



Milwaukee County Retirement Plan Services

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Date: March 8, 2017
To: Theodore Lipscomb, Sr., Chairman, Milwaukee County Board of Supervisors
From: Amy Pechacek, Interim Director of RPS
Subject: Informational Report: Status of 2014 Supplemental Voluntary Correction Plan

As requested by the Personnel Committee and the Finance and Audit Committee, this report outlines information about the 2014 Supplemental IRS Voluntary Correction Plan submission ("VCP"), including any information known to date about financial and Employees' Retirement System ("ERS") member impact.

From time to time, County Board Supervisors have received inquiries from retirees or employees about this VCP and its possible effect on their pension benefits. Please note that those individuals who are affected by the VCP have been or will be contacted by Retirement Plan Services ("RPS"). The majority of ERS members are not affected by the VCP, and if a member has not been contacted by RPS, that member's pension remains unchanged. Please continue to share this message with anyone who reaches out to you, and encourage them to contact Retirement Plan Services at 414-278-4207 with any additional questions.

Summary of 2014 Supplemental VCP

In 2014, Corporation Counsel and Pension Board counsel submitted a supplemental VCP regarding additional errors and proposed correction methodology. Below is a breakdown of several errors reported in the supplemental VCP. Pension Board counsel spoke with the IRS agent on January 26, 2017 regarding the supplemental filing. On March 1, 2017, the agent confirmed with Pension Board counsel that he would be the agent in charge of oversight for this supplemental filing. The following data reflects the most current information known to date, and will be subject to future updates as research into the supplemental VCP continues.

PLEASE NOTE: All financial estimates contained herein are extremely preliminary and are not to be interpreted as a final assessment, and are not reflective of a comprehensive overall fiscal impact of all known errors. Additionally, all corrections and amendments are subject to approval by the IRS as part of a final Compliance Statement.

1. Compliance with Domestic Relations Support Orders
 - a. Period of errors: 2000-2013
 - b. Individuals affected: 80
 - c. Cost to ERS: Not Applicable

Correction: ERS corrected this failure by retroactively amending the Plan document to authorize acceptance of these support orders. An amendment to Rule 1017 was adopted by the Pension Board to fix these errors on April 17, 2013.

2. Lump Sum BackDROP Errors – ERS incorrectly calculated members' backDROP lump sum payments and did not modify calculations for backDROPs in accordance with changes to the Ordinances, resulting in overpayments and underpayments.

- a. Period of error: 2009 – 2012
- b. Individuals affected: Approximately 600
- c. Cost to ERS: Approximately \$425,000 paid out for underpayments

Correction: ERS determined the difference between the amount the member was paid and what they should have been paid for both over- and underpayments. For underpayments, the difference plus 5% interest was paid to each member in a lump sum. These payments were made to members in 2012. Efforts are ongoing to verify the status of these overpayments (i.e., whether efforts were made to collect the overpayment from the member with 5% interest and/or if those efforts were ultimately successful). Any overpayments that are not recovered from the members will need to be contributed by the County. Please also refer to the memorandum submitted contemporaneously herewith addressing overpayments (“Overpayment Memorandum”).

3. Cost of Living Adjustments – Two COLA failures included: (1) failure to apply cost of living adjustments, resulting in underpayments; and (2) excess payment of cost of living adjustments-, resulting in overpayments.

- a. Period of error: 1985, 1993, 1996, 2001, 2004, 2008-2013
- b. Individuals affected: Approximately 200
- c. Cost to ERS: Approximately \$450,000 paid out for underpayments

Correction: ERS determined the correct cost of living attributable to each member’s benefit and for the underpayments, paid the member the underpayment amount in a lump sum (plus interest at 5%). Efforts are ongoing to verify the status of these overpayments (i.e., whether efforts were made to collect the overpayment from the member with 5% interest and/or if those efforts were ultimately successful). Any overpayments that are not recovered from the members will need to be contributed by the County. Please also refer to the Overpayment Memorandum.

4. Use of Incorrect Service Credit to Calculate Pension Benefit - Due to the use of incorrect service credits, the member's spouse was overpaid, and due to an error, the member's child was underpaid.

- a. Period of error: Over a number of years
- b. Individuals affected: 2
- c. Cost to ERS: Approximately \$250,000 inclusive of underpayments + overpayments¹

Correction: An agreement has been entered into with the spouse to apply a 100% offset to the spouse’s benefit. Payment of benefits will resume when overpayment, plus 5% interest, has been recovered. Any overpayments that are not recovered from the spouse will need to be contributed by the County. RPS has calculated the amount payable to the member's child and paid that in a lump sum with 5% interest.

¹ This figure represents an estimated \$20,000 in underpayments plus an estimated \$230,000 in overpayments. The reason that this is reported as a total estimated cost of \$250,000 is because if efforts to collect the overpayments from members fail, the County would be responsible for making the trust (i.e., the pension fund) whole, as described in the Overpayments Memorandum. Thus, the \$250,000 is an estimated “worst case” amount. Notwithstanding the foregoing, we also note that we are uncertain whether interest was appropriately applied to these corrections. Again, efforts are underway to verify the veracity of these corrections.

5. Benefit Paid to Wrong Member - The surviving spouse of an ERS member was incorrectly receiving the member's benefit plus the pension benefit of another, unrelated member (i.e., Jane Smith, wife of deceased ERS member Jack Smith, is receiving both Jack Smith's survivor pension benefit, as well as the survivor pension benefit of deceased unrelated ERS member John Doe). Neither the spouse (Jane) nor the individual who should have been receiving the benefit (John Doe's surviving spouse) notified RPS, so the error was not discovered until the spouse receiving the double benefits (Jane) died.

- a. Period of error: 2008 – 2011
- b. Individuals affected: 2
- c. Cost to ERS: Approximately \$100,000

Correction: RPS updated its system to reflect accurate direct deposit information and hand-delivered a check to the member who should have been receiving monthly payments. The check consisted of the missed payments, plus 5% interest. Several attempts have been made to recover the money paid in error including contact with the family's lawyer. To date, no response has been received and no money repaid. Any overpayments that are not recovered from the family of the deceased member will need to be contributed by the County.

6. Definition of Employee – State employees received their entire wage from the State but were allowed to remain contributing members of ERS after their positions were transferred to the State as part of the income maintenance (MiLES) and childcare (MECA) legislation.

- a. Period of error: 2009 – 2011
- b. Individuals affected: 40
- c. Cost to ERS: Not Applicable

Correction: An Ordinance amendment was adopted by the County Board in December 2011, which corrected the operational error created by retroactively revising the definition of "employee" in Ordinance section 201.24(2.4).

7. Pension Protection Act of 2006 (PPA) and Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART) Amendments – ERS has operationally complied with the requirements, however the required amendments under PPA and HEART were not adopted within the mandated time period.

- a. Period of error 2011
- b. Individuals affected: 0
- c. Cost to ERS: Not Applicable

Correction: The County Board adopted Ordinance Amendments to comply with the required changes on May 22, 2014.

Very preliminary cost estimates for the above items related to the 2014 supplemental VCP are approximately \$1,225,000, subject to the above-noted verifications and qualifiers. The Comptroller's office is performing an independent review of this initial information, and an independent review by Baker Tilly (in partnership with the County Audit Department) will also be verifying and testing the accuracy of items contained within this report and other information related to both the 2008 and 2014 VCPs. Furthermore, that review will look at benefit calculations outside the 2008 and 2014 VCPs, in an effort to determine whether other errors have gone undetected. Several items are still under research and these figures will continue to develop. Information will be shared on an on-going basis.

Additional items related to the supplemental VCP are recommended by Pension Board counsel to be discussed in closed session pursuant to Wisconsin Statute section 19.85(1)(e), which provides an exemption from the open meetings law for negotiations related to the expenditure of public moneys or involving public resources, and Wisconsin Statute section 19.85(1)(g), which provides an exemption with respect to pending and possible litigation. Some additional pending items to be discussed in closed session have initial cost estimates of approximately \$950,000, with combined early available projections known to date to be approximately \$2,175,000, subject to the above-noted verifications and qualifiers. These projections are not comprehensive and several areas have no current cost estimates given on-going research.

Please contact us with any questions. Thank you.

Cc: Supervisor Peggy A. West, Chairwoman, Finance and Audit Committee
Supervisor James Schmitt, Chairman, Personnel Committee
Chris Abele, County Executive
Finance and Audit Committee
Personnel Committee
Kelly Bablitch, Chief of Staff, County Board
Raisa Koltun, Chief of Staff, Office of the County Executive
Teig Whaley-Smith, Director, Department of Administrative Services
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Jerry Heer, Director of Audit, Office of the Comptroller
Steve Cady, Research & Policy Director, Research Services Division, Office of the Comptroller
Shanin Brown, Committee Coordinator, Office of the County Clerk
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