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FROM THE OFFICE OF JOSPEH J. CZARNEZKI

MILWAUKEE COUNTY CLERK

County Ordinance No. 14-11

File No. 14-244

AN ORDINANCE

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

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

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

Earnable compensation shall mean total compensation that would be payable to a member if he/she worked the full normal working time for his/her position, plus all payments for authorized overtime but excluding payments in lieu of vacations, provided that where service is credited during periods of absences as provided in section 2.9 hereof, the employe shall be considered to have earnable compensation during such periods of absence equivalent to his/her earnable compensation as of the last month of employment prior to the beginning of such absences. In cases where compensation includes maintenance, the board shall fix the value of that ~~part~~ portion of the compensation not payable in money. Where the county pays less than the full rate of compensation for a position and the balance is payable by some other government, company or individual, the amount paid by the county shall be considered the earnable compensation for such period of service. The annual earnable 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 Internal Revenue 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/her 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 one-hundred fifty~~ two thousand dollars (\$~~201~~2050,000.00), as indexed.

34

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

37 To the extent required by the Heroes Earnings Assistance and Relief Tax Act of
38 2008 (HEART Act) and as applicable for the system, the following provisions
39 apply:

40

41 (a) Effective January 1, 2007, if a member dies while performing qualified
42 military service, the survivors of the member shall be entitled to any
43 additional benefits (other than contributions relating to the period of
44 qualified military service) provided under the system as if the member
45 had been reemployed on the day prior to death and then severed
46 employment on the actual date of death.

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

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

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

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

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

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

65 (b) The member terminates employment.

66 Notwithstanding the preceding, regardless of whether a member files an
67 application for benefits, in all events, payments shall commence no later than the

68 member's required beginning date, which is the April 1 following the calendar year in
69 which the member attains age seventy and one-half (70 1/2) or, if later, the calendar year
70 in which the member retires. All distributions made under sections (4.6) and (4.7) shall
71 be determined and made in accordance with Internal Revenue Code section 401(a)(9)
72 and corresponding Treasury regulations. Notwithstanding the other provisions of this
73 section 4.6 and section 4.7, distributions may be made under a designation made before
74 January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal
75 Responsibility Act (TEFRA) and the provisions of Ordinance section 201.24(4.8) that relate
76 to section 242(b)(2) of TEFRA. For a retired member who attained age seventy and one-
77 half (70 1/2) after December 31, 1987 and before January 1, 1989, payments shall
78 commence not later than April 1, 1990.

79 (3) Benefits may not be distributed to any member under a method of payment which, as
80 of the member's required beginning date, does not satisfy the minimum distribution
81 requirements of Internal Revenue Code section 401(a)(9) and applicable Treasury
82 regulations, including the minimum distribution incidental benefit requirements of
83 ~~proposed Treasury regulation Section 1.401(a)(9)-2~~, which the system hereby
84 incorporates by reference. Life expectancy is computed by use of the Single Life Table in
85 section 1.401(a)(9)-9 of the Treasury regulations. Section II(6) permits a member to
86 receive a pension in the form of an annuity (i.e., periodic payments payable at regular
87 intervals). If a member receives his pension benefit in the form of an annuity, payments
88 under the annuity shall satisfy the following requirements:

89 (a) The amount that must be distributed on or before the member's required
90 beginning date (or, if the member dies before distributions begin, the date
91 distributions are required to begin under sections 4.7(2)(a) or (b) below) is the
92 payment that is required for one payment interval. The second payment need
93 not be made until the end of the next payment interval even if that payment
94 interval ends in the next calendar year. Payment intervals are the periods for
95 which payments are received, e.g., bi-monthly, monthly, semi-annually, or
96 annually. All of the member's benefit accruals as of the last day of the first
97 distribution calendar year will be included in the calculation of the amount of the
98 annuity payments for payment intervals ending on or after the member's
99 required beginning date; ~~The amount to be distributed each year must be at least~~
100 ~~an amount equal to the quotient obtained by dividing the member's entire~~
101 ~~interest by the life expectancy of the member or the joint and last survivor~~
102 ~~expectancy of the member and designated beneficiary;~~

103 (b) Life expectancy (a joint life and last survivor expectancy), for purposes for
104 determining the period certain, shall be determined without recalculation of life
105 expectancy;

106 (c) Life expectancy of a member and the joint life expectancy of a member and
107 his beneficiary for all other purposes shall be determined in accordance with
108 applicable law and regulations, provided that the member or his spouse may
109 elect to recalculate life expectancy for one (1) or both lives no more frequently
110 than annually, provided such election is made prior to the member's required
111 distribution date;

112 (d) Once payments have begun over a period certain, the period certain may not
113 be lengthened even if the period certain is shorter than the maximum permitted;
114 ~~and~~

115 (e) Annuity distributions must be paid in periodic payments made at intervals not
116 longer than one (1) year;

117 (f) Life (or joint and survivor) annuity payments will satisfy the minimum
118 distribution incidental benefit requirements of A-2 of Treasury regulation section
119 1.401(a)(9)-6; and

120 (g) Payments will either be nonincreasing or increase only as follows (and only if
121 so allowed by and provided for in other Ordinance provisions):

122 (i) By an annual percentage increase that does not exceed the annual
123 percentage increase in an eligible cost-of-living index (as defined under
124 A-14 of Treasury regulation section 1.401(a)(9)-6) for a twelve- (12-)
125 month period ending in the year during which the increase occurs or a
126 prior year;

127 (ii) By a percentage increase that occurs at specified times and does not
128 exceed the cumulative total of annual percentage increases in an eligible
129 cost-of-living index (as defined under A-14 of Treasury regulation section
130 1.401(a)(9)-6) since the annuity starting date, or if later, the date of the
131 most recent percentage increase, provided (in the case of a cumulative
132 increase), an actuarial increase may not be provided to reflect that
133 increases were not provided in the interim years;

134 (iii) To the extent of the reduction in the amount of the member's
135 payments to provide for a survivor benefit upon death, but only if there is
136 no longer a survivor benefit because the beneficiary whose life was being

137 used to determine the distribution period described in section 4.7(2) dies
138 or is no longer the member's beneficiary pursuant to a domestic relations
139 order within the meaning of Rule 1017;

140 (iv) To allow a beneficiary to convert the survivor portion of a joint and
141 survivor annuity into a single sum distribution upon the member's death;

142 (v) To pay increased benefits that result from an Ordinance amendment;
143 or

144 (vi) To the extent increases are otherwise permitted under A-14 of
145 Treasury regulation section 1.401(a)(9)-6.

146 (h) Any additional benefits accruing to the member in a calendar year after the
147 first distribution calendar year will be distributed beginning with the first
148 payment interval ending in the calendar year immediately following the calendar
149 year in which such amount accrues.

150 (4) Requirements for annuity distributions that commence during a member's lifetime.

151 (a) Joint Life Annuities Where the Beneficiary Is Not the Member's Spouse. If the
152 member's interest is being distributed in the form of a joint and survivor annuity
153 for the joint lives of the member and a nonspouse beneficiary, annuity payments
154 to be made on or after the member's required beginning date to the designated
155 beneficiary after the member's death must not at any time exceed the applicable
156 percentage of the annuity payment for such period that would have been
157 payable to the member as determined for individuals less than age seventy and
158 one-half (70 1/2) at the member's annuity starting date using the table set forth
159 in A-2 of section 1.401(a)(9)-6 of the Treasury regulations. If the form of
160 distribution combines a joint and survivor annuity for the joint lives of the
161 member and a nonspouse beneficiary and a period certain annuity, the
162 requirement in the preceding sentence will apply to annuity payments to be
163 made to the designated beneficiary after the expiration of the period certain.

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

170 If the member's spouse is the member's sole designated beneficiary and the form
171 of distribution is a period certain and no life annuity, the period certain may not
172 exceed the longer of the member's applicable distribution period, as determined
173 under this section, or the joint life and last survivor expectancy of the member
174 and the member's spouse as determined under the Joint and Last Survivor Table
175 set forth in section 1.401(a)(9)-9 of the Treasury regulations.

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

177

178 (1) If the member dies after his required beginning date, as determined under section
179 4.6(2), or, if earlier, the date he commences an irrevocable annuity, any remaining benefit
180 must continue to be distributed at least as rapidly as under the method of distribution in
181 effect prior to the member's death.

182 (2) If the member dies before his distributions begin and before his required beginning
183 date, as determined under subsection 4.6(2), distribution of the member's entire benefit
184 shall be completed by December 31 of the calendar year containing the 5th anniversary
185 of the member's death, unless an election is made to receive distributions in accordance
186 with subsections (a) or (b) below.

187 (a) If any portion of the member's benefit is payable to a designated beneficiary,
188 distributions shall commence ~~may be made either (i) over the life of the~~
189 ~~designated beneficiary or (ii) over a period certain not greater than the life~~
190 ~~expectancy of the designated beneficiary commencing on or before December 31~~
191 ~~of the calendar year immediately following the calendar year in which the~~
192 ~~member died.~~

193 (b) If the designated beneficiary is the member's spouse, the date distributions
194 are required to begin in accordance with section (a) above shall not be earlier
195 than the later of (i) December 31 of the calendar year immediately following the
196 calendar year in which the member died, or (ii) December 31 of the calendar year
197 in which the member would have attained age seventy and one-half (70 1/2).

198 If the member has not made an election pursuant to this section by the time of his
199 death, the member's designated beneficiary must elect the method of distribution no
200 later than the earlier of (a) December 31 of the calendar year in which distributions
201 would be required to begin under this section, or (b) December 31 of the calendar year
202 which contains the 5th anniversary of the date of death of the member. If the member
203 has no designated beneficiary, or if the beneficiary fails to elect a method of distribution,

204 distribution of the member's entire interest must be completed by December 31 of the
205 calendar year containing the 5th anniversary of the member's death.

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

209 (3) Requirements for Minimum Distributions Where Member Dies Before Date
210 Distributions Begin.

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

216 (i) The applicable distribution period determined under A-5 of Treasury
217 regulations section 1.401(a)(9)-5, unless the annuity starting date is before the
218 first distribution calendar year. For purposes of sections 4.6 and 4.7, the first
219 distribution calendar year is the calendar year immediately preceding the
220 calendar year which contains the member's required beginning date. For
221 distributions beginning after the member's death, the first distribution calendar
222 year is the calendar year in which distributions are required to begin under
223 section 4.7(2)(a) or (b).

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

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

233 (c) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the
234 member dies before the date distribution of his interest begins, the member's
235 surviving spouse is the member's sole designated beneficiary, and the surviving
236 spouse dies before distributions to the surviving spouse begin, this section will
237 apply as if the surviving spouse were the member, except that the time by which

238 distributions must begin will be determined without regard to section 4.7(2)(a)
239 above.

240 ~~(3)~~ The board shall, upon the member's written request, or in the case of a distribution
241 described in subsection (2)(b) above, upon written request of the member's surviving
242 spouse, may recalculate his and/or his spouse's life expectancy for purposes of
243 calculating the minimum distribution. The member must make such an election not later
244 than his required beginning date as defined in section 4.6(2). A member's surviving
245 spouse must make such an election no later than the December 31 date described in
246 subsection (2)(b) above. This election is irrevocable. A recalculation election applicable to
247 a joint life expectancy payment where the survivor is a nonspouse may not take into
248 account any adjustment to any life expectancy other than the member's life expectancy.
249 In the absence of a recalculation election, the system does not permit recalculation of
250 applicable life expectancy.

251

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

254 (4) If a designation is revoked, any subsequent distribution must satisfy the requirements
255 of Internal Revenue Code section 401(a)(9) and the proposed regulations thereunder. If
256 a designation is revoked subsequent to the date distributions are required to begin, the
257 trust must distribute, by the end of the calendar year following the calendar year in
258 which the revocation occurs, the total amount not yet distributed which would have
259 been required to have been distributed to satisfy Internal Revenue Code section
260 401(a)(9) and the proposed regulations thereunder, including the minimum incidental
261 benefit requirements of ~~proposed regulation Section 401(a)(9)-2~~. Any changes in the
262 designation will be considered to be a revocation of the designation. However, the mere
263 substitution or addition of another beneficiary (one not named in the designation) under
264 the designation will not be considered to be a revocation of the designation, so long as
265 such substitution or addition does not alter the period over which distributions are to be
266 made under the designation, directly or indirectly (for example, by altering the relevant
267 measuring life).

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

270 ~~(3) If a member has never participated in an includable arrangement which provides an~~
271 ~~annual addition as defined in section 12.2 (other than one (1) or more qualified defined~~
272 ~~benefit plans), the limitation in subsection 12.2(a) above is deemed satisfied if the annual~~

273 benefit payable to the member is not more than one thousand dollars (\$1,000.00),
274 multiplied by the member's number of years of service or parts thereof (not to exceed
275 ten(10)).

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

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

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

292 **Section 7.** Effective January 1, 2008, section 201.24(12.2)(1) is hereby amended to read as
293 follows:

294 (1) "Annual benefits" means the retirement benefit under the system which is payable
295 annually in the form of a straight life annuity. Except as provided in this section, a
296 benefit payable in a form other than a straight life annuity must be adjusted to an
297 actuarially equivalent straight life annuity that begins at the same time as such other
298 forms of benefit and is payable on the first day of each month, before applying the
299 limitations of this section XII. The interest rate assumption used to determine actuarial
300 equivalence shall be the greater of the interest rate determined pursuant to paragraph
301 (13) of section II or five (5) percent. The annual benefit does not include any benefits
302 attributable to ~~employe contributions~~ or rollover contributions or the assets transferred
303 or rolled over from a qualified plan that was not maintained by the county. For members
304 who make contributions to their membership accounts, to the extent the County does
305 not pick up these contributions and to the extent that such contributions are not
306 measured by Internal Revenue Code section 415(n), the annual benefit attributable to
307 such contributions shall be determined according to Internal Revenue Code section

308 411(c)(3) and the Treasury regulations thereunder. No actuarial adjustment to the
309 benefit is required for the following benefits:

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

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

314 ~~(c)~~ For members who at retirement do not have the value of the cost of living
315 adjustment described in section 5.7 included in their Internal Revenue Code
316 section 415 compliance calculation, the value of an automatic benefit increase
317 feature, provided the form of benefit is not subject to Internal Revenue Code
318 section 417(e)(3), would otherwise satisfy the limitations of this section XII, and
319 the amount payable under the form of benefit in any limitation year shall not
320 exceed the limits of this section XII and Internal Revenue Code section 415(b)
321 applicable at the annuity starting date. For this purpose, an automatic benefit
322 increase feature is included in a form of benefit if the form of benefit provides for
323 automatic, periodic increases to the benefits paid in that form post-retirement
324 cost-of-living increases made in accordance with Internal Revenue Code section
325 415(d) and applicable Treasury Regulations.

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

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

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

341 (i) Limitation Years Beginning Before July 1, 2007. For limitation years
342 beginning before July 1, 2007, the actuarially equivalent straight life

343 annuity is equal to the annual amount of the straight life annuity
344 commencing at the same annuity starting date that has the same actuarial
345 present value as the member's form of benefit computed using whichever
346 of the following produces the greater annual amount:

347 (I) The interest rate specified in Rule 1014(c)(2) and the mortality table
348 specified in Rule 1014(c)(1) for adjusting benefits in the same form; and
349 (II) a five (5) percent interest rate assumption and the applicable mortality
350 table defined in Internal Revenue Code section 417(e) for that annuity
351 starting date.

352 (ii) Limitation Years Beginning on or After July 1, 2007. For limitation
353 years beginning on or after July 1, 2007, the actuarially equivalent straight
354 life annuity is equal to the greater of (1) the annual amount of the straight
355 life annuity (if any) payable to the member under the system commencing
356 at the same annuity starting date as the member's form of benefit; and (2)
357 the annual amount of the straight life annuity commencing at the same
358 annuity starting date that has the same actuarial present value as the
359 member's form of benefit, computed using a five (5) percent interest rate
360 assumption and the applicable mortality table defined in Internal Revenue
361 Code section 417(e) for that annuity starting date.

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

367 (i) Annuity Starting Date in Limitation Years Beginning After 2005. The
368 actuarially equivalent straight life annuity is equal to the greatest of (I) the
369 annual amount of the straight life annuity commencing at the same
370 annuity starting date that has the same actuarial present value as the
371 member's form of benefit, computed using the interest rate specified in
372 Rule 1014(c)(2) and the mortality table specified in Rule 1014(c)(1) for
373 adjusting benefits in the same form; (II) the annual amount of the straight
374 life annuity commencing at the same annuity starting date that has the
375 same actuarial present value as the member's form of benefit, computed
376 using a five and one-half (5.5) percent interest rate assumption and the
377 applicable mortality table defined in Internal Revenue Code section

378 417(e); and (III) the annual amount of the straight life annuity
379 commencing at the same annuity starting date that has the same actuarial
380 present value as the member's form of benefit, computed using the
381 applicable interest rate defined in Internal Revenue Code section 417(e)
382 and the applicable mortality table defined in Internal Revenue Code
383 section 417(e), divided by one and five one-hundredths (1.05).

384 (ii) Annuity Starting Date in Limitation Years Beginning in 2004 or 2005. If
385 the annuity starting date of the member's form of benefit is in a limitation
386 year beginning in 2004 or 2005, and if the IRS so requires, the actuarially
387 equivalent straight life annuity is equal to the annual amount of the
388 straight life annuity commencing at the same annuity starting date that
389 has the same actuarial present value as the member's form of benefit,
390 computed using whichever of the following produces the greater annual
391 amount: (I) the interest rate specified in Rule 1014(c)(2) and the mortality
392 table (or other tabular factor) specified in Rule 1014(c)(1) for adjusting
393 benefits in the same form; and (II) a five and one-half (5.5) percent
394 interest rate assumption and the applicable mortality table defined in Rule
395 1014(b)(1).

396 If the member's chosen form of benefit is subject to Internal Revenue
397 Code section 417(e)(3) and the annuity starting date of the member's
398 benefit is on or after the first day of the first limitation year beginning in
399 2004 and before December 31, 2004, the application of this section
400 12.2(1)(b)(ii) shall not cause the amount payable under the member's
401 form of benefit to be less than the benefit calculated under the system,
402 taking into account the limitations of this section XII, except that the
403 actuarially equivalent straight life annuity is equal to the annual amount of
404 the straight life annuity commencing at the same annuity starting date
405 that has the same actuarial present value as the member's form of benefit,
406 computed using whichever of the following produces the greatest annual
407 amount:

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

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

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

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

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

424 (a) Adjustment of Defined Benefit Dollar Limitation for Benefit Commencement
425 Before Age 62.

426 (i) Limitation Years Beginning Before July 1, 2007. If the annuity
427 starting date for the member's benefit is prior to age 62 and occurs in a
428 limitation year beginning before July 1, 2007, the defined benefit dollar
429 limitation for the member's annuity starting date is the annual amount of
430 a benefit payable in the form of a straight life annuity commencing at the
431 member's annuity starting date that is the actuarial equivalent of the
432 defined benefit dollar limitation (adjusted under section 12.3(1) for years
433 of participation less than ten (10), if required) with actuarial equivalence
434 computed using a five (5) percent interest rate assumption and the 1994
435 GAR mortality table.

436 (ii) Limitation Years Beginning on or After July 1, 2007. If the annuity
437 starting date for the member's benefit is prior to age 62 and occurs in a
438 limitation year beginning on or after July 1, 2007, the defined benefit
439 dollar limitation for the member's annuity starting date is the lesser of: [a]
440 the annual amount of a benefit payable in the form of a straight life
441 annuity commencing at the member's annuity starting date that is the
442 actuarial equivalent of the defined benefit dollar limitation (adjusted
443 under section 12.3(1) for years of participation less than ten (10), if
444 required) with actuarial equivalence computed using a five (5) percent

445 interest rate and the applicable Internal Revenue Code section 417(e)
446 mortality table effective for that annuity starting date and [b] the defined
447 benefit dollar limitation (adjusted under section 12.3(1) for years of
448 participation less than ten (10), if required) multiplied by the ratio of the
449 annual amount of the immediately commencing straight life annuity
450 under the system at the member's annuity starting date to the annual
451 amount of the immediately commencing straight life annuity under the
452 system at age sixty-two (62), both determined without applying the
453 limitations of this section XII (and expressing the participant's age based
454 on completed calendar months as of the annuity starting date).

455 (b) Notwithstanding the other requirements of this section 12.3, no
456 adjustment shall be made to the defined benefit dollar limitation to reflect the
457 probability of a member's death between the annuity starting date and age sixty-
458 two (62) if benefits are not forfeited upon the death of the member prior to the
459 annuity starting date. To the extent benefits are forfeited upon death before the
460 annuity starting date, such an adjustment shall be made.

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

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

467 (3) Except as provided in this paragraph, if the annual benefit of the member
468 commences prior to age sixty-two (62), the defined benefit dollar limitation shall
469 be the actuarial equivalent of an annual benefit beginning at age sixty-two (62).
470 To determine actuarial equivalence, the interest rate assumption is the greater of
471 the rates specified in paragraph (13) of section II or five (5) percent. In the event
472 the annual benefit of the member commences between age fifty-five (55) and
473 sixty-two (62), the actuarial reduction of the defined benefit dollar limitation shall
474 not result in a dollar limitation which is less than seventy-five thousand dollars
475 (\$75,000.00). In the event the annual benefit of the member commences prior to
476 age fifty-five (55), the defined benefit dollar limitation shall be the greater of (a)
477 the amount which is the actuarial equivalent of a seventy-five thousand dollar
478 (\$75,000.00) annual benefit commencing at age fifty-five (55); or (b) the actuarial
479 equivalent of the defined benefit dollar limitation beginning at age sixty-two (62);

480 both calculated using the interest rate specified in the second sentence of this
481 ~~section 12.3(3)~~. Notwithstanding the provisions of this section 12.3(2), the
482 defined benefit dollar limitation of a "qualified member" shall not be actuarially
483 adjusted. For purposes of this section, a "qualified member" is a member whose
484 years of service taken into account in determining his benefit include at least
485 fifteen (15) years of service as a full-time employe of any department of the
486 county which provides police protection, firefighting services, or emergency
487 medical services for any area within the jurisdiction of the county or is a member
488 of the armed forces of the United States.

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

490 (1) The annual addition to a member's savings account and membership account for
491 any limitation year shall not exceed the lesser of:

492 (a) ~~The greater of thirty thousand dollars (\$30,000.00) or twenty five (25)~~
493 ~~percent of the defined benefit dollar limitation recited in Internal Revenue~~
494 ~~Code Section 415(b)(1)(A) for such year.~~ The defined contribution dollar
495 limitation provided in Internal Revenue Code section 415(c)(1)(A), or such
496 successor provision of the Internal Revenue Code, as adjusted for cost of
497 living adjustments pursuant to Internal Revenue Code section 415(d); or

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

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

501 The defined benefit dollar limitation shall equal One Hundred Sixty Thousand Dollars
502 (\$160,000.00) ~~is ninety thousand dollars (\$90,000.00)~~. Effective January 1, 1988 and each
503 January 1 thereafter, the ~~ninety thousand~~ dollar limitation shall be adjusted by
504 multiplying such limit by the cost of living adjustment factor prescribed by the Secretary
505 of the Treasury under Internal Revenue Code section 415(d). The new dollar limitation
506 shall apply to limitation years ending within the calendar year of the date of adjustment.

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

509 Compensation, for the purposes of this section, means "participant's compensation," as
510 defined in ~~IRS~~ Internal Revenue Code section 415(c)(3) and the regulations thereunder,
511 including elective contributions made by the County on behalf of the member that are

512 not includable in income under ~~IRS~~Internal Revenue Code sections 125, 132(f)(4),
513 401(h)(2), ~~402(a)(8)(e)(3)~~, 402(h) or 403(b).

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

516 Compensation, for the purposes of this section, means "participant's compensation," as
517 defined in ~~IRS~~ Internal Revenue Code section 415(c)(3) and paid prior to the member's
518 severance from employment and the regulations thereunder, including elective
519 contributions made by the County on behalf of the member that are not includable in
520 income under ~~IRS~~ Internal Revenue Code sections 125, 132(f)(4), 401(h)(2), ~~402(a)(8)(e)(3)~~,
521 402(h) or 403(b).

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

523 An eligible retirement plan is an individual retirement account described in Internal
524 Revenue Code section 408(a), an individual retirement annuity described in Internal
525 Revenue Code section 408(b), an individual retirement annuity described in Internal
526 Revenue Code section 403(a), ~~or~~ a qualified trust described in Internal Revenue Code
527 section 401(a), that accepts the distributee's eligible rollover distribution, an eligible
528 deferred compensation plan described in Internal Revenue Code section 457(b) which is
529 maintained by an eligible employer described in Internal Revenue Code section
530 457(e)(1)(A), or an annuity contract described in Internal Revenue Code section 403(b).
531 ~~However, in the case of an eligible rollover distribution to a distributee's surviving~~
532 ~~spouse, an eligible retirement plan is an individual retirement account or individual~~
533 ~~retirement account or an individual retirement annuity.~~

534 **Section 15.** Effective January 1, 2010, the following shall be added to the end of section
535 201.24(13.3):

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

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

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

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

557
558

Adopted by the Milwaukee County Board of Supervisors

559

May 22, 2014

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