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(ITEM) From the Pension Board of the Employees' Retirement System of the County of Milwaukee, requesting authorization to amend various sections within Chapter 201.24 of the Milwaukee County Code of General Ordinances to comply with Internal Revenue Service code requirements, by recommending adoption of the following:

A RESOLUTION/ORDINANCE

WHEREAS, the Employees' Retirement System of the County of Milwaukee ("ERS") is a tax-qualified governmental retirement plan that must comply with the applicable provisions of the Internal Revenue Code of 1986, as amended (the "IRS Code"); and

WHEREAS, the Pension Board of the ERS (the "Pension Board") acts as the fiduciary for and oversees administration of ERS, and as such, the Pension Board seeks to ensure that ERS maintains its tax-qualified status; and

WHEREAS, the United States Congress and the Internal Revenue Service ("IRS") adopted various pieces of legislation and regulations, respectively, impacting tax-qualified retirement plans, including the Economic Growth and Tax Relief Reconciliation Act of 2001, the Pension Protection Act of 2005, and the Heroes Earnings Assistance and Relief Tax Act of 2008; and

WHEREAS, the Pension Board requested that ERS be amended to comply with required legislative and regulatory changes; and

WHEREAS, the proposed amendments have been referred to the pension fund actuary, whose analysis indicates their cost will be immaterial; and

WHEREAS, the Pension Study Commission reviewed the actuary's report on May 13, 2014, and has recommended the Milwaukee County Board of Supervisors ("County Board") adopt the proposed amendments; now, therefore,

BE IT RESOLVED, as requested by the Pension Board, that the Employees' Retirement System is hereby amended to comply with the laws governing tax-qualified retirement plans required by legislative and regulatory changes; and

BE IT FURTHER RESOLVED, that to ensure the above-noted revisions are properly codified, the County Board does hereby adopt the following:

40 AN ORDINANCE

41
42 To amend Chapter 201.24 of the Milwaukee County Code of General Ordinances
43 as appropriate to comply with federal legislative and regulatory changes related to tax-
44 qualified retirement plans that impact the Employees' Retirement System of the County of
45 Milwaukee.

46
47 The County Board of Supervisors of the County of Milwaukee does ordain as
48 follows:

49
50 **Section 1.** Effective January 1, 2002, section 201.24(2.7) is amended to read as follows:

51
52 Earnable compensation shall mean total compensation that would be payable to a
53 member if he worked the full normal working time for his position, plus all
54 payments for authorized overtime but excluding payments in lieu of vacations,
55 provided that where service is credited during periods of absences as provided in
56 section 2.9 hereof, the employe shall be considered to have earnable compensation
57 during such periods of absence equivalent to his earnable compensation as of the
58 last month of employment prior to the beginning of such absences. In cases where
59 compensation includes maintenance, the board shall fix the value of that ~~part~~
60 portion of the compensation not payable in money. Where the county pays less
61 than the full rate of compensation for a position and the balance is payable by some
62 other government, company or individual, the amount paid by the county shall be
63 considered the earnable compensation for such period of service. The annual
64 earnable compensation of each member taken into account for determining all
65 benefits provided under the system for any year shall not exceed the annual
66 compensation limit pursuant to Internal Revenue Code section 401(a)(17); provided,
67 however, that this limitation shall apply only with respect to members who first
68 commence participation in the system after 1995. The annual compensation limit
69 shall be adjusted annually for increases in the cost of living by the Secretary of the
70 Treasury or his delegate, except that the dollar increase in effect on January 1 of any
71 calendar year is effective for years beginning in such calendar year. The "annual
72 compensation limit" is ~~two one-hundred fifty-thousand~~ two hundred fifty-thousand dollars (\$~~201~~250,000.00), as
73 indexed.

74
75 **Section 2.** Effective January 1, 2007, or as noted below, the following shall be added to
76 the end of section 201.24(2.10):

77
78 To the extent required by the Heroes Earnings Assistance and Relief Tax Act of 2008
79 (HEART Act) and as applicable for the system, the following provisions apply:

- 80
81 (a) Effective January 1, 2007, if a member dies while performing qualified
82 military service, the survivors of the member shall be entitled to any
83 additional benefits (other than contributions relating to the period of

84 qualified military service) provided under the system as if the member
85 had been reemployed on the day prior to death and then severed
86 employment on the actual date of death.

87 (b) Effective for payments made on or after January 1, 2009, compensation
88 for purposes of section 2.4 includes any differential wage payments (as
89 defined in Internal Revenue Code section 3401(h)(2)) to an individual
90 who does not currently perform services for the county by reason of
91 qualified military service while on active duty for a period of more than
92 thirty (30) days and represents all or a portion of the wages the individual
93 would have received from the county if the individual was performing
94 services for the county. Such differential wage payment shall be treated
95 as a payment of wages by the county to the member.

96 Qualified military service for the purposes of the above provisions is determined pursuant
97 to Internal Revenue Code section 414(u)(5).

98

99 **Section 3.** Effective January 1, 2003, section 201.24(4.6) is amended to read as follows:

100

101 (1) In order to receive a pension, a member shall file with the board a written
102 application therefor on a form prescribed by the board.

103 (2) A member who files with the board a completed application for benefits from
104 the system shall be entitled to have his benefits commence no later than the 60th
105 day after the close of the year in which the later of the following occurs:

106 (a) The member attains his normal retirement age; or

107 (b) The member terminates employment.

108 Notwithstanding the preceding, regardless of whether a member files an
109 application for benefits, in all events, payments shall commence no later than the
110 member's required beginning date, which is the April 1 following the calendar year
111 in which the member attains age seventy and one-half (70 1/2) or, if later, the
112 calendar year in which the member retires. All distributions made under sections
113 (4.6) and (4.7) shall be determined and made in accordance with Internal Revenue
114 Code section 401(a)(9) and corresponding Treasury regulations. Notwithstanding
115 the other provisions of this section 4.6 and section 4.7, distributions may be made
116 under a designation made before January 1, 1984, in accordance with section
117 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions
118 of Ordinance section 201.24(4.8) that relate to section 242(b)(2) of TEFRA. For a
119 retired member who attained age seventy and one-half (70 1/2) after December 31,
120 1987 and before January 1, 1989, payments shall commence not later than April 1,
121 1990.

122 (3) Benefits may not be distributed to any member under a method of payment
123 which, as of the member's required beginning date, does not satisfy the minimum
124 distribution requirements of Internal Revenue Code section 401(a)(9) and applicable

125 Treasury regulations, including the minimum distribution incidental benefit
126 requirements of ~~proposed Treasury regulation Section 1.401(a)(9)-2~~, which the
127 system hereby incorporates by reference. Life expectancy is computed by use of the
128 Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations. Section II(6)
129 permits a member to receive a pension in the form of an annuity (i.e., periodic
130 payments payable at regular intervals). If a member receives his pension benefit in
131 the form of an annuity, payments under the annuity shall satisfy the following
132 requirements:

- 133 (a) The amount that must be distributed on or before the member's required
134 beginning date (or, if the member dies before distributions begin, the date
135 distributions are required to begin under sections 4.7(2)(a) or (b) below) is
136 the payment that is required for one payment interval. The second payment
137 need not be made until the end of the next payment interval even if that
138 payment interval ends in the next calendar year. Payment intervals are the
139 periods for which payments are received, e.g., bi-monthly, monthly, semi-
140 annually, or annually. All of the member's benefit accruals as of the last day
141 of the first distribution calendar year will be included in the calculation of
142 the amount of the annuity payments for payment intervals ending on or after
143 the member's required beginning date; ~~The amount to be distributed each~~
144 ~~year must be at least an amount equal to the quotient obtained by dividing~~
145 ~~the member's entire interest by the life expectancy of the member or the~~
146 ~~joint and last survivor expectancy of the member and designated beneficiary;~~
- 147 (b) Life expectancy (a joint life and last survivor expectancy), for purposes for
148 determining the period certain, shall be determined without recalculation of
149 life expectancy;
- 150 (c) Life expectancy of a member and the joint life expectancy of a member
151 and his beneficiary for all other purposes shall be determined in accordance
152 with applicable law and regulations, provided that the member or his spouse
153 may elect to recalculate life expectancy for one (1) or both lives no more
154 frequently than annually, provided such election is made prior to the
155 member's required distribution date;
- 156 (d) Once payments have begun over a period certain, the period certain may
157 not be lengthened even if the period certain is shorter than the maximum
158 permitted; ~~and~~
- 159 (e) Annuity distributions must be paid in periodic payments made at intervals
160 not longer than one (1) year;
- 161 (f) Life (or joint and survivor) annuity payments will satisfy the minimum
162 distribution incidental benefit requirements of A-2 of Treasury regulation
163 section 1.401(a)(9)-6; and
- 164 (g) Payments will either be nonincreasing or increase only as follows (and
165 only if so allowed by and provided for in other Ordinance provisions):

- 166 (i) By an annual percentage increase that does not exceed the annual
167 percentage increase in an eligible cost-of-living index (as defined
168 under A-14 of Treasury regulation section 1.401(a)(9)-6) for a twelve-
169 (12-) month period ending in the year during which the increase
170 occurs or a prior year;
- 171 (ii) By a percentage increase that occurs at specified times and does
172 not exceed the cumulative total of annual percentage increases in an
173 eligible cost-of-living index (as defined under A-14 of Treasury
174 regulation section 1.401(a)(9)-6) since the annuity starting date, or if
175 later, the date of the most recent percentage increase, provided (in the
176 case of a cumulative increase), an actuarial increase may not be
177 provided to reflect that increases were not provided in the interim
178 years;
- 179 (iii) To the extent of the reduction in the amount of the member's
180 payments to provide for a survivor benefit upon death, but only if
181 there is no longer a survivor benefit because the beneficiary whose
182 life was being used to determine the distribution period described in
183 section 4.7(2) dies or is no longer the member's beneficiary pursuant
184 to a domestic relations order within the meaning of Rule 1017;
- 185 (iv) To allow a beneficiary to convert the survivor portion of a joint
186 and survivor annuity into a single sum distribution upon the member's
187 death;
- 188 (v) To pay increased benefits that result from an Ordinance
189 amendment; or
- 190 (vi) To the extent increases are otherwise permitted under A-14 of
191 Treasury regulation section 1.401(a)(9)-6.
- 192 (h) Any additional benefits accruing to the member in a calendar year after
193 the first distribution calendar year will be distributed beginning with the first
194 payment interval ending in the calendar year immediately following the
195 calendar year in which such amount accrues.
- 196 (4) Requirements for annuity distributions that commence during a member's
197 lifetime.
- 198 (a) Joint Life Annuities Where the Beneficiary Is Not the Member's Spouse. If
199 the member's interest is being distributed in the form of a joint and survivor
200 annuity for the joint lives of the member and a nonspouse beneficiary,
201 annuity payments to be made on or after the member's required beginning
202 date to the designated beneficiary after the member's death must not at any
203 time exceed the applicable percentage of the annuity payment for such

204 period that would have been payable to the member as determined for
205 individuals less than age seventy and one-half (70 1/2) at the member's
206 annuity starting date using the table set forth in A-2 of section 1.401(a)(9)-6 of
207 the Treasury regulations. If the form of distribution combines a joint and
208 survivor annuity for the joint lives of the member and a nonspouse
209 beneficiary and a period certain annuity, the requirement in the preceding
210 sentence will apply to annuity payments to be made to the designated
211 beneficiary after the expiration of the period certain.

212 (b) Period Certain Annuities. Unless the member's spouse is the sole
213 designated beneficiary and the form of distribution is a period certain and no
214 life annuity, the period certain for an annuity distribution commencing
215 during the member's lifetime may not exceed the applicable distribution
216 period for the member under the Uniform Lifetime Table set forth in section
217 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains
218 the annuity starting date.

219 If the member's spouse is the member's sole designated beneficiary and the
220 form of distribution is a period certain and no life annuity, the period certain
221 may not exceed the longer of the member's applicable distribution period, as
222 determined under this section, or the joint life and last survivor expectancy
223 of the member and the member's spouse as determined under the Joint and
224 Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury
225 regulations.

226 **Section 4.** Effective January 1, 2003, section 201.24(4.7) is amended to read as follows:

- 227
- 228 (1) If the member dies after his required beginning date, as determined under
229 section 4.6(2), or, if earlier, the date he commences an irrevocable annuity, any
230 remaining benefit must continue to be distributed at least as rapidly as under the
231 method of distribution in effect prior to the member's death.
- 232 (2) If the member dies before his distributions begin and before his required
233 beginning date, as determined under subsection 4.6(2), distribution of the member's
234 entire benefit shall be completed by December 31 of the calendar year containing
235 the 5th anniversary of the member's death, unless an election is made to receive
236 distributions in accordance with subsections (a) or (b) below.
- 237 (a) If any portion of the member's benefit is payable to a designated
238 beneficiary, distributions shall commence ~~may be made either (i) over the~~
239 ~~life of the designated beneficiary or (ii) over a period certain not greater than~~
240 ~~the life expectancy of the designated beneficiary commencing on or before~~
241 December 31 of the calendar year immediately following the calendar year
242 in which the member died.
- 243 (b) If the designated beneficiary is the member's spouse, the date
244 distributions are required to begin in accordance with section (a) above shall

245 not be earlier than the later of (i) December 31 of the calendar year
246 immediately following the calendar year in which the member died, or (ii)
247 December 31 of the calendar year in which the member would have attained
248 age seventy and one-half (70 1/2).

249 If the member has not made an election pursuant to this section by the time of his
250 death, the member's designated beneficiary must elect the method of distribution no
251 later than the earlier of (a) December 31 of the calendar year in which distributions
252 would be required to begin under this section, or (b) December 31 of the calendar
253 year which contains the 5th anniversary of the date of death of the member. If the
254 member has no designated beneficiary, or if the beneficiary fails to elect a method
255 of distribution, distribution of the member's entire interest must be completed by
256 December 31 of the calendar year containing the 5th anniversary of the member's
257 death.

258 If the surviving spouse dies after the member, but before payments commence, the
259 above provisions, with the exception of subsection (b) above, shall be applied as if
260 the surviving spouse were the member.

261 (3) Requirements for Minimum Distributions Where Member Dies Before Date
262 Distributions Begin.

263 (a) Member Survived by Designated Beneficiary. If the member dies before the
264 date distribution of his interest begins and there is a designated beneficiary, the
265 member's entire interest will be distributed, beginning no later than the time
266 described in sections 4.7(2)(a) or (b), over the life of the designated beneficiary
267 or over a period certain not exceeding:

268 (i) The applicable distribution period determined under A-5 of Treasury
269 regulations section 1.401(a)(9)-5, unless the annuity starting date is before
270 the first distribution calendar year. For purposes of sections 4.6 and 4.7, the
271 first distribution calendar year is the calendar year immediately preceding
272 the calendar year which contains the member's required beginning date.
273 For distributions beginning after the member's death, the first distribution
274 calendar year is the calendar year in which distributions are required to
275 begin under section 4.7(2)(a) or (b).

276 (ii) The life expectancy of the designated beneficiary is determined using the
277 beneficiary's age as of the beneficiary's birthday in the calendar year that
278 contains the annuity starting date, if the annuity starting date is before the
279 first distribution calendar year.

280 (b) No Designated Beneficiary. If the member dies before the date distributions
281 begin and there is no designated beneficiary as of September 30 of the year
282 following the year of the member's death, distribution of the member's entire
283 interest will be completed by December 31 of the calendar year containing the
284 fifth anniversary of the member's death.

285 (c) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin.
286 If the member dies before the date distribution of his interest begins, the
287 member's surviving spouse is the member's sole designated beneficiary, and
288 the surviving spouse dies before distributions to the surviving spouse begin, this
289 section will apply as if the surviving spouse were the member, except that the
290 time by which distributions must begin will be determined without regard to
291 section 4.7(2)(a) above.

292 (34) The board shall, upon the member's written request, or in the case of a
293 distribution described in subsection (2)(b) above, upon written request of the
294 member's surviving spouse, may recalculate his and/or his spouse's life expectancy
295 for purposes of calculating the minimum distribution. The member must make such
296 an election not later than his required beginning date as defined in section 4.6(2). A
297 member's surviving spouse must make such an election no later than the December
298 31 date described in subsection (2)(b) above. This election is irrevocable. A
299 recalculation election applicable to a joint life expectancy payment where the
300 survivor is a nonspouse may not take into account any adjustment to any life
301 expectancy other than the member's life expectancy. In the absence of a
302 recalculation election, the system does not permit recalculation of applicable life
303 expectancy.

304

305 **Section 5.** Effective January 1, 2003, section 201.24(4.8)(4) is hereby amended to read as
306 follows:

307 (4) If a designation is revoked, any subsequent distribution must satisfy the
308 requirements of Internal Revenue Code section 401(a)(9) and the proposed
309 regulations thereunder. If a designation is revoked subsequent to the date
310 distributions are required to begin, the trust must distribute, by the end of the
311 calendar year following the calendar year in which the revocation occurs, the total
312 amount not yet distributed which would have been required to have been
313 distributed to satisfy Internal Revenue Code section 401(a)(9) and the proposed
314 regulations thereunder, including the minimum incidental benefit requirements of
315 ~~proposed regulation Section 401(a)(9)-2.~~ Any changes in the designation will be
316 considered to be a revocation of the designation. However, the mere substitution or
317 addition of another beneficiary (one not named in the designation) under the
318 designation will not be considered to be a revocation of the designation, so long as
319 such substitution or addition does not alter the period over which distributions are
320 to be made under the designation, directly or indirectly (for example, by altering the
321 relevant measuring life).

322

323 **Section 6.** Effective January 1, 2008, section 201.24(12.1)(3) is hereby restated to read as
324 follows:

325

326 ~~(3) If a member has never participated in an includable arrangement which provides~~
327 ~~an annual addition as defined in section 12.2 (other than one (1) or more qualified~~
328 ~~defined benefit plans), the limitation in subsection 12.2(a) above is deemed satisfied~~
329 ~~if the annual benefit payable to the member is not more than one thousand dollars~~
330 ~~(\$1,000.00), multiplied by the member's number of years of service or parts thereof~~
331 ~~(not to exceed ten(10)).~~

332 (3) Notwithstanding anything else in this section to the contrary, the benefit
333 otherwise payable to a member under this system shall be deemed not to exceed
334 the maximum permissible benefit if:

335 (a) the retirement benefits payable for a limitation year under any form of
336 benefit with respect to such member under this system and under all other
337 defined benefit plans (without regard to whether a plan has been terminated)
338 ever maintained by the county do not exceed \$10,000 multiplied by a
339 fraction – (i) the numerator of which is the member's number of years (or
340 part thereof, but not less than one year) of service (not to exceed 10) with the
341 county, and (ii) the denominator of which is 10; and

342 (b) the county (or a predecessor employer) has not at any time maintained a
343 qualified defined contribution plan in which the member participated (for
344 this purpose, mandatory employe contributions under a defined benefit plan,
345 individual medical accounts under Internal Revenue Code section 401(h),
346 and accounts for postretirement medical benefits established under Internal
347 Revenue Code section 419A(d)(1) are not considered a separate defined
348 contribution plan).

349
350 **Section 7.** Effective January 1, 2008, section 201.24(12.2)(1) is hereby amended to read as
351 follows:
352

353 (1) "Annual benefits" means the retirement benefit under the system which is
354 payable annually in the form of a straight life annuity. Except as provided in this
355 section, a benefit payable in a form other than a straight life annuity must be
356 adjusted to an actuarially equivalent straight life annuity that begins at the same
357 time as such other forms of benefit and is payable on the first day of each month,
358 before applying the limitations of this section XII. The interest rate assumption used
359 to determine actuarial equivalence shall be the greater of the interest rate
360 determined pursuant to paragraph (13) of section II or five (5) percent. The annual
361 benefit does not include any benefits attributable to ~~employee contributions or~~
362 rollover contributions or the assets transferred or rolled over from a qualified plan
363 that was not maintained by the county. For members who make contributions to
364 their membership accounts, to the extent the County does not pick up these
365 contributions and to the extent that such contributions are not measured by Internal
366 Revenue Code section 415(n), the annual benefit attributable to such contributions
367 shall be determined according to Internal Revenue Code section 411(c)(3) and the

368 Treasury regulations thereunder. No actuarial adjustment to the benefit is required
369 for the following benefits:

370 (a) The value of survivor benefits payable to a surviving spouse under a
371 qualified joint and survivor annuity to the extent such benefits would not be
372 payable if the member's benefit were not paid in a qualified joint and
373 survivor annuity;

374 (b) The value of benefits that are not directly related to retirement benefits;
375 and

376 (c) For members who at retirement do not have the value of the cost of living
377 adjustment described in section 5.7 included in their Internal Revenue Code
378 section 415 compliance calculation, the value of an automatic benefit
379 increase feature, provided the form of benefit is not subject to Internal
380 Revenue Code section 417(e)(3), would otherwise satisfy the limitations of
381 this section XII, and the amount payable under the form of benefit in any
382 limitation year shall not exceed the limits of this section XII and Internal
383 Revenue Code section 415(b) applicable at the annuity starting date. For this
384 purpose, an automatic benefit increase feature is included in a form of
385 benefit if the form of benefit provides for automatic, periodic increases to the
386 benefits paid in that form ~~post retirement cost of living increases made in~~
387 ~~accordance with Internal Revenue Code section 415(d) and applicable~~
388 Treasury Regulations.

389 The determination of the annual benefit shall take into account Social Security
390 supplements described in Internal Revenue Code section 411(a)(9).

391 The determination of actuarial equivalence of forms of benefit other than a straight
392 life annuity shall be made in accordance with the following section 12.2(1)(a) or (b).

393 (a) Benefit Forms Not Subject to Internal Revenue Code Section 417(e)(3):
394 The straight life annuity that is actuarially equivalent to the member's form of
395 benefit shall be determined under this section 12.2(1) if the form of the
396 member's benefit is either (1) a nondecreasing annuity (other than a straight
397 life annuity) payable for a period of not less than the life of the member (or,
398 in the case of a qualified pre-retirement survivor annuity, the life of the
399 surviving spouse), or (2) an annuity that decreases during the life of the
400 member merely because of (a) the death of the survivor annuitant (but only if
401 the reduction is not below fifty (50) percent of the benefit payable before the
402 death of the survivor annuitant), or (b) the cessation or reduction of Social
403 Security supplements or qualified disability payments (as defined in Internal
404 Revenue Code section 401(a)(11)).

405 (i) Limitation Years Beginning Before July 1, 2007. For limitation
406 years beginning before July 1, 2007, the actuarially equivalent straight
407 life annuity is equal to the annual amount of the straight life annuity
408 commencing at the same annuity starting date that has the same

409 actuarial present value as the member's form of benefit computed
410 using whichever of the following produces the greater annual amount:
411 (I) the interest rate specified in Rule 1014(c)(2) and the mortality table
412 specified in Rule 1014(c)(1) for adjusting benefits in the same form;
413 and (II) a five (5) percent interest rate assumption and the applicable
414 mortality table defined in Internal Revenue Code section 417(e) for
415 that annuity starting date.

416 (ii) Limitation Years Beginning on or After July 1, 2007. For limitation
417 years beginning on or after July 1, 2007, the actuarially equivalent
418 straight life annuity is equal to the greater of (1) the annual amount of
419 the straight life annuity (if any) payable to the member under the
420 system commencing at the same annuity starting date as the member's
421 form of benefit; and (2) the annual amount of the straight life annuity
422 commencing at the same annuity starting date that has the same
423 actuarial present value as the member's form of benefit, computed
424 using a five (5) percent interest rate assumption and the applicable
425 mortality table defined in Internal Revenue Code section 417(e) for
426 that annuity starting date.

427 (b) Benefit Forms Subject to Internal Revenue Code Section 417(e)(3): The
428 straight life annuity that is actuarially equivalent to the member's form of
429 benefit shall be determined under this paragraph if the form of the member's
430 benefit is other than a benefit form described in section 12.2(1)(a). In this
431 case, the actuarially equivalent straight life annuity shall be determined as
432 follows:

433 (i) Annuity Starting Date in Limitation Years Beginning After 2005.
434 The actuarially equivalent straight life annuity is equal to the greatest
435 of (I) the annual amount of the straight life annuity commencing at the
436 same annuity starting date that has the same actuarial present value as
437 the member's form of benefit, computed using the interest rate
438 specified in Rule 1014(c)(2) and the mortality table specified in Rule
439 1014(c)(1) for adjusting benefits in the same form; (II) the annual
440 amount of the straight life annuity commencing at the same annuity
441 starting date that has the same actuarial present value as the member's
442 form of benefit, computed using a five and one-half (5.5) percent
443 interest rate assumption and the applicable mortality table defined in
444 Internal Revenue Code section 417(e); and (III) the annual amount of
445 the straight life annuity commencing at the same annuity starting date
446 that has the same actuarial present value as the member's form of
447 benefit, computed using the applicable interest rate defined in Internal
448 Revenue Code section 417(e) and the applicable mortality table
449 defined in Internal Revenue Code section 417(e), divided by one and
450 five one-hundredths (1.05).

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(ii) Annuity Starting Date in Limitation Years Beginning in 2004 or 2005. If the annuity starting date of the member's form of benefit is in a limitation year beginning in 2004 or 2005, and if the IRS so requires, 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) the interest rate specified in Rule 1014(c)(2) and the mortality table (or other tabular factor) specified in Rule 1014(c)(1) for adjusting benefits in the same form; and (II) a five and one-half (5.5) percent interest rate assumption and the applicable mortality table defined in Rule 1014(b)(1).

If the member's chosen form of benefit is subject to Internal Revenue Code section 417(e)(3) and the annuity starting date of the member's benefit is on or after the first day of the first limitation year beginning in 2004 and before December 31, 2004, the application of this section 12.2(1)(b)(ii) shall not cause the amount payable under the member's form of benefit to be less than the benefit calculated under the system, taking into account the limitations of this section XII, except that 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 greatest annual amount:

(I) the interest rate specified in Rule 1014(c)(2) and the mortality table (or other tabular factor) specified in Rule 1014(c)(1) for adjusting benefits in the same form;

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

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

Section 8. Effective January 1, 2002, section 201.24(12.3)(2) is amended to read as follows:

491 (2) If the annual benefit of the member commences on or after age sixty-two
492 (62), the general limitations of subsection (1) above shall apply. The defined
493 benefit dollar limitation shall be adjusted if the annuity starting date of the
494 member's benefit is before age 62.

495 (a) Adjustment of Defined Benefit Dollar Limitation for Benefit
496 Commencement Before Age 62.

497 (i) Limitation Years Beginning Before July 1, 2007. If the annuity
498 starting date for the member's benefit is prior to age 62 and occurs in
499 a limitation year beginning before July 1, 2007, the defined benefit
500 dollar limitation for the member's annuity starting date is the annual
501 amount of a benefit payable in the form of a straight life annuity
502 commencing at the member's annuity starting date that is the actuarial
503 equivalent of the defined benefit dollar limitation (adjusted under
504 section 12.3(1) for years of participation less than ten (10), if required)
505 with actuarial equivalence computed using a five (5) percent interest
506 rate assumption and the 1994 GAR mortality table.

507 (ii) Limitation Years Beginning on or After July 1, 2007. If the
508 annuity starting date for the member's benefit is prior to age 62 and
509 occurs in a limitation year beginning on or after July 1, 2007, the
510 defined benefit dollar limitation for the member's annuity starting date
511 is the lesser of: [a] the annual amount of a benefit payable in the form
512 of a straight life annuity commencing at the member's annuity starting
513 date that is the actuarial equivalent of the defined benefit dollar
514 limitation (adjusted under section 12.3(1) for years of participation
515 less than ten (10), if required) with actuarial equivalence computed
516 using a five (5) percent interest rate and the applicable Internal
517 Revenue Code section 417(e) mortality table effective for that annuity
518 starting date and [b] the defined benefit dollar limitation (adjusted
519 under section 12.3(1) for years of participation less than ten (10), if
520 required) multiplied by the ratio of the annual amount of the
521 immediately commencing straight life annuity under the system at the
522 member's annuity starting date to the annual amount of the
523 immediately commencing straight life annuity under the system at age
524 sixty-two (62), both determined without applying the limitations of
525 this section XII (and expressing the participant's age based on
526 completed calendar months as of the annuity starting date).

527 (b) Notwithstanding the other requirements of this section 12.3, no
528 adjustment shall be made to the defined benefit dollar limitation to reflect
529 the probability of a member's death between the annuity starting date and
530 age sixty-two (62) if benefits are not forfeited upon the death of the member

531 prior to the annuity starting date. To the extent benefits are forfeited upon
532 death before the annuity starting date, such an adjustment shall be made.

533 (c) Notwithstanding the other requirements of this section 12.3, no
534 adjustment shall be made to the defined benefit dollar limitation for
535 commencement of a benefit before age sixty-two (62) for a distribution on
536 account of a member's becoming disabled by reason of a personal injury or
537 sickness, or as a result of the death of a member.

538
539 **Section 9.** Effective January 1, 2002, section 201.24(12.3)(3) is amended to read as
540 follows:

541
542 (3) ~~Except as provided in this paragraph, if the annual benefit of the member~~
543 ~~commences prior to age sixty two (62), the defined benefit dollar limitation~~
544 ~~shall be the actuarial equivalent of an annual benefit beginning at age sixty-~~
545 ~~two (62). To determine actuarial equivalence, the interest rate assumption is~~
546 ~~the greater of the rates specified in paragraph (13) of section II or five (5)~~
547 ~~percent. In the event the annual benefit of the member commences between~~
548 ~~age fifty five (55) and sixty two (62), the actuarial reduction of the defined~~
549 ~~benefit dollar limitation shall not result in a dollar limitation which is less~~
550 ~~than seventy-five thousand dollars (\$75,000.00). In the event the annual~~
551 ~~benefit of the member commences prior to age fifty-five (55), the defined~~
552 ~~benefit dollar limitation shall be the greater of (a) the amount which is the~~
553 ~~actuarial equivalent of a seventy five thousand dollar (\$75,000.00) annual~~
554 ~~benefit commencing at age fifty five (55); or (b) the actuarial equivalent of the~~
555 ~~defined benefit dollar limitation beginning at age sixty two (62), both~~
556 ~~calculated using the interest rate specified in the second sentence of this~~
557 ~~section 12.3(3). Notwithstanding the provisions of this section 12.3(2), the~~
558 ~~defined benefit dollar limitation of a "qualified member" shall not be~~
559 ~~actuarially adjusted. For purposes of this section, a "qualified member" is a~~
560 ~~member whose years of service taken into account in determining his benefit~~
561 ~~include at least fifteen (15) years of service as a full-time employe of any~~
562 ~~department of the county which provides police protection, firefighting~~
563 ~~services, or emergency medical services for any area within the jurisdiction~~
564 ~~of the county or is a member of the armed forces of the United States.~~

565
566 **Section 10.** Effective January 1, 2002, section 201.24(12.4)(1) is amended to read as
567 follows:

568
569 (1) The annual addition to a member's savings account and membership
570 account for any limitation year shall not exceed the lesser of:
571
572 (a) ~~The greater of thirty thousand dollars (\$30,000.00) or twenty five (25)~~
573 ~~percent of the defined benefit dollar limitation recited in Internal~~

574 ~~Revenue Code Section 415(b)(1)(A) for such year~~ The defined
575 contribution dollar limitation provided in Internal Revenue Code
576 section 415(c)(1)(A), or such successor provision of the Internal
577 Revenue Code, as adjusted for cost of living adjustments pursuant to
578 Internal Revenue Code section 415(d); or
579

580 (b) ~~Twenty five (25)~~ One hundred (100) percent of the compensation
581 paid or made available to the member for such year.
582

583 **Section 11.** Effective January 1, 2002, section 201.24(12.6) is amended to read as follows:
584

585 The defined benefit dollar limitation shall equal One Hundred Sixty Thousand
586 Dollars (\$160,000.00) ~~is ninety thousand dollars (\$90,000.00)~~. Effective January 1,
587 1988 and each January 1 thereafter, the ~~ninety thousand~~ dollar limitation shall be
588 adjusted by multiplying such limit by the cost of living adjustment factor prescribed
589 by the Secretary of the Treasury under Internal Revenue Code section 415(d). The
590 new dollar limitation shall apply to limitation years ending within the calendar year
591 of the date of adjustment.
592

593 **Section 12.** Effective January 1, 2001, section 201.24(12.8) is hereby amended to read as
594 follows:
595

596 Compensation, for the purposes of this section, means "participant's compensation,"
597 as defined in ~~IRS~~ Internal Revenue Code section 415(c)(3) and the regulations
598 thereunder, including elective contributions made by the County on behalf of the
599 member that are not includable in income under ~~IRS~~ Internal Revenue Code section
600 125, 132(f)(4), 401(h)(2), 402 (e)(3), 402(h) or 403(b).
601

602 **Section 13.** Effective January 1, 2008, section 201.24(12.8) is hereby amended to read as
603 follows:
604

605 Compensation, for the purposes of this section, means "participant's compensation,"
606 as defined in ~~IRS~~ Internal Revenue Code section 415(c)(3) and paid prior to the
607 member's severance from employment and the regulations thereunder, including
608 elective contributions made by the County on behalf of the member that are not
609 includable in income under ~~IRS~~ Internal Revenue Code section 125, 132(f)(4),
610 401(h)(2), 402 (a)(8) (e)(3), 402(h) or 403(b).
611

612 **Section 14.** Effective January 1, 2002, section 201.24(13.3) is amended to read as follows:
613

614 An eligible retirement plan is an individual retirement account described in Internal
615 Revenue Code section 408(a), an individual retirement annuity described in Internal
616 Revenue Code section 408(b), an individual retirement annuity described in Internal
617 Revenue Code section 403(a), ~~or~~ a qualified trust described in Internal Revenue

618 Code section 401(a) that accepts the distributee's eligible rollover distribution, an
619 eligible deferred compensation plan described in Internal Revenue Code section
620 457(b) which is maintained by an eligible employer described in Internal Revenue
621 Code section 457(e)(1)(A), or an annuity contract described in Internal Revenue
622 Code section 403(b). However, in the case of an eligible rollover distribution to a
623 distributee's surviving spouse, an eligible retirement plan is an individual retirement
624 account or individual retirement account or an individual retirement annuity.
625

626 **Section 15.** Effective January 1, 2010, the following shall be added to the end of section
627 201.24(13.3):

628
629 Effective for eligible rollover distributions made on or after January 1, 2008, an
630 eligible retirement plan shall also mean a Roth individual retirement account
631 described in Internal Revenue Code section 408A provided that eligible rollover
632 distributions made on or after January 1, 2008 are subject to the adjusted gross
633 income limits of Internal Revenue Code section 408A(c)(3)(B), as applicable, and
634 the distribution rules of Internal Revenue Code section 408A(d)((3). For a
635 distributee who is a nonspouse designated beneficiary, the direct rollover may be
636 made only to an individual retirement account or annuity described in Internal
637 Revenue Code section 408(a) or 408(b) that is established on behalf of the
638 designated beneficiary for the purpose of receiving the distribution as an inherited
639 individual retirement account or annuity pursuant to the provisions of Internal
640 Revenue Code section 408(d)(3)(C).

641
642 **Section 16.** Effective January 1, 2010, section 201.24(13.4) of the Milwaukee County
643 Code of General Ordinances is amended to read as follows:

644
645 A distributee includes a member or former member. In addition, the member's or
646 former member's surviving spouse and the member's or former member's spouse or
647 former spouse who is the alternate payee under a qualified domestic relations order,
648 as defined in Internal Revenue Code section 414(p), are distributees with regard to
649 the interest of the spouse or former spouse. A distributee also includes a member or
650 former member's nonspouse beneficiary.

651
652 **Section 17.** The provisions of this ordinance shall be effective as set forth above,
653 but in any event no later than upon passage and publication.

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