase that does not exceed the
404 annual percentage increase in an eligible cost-of-living index
405 (as defined under A-14 of Treasury Regulation section
406 1.401(a)(9)-6) for a 12-month period ending in the year
407 during which the increase occurs or a prior year;
- 408 (ii) By a percentage increase that occurs at specified times and
409 does not exceed the cumulative total of annual percentage
410 increases in an eligible cost-of-living index (as defined under
411 A-14 of Treasury regulation section 1.401(a)(9)-6) since the
412 annuity starting date, or if later, the date of the most recent
413 percentage increase, provided (in the case of a cumulative
414 increase), an actuarial increase may not be provided to
415 reflect that increases were not provided in the interim years;
- 416 (iii) To pay increased benefits that result from a system
417 amendment; or
- 418 (iv) To the extent increases are otherwise permitted under A-14
419 of Treasury Regulation section 1.401(a)(9)-6.
- 420 (d) The amount that must be distributed on or before the member's required
421 beginning date is the payment that is required for one payment interval.
422 The second payment need not be made until the end of the next payment
423 interval even if that payment interval ends in the next calendar year.
424 Payment intervals are the periods for which payments are received, e.g.,
425 bi-monthly, monthly, semi-annually, or annually. All of the member's
426 benefit accruals as of the last day of the first distribution calendar year will
427 be included in the calculation of the amount of the annuity payments for
428 payment intervals ending on or after the member's required beginning
429 date.
- 430 (e) Any additional benefits accruing to the member in a calendar year after
431 the first distribution calendar year will be distributed beginning with the first
432 payment interval ending in the calendar year immediately following the
433 calendar year in which such amount accrues.
- 434 (f) For purposes of this section 10.7, a distribution calendar year is a
435 calendar year for which a minimum distribution is required. The first
436 distribution calendar year is the calendar year immediately preceding the
437 calendar year which contains the member's required beginning date.

438 **Section 15.** Effective January 1, 2002, section 203(11.3) of the General
439 Ordinances of Milwaukee County is amended to read as follows:
440

441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485

11.3. Eligible Retirement Plan.

An eligible retirement plan is an individual retirement account described in Internal Revenue Code Section 408(a), an individual retirement annuity described in Internal Revenue Code Section 408(b), an individual retirement annuity described in Internal Revenue Code Section 403(a), or a qualified trust described in Internal Revenue Code Section 401(a) that accepts the distributee's eligible rollover distribution, an eligible deferred compensation plan described in Internal Revenue Code Section 457(b) which is maintained by an eligible employer described in Internal Revenue Code section 457(e)(1)(A), or an annuity contract described in Internal Revenue Code Section 403(b).

Section 16. Effective January 1, 2010, the following is added at the end of section 203(11.3) of the General Ordinances of Milwaukee County:

Effective for eligible rollover distributions made on or after January 1, 2008, an eligible retirement plan shall also mean a Roth individual retirement account described in Code Section 408A provided that eligible rollover distributions made on or after January 1, 2008 are subject to the adjusted gross income limits of Code Section 408A(c)(3)(B), as applicable, and the distribution rules of Code Section 408A(d)((3). For a distributee who is a nonspouse designated beneficiary, the direct rollover may be made only to an individual retirement account or annuity described in Code Section 408(a) or Section 408(b) that is established on behalf of the designated beneficiary for the purpose of receiving the distribution as an inherited individual retirement account or annuity pursuant to the provisions of Code Section 408(d)(3)(C).

Section 17. Effective January 1, 2010, the following is added at the end of section 203(11.4) of the General Ordinances of Milwaukee County:

11.4. Distributee.

A distributee includes a member or former member. In addition, the member's or former member's surviving spouse and the member's or former member's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Internal Revenue Code Section 414(p), are distributees with regard to the interest of the spouse or former spouse. A distributee also includes a member or former member's nonspouse beneficiary.

Section 18. This ordinance shall be effective upon passage and publication.

Adopted by the Milwaukee County Board of Supervisors

486
487

February 2, 2012

488
489
490

Engrossed by County Clerk 2/23/12