



Workgroup on WRS Feasibility  
Milwaukee County

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INFORMATIONAL REPORT

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TO: Chairman Theodore Lipscomb, Sr.

FROM: Workgroup on WRS Feasibility (“Workgroup”)

RE: Steps Necessary for County to Join WRS

DATE: May 22, 2017

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I. **Executive Summary – Joining WRS is Complex, the First Phase would be moving future years of service for all employees or new hires to WRS, the Second Phase would be to move previous years of service for Newer Employees to WRS.**

The County’s pension system, known as Employee Retirement Services (ERS), is *abnormally* administratively complicated with historical variables that have resulted in approximately 2,304 potential variations of retirees in the system.<sup>1</sup> The State’s pension system, known as Wisconsin Retirement System (WRS), is administratively complicated, but much simpler than the ERS system. The WRS system has been historically consistent, and essentially has only 4 variations of retirees in the system.<sup>2</sup> Related, the WRS is only administratively equipped to take on employees with benefits consistent with WRS. Thus, WRS may only provide pension benefits for (1) new County employees; and/or (2) *future* years of service for current County employees. *Previous* years of service would need to be maintained by Milwaukee County, although it might be possible to have previous years of service for Newer Employees absorbed into the WRS if changes are made to current law.

(a) *Phase I: Future Years of Service for All Employees and/or New Hires*

WRS benefits are determined by statute. If the County joins WRS, the statutes require that future years of service for all eligible employees and/or all new hires must be part of WRS.<sup>3</sup> Previous years of service would stay with the County. For example, an

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<sup>1</sup> See Section II

<sup>2</sup> See Section II

<sup>3</sup> A resolution to join the WRS is made under Wis. Stat. §40.21. Wis. Stat. §40.21 allows three options to join WRS: (1) all-employees (historically applied only where an employer has not previously had a pension benefit), (2) future years of service (all employees), or (3) future years of service (new hires only). The “all-employee” option would not be immediately available to the county because, as outlined in this report, the benefits for previous years of

employee that was hired in 1998 has likely had varying benefits nearly every year. Therefore, if the County joined WRS in 2018, then this employee would have their benefits from 1998- 2017 continued to be administered by the County, and his or her benefits administered by the State for 2018 and all future years.

*(b) Phase II: Newer Employees*

Newer employees hired by the County after 2011 (“Newer Employees”) have benefits similar to the 4 types of benefits in the WRS system. With statutory changes, it would be possible to have the previous years of service for Newer Employees administered by the WRS System. Past employees hired by the County before 2011 (“Past Employees”) have varying benefits depending upon past benefit packages that are not similar to the WRS System. The complications regarding moving Past Employees to WRS are well beyond the scope of this report.

Phase II listed above would be very complex and would require a significant payment from the County to WRS to account for previous years of service. To simplify this report, the focus is on Phase I: Future Years of Service for All Employees or New Hires. Joining WRS for future years of service would be relatively simple and requires the filing of a resolution with the State by November 15 of any year. Although the technical action of joining WRS is simple, there are a myriad of questions that must be answered, which will require professional analysis and support.

## **II. Background**

Since 2011, several errors have been identified in the administration of the ERS system.<sup>4</sup> A primary reason for these errors was that “benefits changed repeatedly and significantly over time, further frustrating consistent and correct benefit administration.”<sup>5</sup> For example, see Exhibit B – DRAFT Milwaukee County ERS Benefits Chart.<sup>6</sup> The table shows 77 different line items based on the timing of various collective bargaining agreements. These collective bargaining agreements have two variations of vesting, three variations of retirement age, two variations of early retirement, three variations of final average salary, eight variations of multipliers, two variations of contribution, two variations of backdrop eligibility, and two variations of subsidized retirement medical benefits. This means that there are 2,304 variations of plan benefits in ERS.

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service at the County are too different from WRS offered benefits. The complexities of the “all-employee” option involve significant legal and actuarial questions which are addressed in Section III of this report.

<sup>4</sup> See Milwaukee County files 11-443, 14-244, 16-675, 17-243, 17-340, 17-405.

<sup>5</sup> See Memorandum re Overview of ERS Roles and Responsibilities, March 8, 2017, p12 (available at <https://milwaukeecounty.legistar.com/LegislationDetail.aspx?ID=2966324&GUID=4C545FA2-31BD-41E8-9CB0-6A0278FEDFFD&Options=ID|Text|&Search=17-243>) (“[B]enefits changed repeatedly and significantly over time, further frustrating consistent and correct benefit administration.”)

<sup>6</sup> DRAFT Milwaukee County ERS Benefits Chart – Retirement/Deferred – Updated June 2013 (Attached as Exhibit B).

This is compared to only 4 variations of plan benefits in the WRS. As shown in the Wisconsin Retirement System Administration Manual, the categories used by non-state entities in WRS are: General Employee, Protective Occupation with Social Security, Protective Occupation without Social Security, and Elected Officials.<sup>7</sup> Each person within these categories has the same benefit calculation without separate multipliers, retirement ages, etc. The benefits of joining the WRS system include: (a) simplified and expert administration,<sup>8</sup> and (b) economies of scale in investments and administration. To take advantage of the simplified administration, however, the County's benefits would need to match the State benefits. This is why future years of service are easier to move to WRS.

On March 31, 2017, the County adopted resolution 17-266 which requested that the Milwaukee County Director of Retirement Plan Services (RPS) convene a workgroup "to prepare a report outlining the steps necessary to begin the transition [to WRS]."<sup>9</sup>

#### A. *What is ERS?*<sup>10</sup>

The Employees' Retirement System (ERS) is a single-employer defined benefit plan that was created to encourage qualified personnel to enter and remain in the service of the County of Milwaukee (the "County") by providing for a system of retirement, disability, and death benefits to or on behalf of its employees. The authority to manage and control the Retirement System is vested in the Pension Board of ERS (the "Pension Board"). The Pension Board consists of a maximum of ten members – three members appointed by the County Executive (subject to confirmation by the County Board of Supervisors), three employee members elected by active employee members, two members appointed by the County Board chairperson, one employee member appointed by the Milwaukee Deputy Sheriffs' Association, and one retiree member elected by retirees.

ERS had been substantially noncontributory. However, starting in 2011, certain members began making mandatory contributions. Most full-time, regularly-appointed employees were required to make contributions starting in 2012. The employee contributions varied from 5.0%

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<sup>7</sup> Wisconsin Retirement System Administration Manual, pp 46-147 (available at <http://etf.wi.gov/publications/et1127.pdf>). Indicating Employment Categories used by non-state entities in WRS are General Employee, Protective Occupation Under Social Security, Protective Occupation not Under Social Security, Teacher, Educational Support Staff, and local elected officials. Teachers and Educational Support staff are considered General Employees. The formula multipliers for each of those categories is reflected in Wis. Stat. §40.23(2m)(e). "Normal retirement date" is defined in Wis. Stat. §40.02(42) as 65 for General category employees (57 with 30 years of service) and 65 for Executive/Elected on or after January 1, 2017. With respect to Protective Occupation Participants with Social Security or without Social Security, normal retirement date is 53 with 25 years of WRS creditable service and 54 with less than 25 years of WRS creditable service.

<sup>8</sup> It should be noted, that although the WRS is extremely simplified compared to WRS, it is not a simple system. The WRS has various benefit levels due to past law changes, a Variable Fund, accepts Qualified Domestic Relations Orders, various employment categories, multipliers, etc. The CEM Report, which compares the WRS to peer state retirement systems, ranks the WRS as the most complex retirement system among its peer group. <http://www.etf.wi.gov/publications/cem2016.pdf> See section 8-2.

<sup>9</sup> Milwaukee County File 17-266.

<sup>10</sup> This section has been excerpted from 2015 Annual Report of the Pension Board, available at <http://county.milwaukee.gov/ImageLibrary/Groups/cntyHR/PDFdocs/ERS2015AnnualReport-Final.pdf>

of compensation to 5.3% for 2015. In 2016, the employee contribution percentages will range from 6.5% to 7.4% of compensation. These percentages may change from year to year based on an analysis performed by the ERS's actuary.

Employees who terminate County employment and are not eligible for an immediate pension payment may request a refund of all accumulated contributions made, with simple interest at 5% per annum. Contributions due from the County to the Retirement System consist of actuarially determined amounts sufficient to fund the annual service cost and interest on and amortization of the net pension liability less the expected contributions from the participants.

For most members, the normal retirement age is either 60 or 64 depending on ERS enrollment date and collective bargaining agreement. A few labor agreements also require a minimum of 5 years creditable service in addition to the age requirement. For deputy sheriff members, the normal retirement age is 57 or age 55 with 15 years of creditable service. Depending on enrollment date and collective bargaining agreement, some active members are eligible to retire when their age added to their years of creditable service equals 75 (the "Rule of 75"). The multiplier is determined by Ordinance, collective bargaining agreements, and ERS enrollment date. At this time, the multiplier percentage can be 1.5%, 1.6%, 2% or 2.5%. A member's three or five consecutive years of highest earnings are used to calculate their final average salary as defined by the Ordinance and labor agreements. Annually after retirement, the monthly benefit is increased by 2% of the benefit paid for the first full month of retirement, subject to IRS limits. By Ordinance, the maximum benefit (excluding post-retirement increases) payable to a member cannot exceed the sum of 80% of the member's final average monthly salary.

#### ***B. What is WRS?<sup>11</sup>***

The Wisconsin Retirement System (WRS) is a qualified retirement system under Section 401(a) of the Internal Revenue Code. Employees of the state of Wisconsin; University of Wisconsin; local government employers, technical colleges, and school districts are included within this system. Employer participation is based on legislation and may be mandatory or optional.

The WRS is a pension plan with both defined benefit and defined contribution components. Although structured as a defined benefit plan, separate individual accounts for all participants are maintained. Contributions — employee and employer required — may fluctuate annually as determined by the actuary, with the former recorded directly on individual participant accounts. Annual interest adjustments are made to each participant's account balance based either on the earnings of the trust or on a pre-defined interest adjustment mandated in Wisconsin statutes.

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<sup>11</sup> This section has been excerpted from the Wisconsin Retirement System Administration Manual (available at <http://etf.wi.gov/publications/et1127.pdf>).

Because of the plan design, a participant's retirement benefit is based on the higher of two calculations:

1. Defined benefit formula: Uses the three highest years' earnings to calculate the final average earnings and the number of years of WRS creditable service to determine the benefit. An actuarial reduction is applied if the benefit begins before the employee attains normal retirement age or a specified age and number of years of service (e.g., for general employees age 57 with 30 years of service).

or

2. Money purchase (defined contribution) benefit: Calculated based on the value accumulated in the participant account at the time of retirement and matched equally with an amount from the employer reserve. Although an actuarial reduction based on the employee's age is not directly applied, a minimum retirement age must be attained to be eligible for any WRS annuity benefit (e.g., age 55 for general employees).

**C. How do current ERS and WRS benefits differ?**

The primary elements of a pension plan are (a) vesting rights, (b) retirement age, and (c) benefit calculation. Currently the ERS and WRS system have similar vesting rights (i.e. 5 years). The retirement age between the ERS and WRS system varies slightly, the nuances of which are beyond the scope of this report. Consequently, the most important element to highlight is the benefit calculation. Both systems use the formula: [Years of Service] \* [Multiplier] \* [Highest Average Salary]. There are nuances in the calculation of Years of Service and Highest Average Salary between the two plans which are beyond the scope of this report. Table 1 below shows the difference in the multiplier for General Employees since 2011.

| Table 1: Comparison of Multiplier |                         |                         |
|-----------------------------------|-------------------------|-------------------------|
| <u>Year</u>                       | <u>ERS<sup>12</sup></u> | <u>WRS<sup>13</sup></u> |
| 2011                              | 1.6%                    | 1.6%                    |
| 2012                              | 1.6%                    | 1.6%                    |
| 2013                              | 1.6%                    | 1.6%                    |
| 2014                              | 1.6%                    | 1.6%                    |
| 2015                              | 1.6%                    | 1.6%                    |
| 2016                              | 1.6%                    | 1.6%                    |

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<sup>12</sup> See Exhibit B.

<sup>13</sup> Wisconsin ETF. Calculating Your Retirement Benefits (Rev 9/13/16) available at <http://etf.wi.gov/publications/et4107.pdf>.

#### D. How do current ERS and WRS contributions differ?

Both the ERS and WRS systems require an employee and employer contribution. There are nuances in the calculation of the contributions between the two systems that are beyond the scope of this report. The most typical way to evaluate contributions is as a percentage of gross payroll. Table 2 below shows the difference in the Employee Contribution between the two systems, and Table 3 below shows the difference in the Employer Contribution between the two systems.

| Table 2: Comparison of Employee Contribution <sup>14</sup> |                    |                         |
|--|--------------------|-------------------------|
| <u>Year</u>  | <u>ERS</u>         | <u>WRS<sup>15</sup></u> |
| 2011   | 4.7% <sup>16</sup> | 5.8%                    |
| 2012   | 4.7%               | 5.9%                    |
| 2013   | 4.4%               | 6.65%                   |
| 2014   | 5.1%               | 7.0%                    |
| 2015   | 5.0%               | 6.8%                    |
| 2016   | 6.5%               | 6.6%                    |
| 2017   | 6.5%               | 6.8%                    |

| Table 3: Comparison of Employer Contribution |            |                         |
|--|------------|-------------------------|
| <u>Year</u>                                  | <u>ERS</u> | <u>WRS<sup>17</sup></u> |
| 2011   | 4.7%       | 5.8%                    |
| 2012   | 4.7%       | 5.9%                    |
| 2013   | 4.4%       | 6.65%                   |
| 2014   | 5.1%       | 7.0%                    |
| 2015   | 5.0%       | 6.8%                    |
| 2016   | 6.5%       | 6.6%                    |
| 2017   | 6.5%       | 6.8%                    |

#### E. Complexities

Although this report attempts to simplify the process of joining the WRS, there are several complexities that policy makers should be aware of. When deciding which employees, if any, should join WRS, the following should be considered.

- New Hires vs. Existing Hires. The rights of New Hires and Existing Hires may differ dramatically and Existing Hires may have rights to stay in the ERS system, at least for previous years of service.
- Vested vs. Non-Vested. The rights of Vested and Non-Vested employees may differ dramatically and both groups may have rights to stay in the ERS system, at least for previous years of service.

<sup>14</sup> Tables 2 and 3 are for non-public safety officers. Public Safety officers have a different contribution rate.

<sup>15</sup> Wisconsin ETF. Calculating Your Retirement Benefits (Rev 9/13/16) available at <http://etf.wi.gov/publications/et4107.pdf>.

<sup>16</sup> For 2011, most employees contributed 2.0% through June 23, 2011, 3.0% through July 23, 2011 and 4.7% through the remainder of the year.

<sup>17</sup> Wisconsin ETF. Calculating Your Retirement Benefits (Rev 9/13/16) available at <http://etf.wi.gov/publications/et4107.pdf>.

- Newer Employees vs. Past Employees. The benefits offered to employees hired before 2011 are dramatically different than those hired after 2011. These different groups may have different rights, and different expectations.
- Previous Years of Service vs. Future Years of Service. Even if it were possible to have all employees join WRS, it would likely only be for future years of service, and because previous years of service may be a vested right, the administration of Past Employees may still be left with County.
- Represented Employees vs. Non-Represented Employees. Groups represented by organized labor has an impact on past benefits may impact the ability of certain employees to join WRS.
- Public Safety Officers. Certain represented groups maintain collective bargaining rights and any movement from ERS to WRS may need to be negotiated as part of those agreements. Given that public safety officers in WRS benefits are set by statute it is unclear how this would impact future County negotiations with represented public safety officers

#### **F. Scope of Workgroup**

The scope of the workgroup was:

Pursuant to County Board Resolution 17-266, the Workgroup on WRS Feasibility (“Workgroup”) will prepare a report outlining the steps necessary for the County to join the Wisconsin Retirement System, including (1) Required State Approvals, and (2) resources necessary to complete fiscal, actuarial, and legal analyses.

The Workgroup did not consider any benefits changes (outside of WRS comparison), investment decisions, resolving administrative issues, or issues related to the current ERS Operational Audit.

#### **G. Membership of Workgroup.**

The Workgroup on WRS Feasibility (“Workgroup”) was convened by the RPS Director and includes the following Members:

Margaret Daun, Corporation Counsel  
 Steve Kreklow, DAS-PSB Director  
 Scott Manske, Comptroller (Co-Chair)  
 Jodi Mapp, Senior Executive Assistant BHD<sup>18</sup>  
 CJ Pahl, Comptroller’s Office, Budget & Management Coordinator  
 Amy Pechacek, ERS Interim Director  
 Teig Whaley-Smith, DAS Director (Co-Chair)

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<sup>18</sup> “Non-management front-line employee” as required by CB Res. 17-266.

### III. Required State Approvals<sup>19</sup>

Participation in the WRS is voluntary for employers other than those mandated and requires the adoption of a resolution of inclusion by the governing body. The governing body is that entity empowered to act for all subordinate departments, divisions, branches, boards and commissions [Wis. Stat. § 40.02 (36)]. The governing body is the school board in an independent school district, the town board in a town, the village board in a village, the common council in a city, the county board in a county, or the board, commission or other governing body having the final authority for any other unit of government or for any agency or instrumentality of two or more units of government.

Participation in the WRS is effective only on January 1 of the year. Due to the processing time required to establish the necessary accounts for each employer, the required resolution and associated documentation must be received at ETF no later than November 15 of the year preceding the January 1 on which participation becomes effective [Wis. Admin. Code ETF 20.017].

The resolution of inclusion adopted by the governing body should be completed on the blank form provided. **The resolution is irrevocable.** If the official notice of election to be included is received on or before November 15, the effective date of participation of the employer shall be the ensuing January 1. If the notice of election is received after November 15, the effective date shall be the January 1 after the ensuing January 1. The employer may withdraw a notice of election to be included if the employer's written notice to withdraw is received by the department before the November 15 deadline of the year before the January effective date.

### IV. Questions to Be Answered?

There are several questions that will need to be further evaluated before joining the WRS, including the following.

#### A. Legal Questions

1. How is vesting handled when transitioning existing employees?
2. How is the WRS multiplier and contribution determined for future years?
3. What are the individual opt-out provisions of the WRS?
4. Is there a Cost of Living Adjustment in the WRS Plan?
5. What are the legal rights of New Hires, Unvested Employees, and Past Employees?
6. Can Vested Employees voluntarily join WRS?
7. What happens with the employees contributions and the related employer contributions that have already been made to ERS?

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<sup>19</sup> This section is excerpted from Wisconsin Employee Trust Funds, How to Become a Participating Employer Under the Wisconsin Retirement System (See Exhibit B).



8. Is the ERS considered a Closed system if there are no new hires in the plan? If so, what are the consequences (e.g. amortization of accrued liability, employer contribution, employee contribution)?
9. What other IRS provisions apply? Is there an IRS approval requirement?
10. Are there any restrictions in the ERS system that would restrict certain employees from joining WRS?
11. How does joining the WRS impact backdrop payments?
12. How does joining the WRS impact disability retirement?
13. Given that public safety officers in WRS benefits are set by statute, how would this impact future County negotiations with represented public safety officers?

B. Actuarial Questions

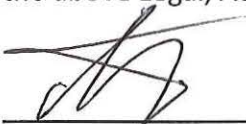
1. If future years of service move to WRS, what is the fiscal impact on the remaining elements of ERS (e.g. sponsor payments, cashflow, etc.)?
2. If Newer Employees join WRS, what is the fiscal impact on the remaining elements of ERS (e.g. sponsor payments, cashflow, etc.)?
3. If future years of service move to WRS, what are the projected employee and employer contributions going forward?
4. If Newer Employees join WRS, what are the projected employee and employer contributions going forward?
5. For new hires, how does the ERS benefit compare to the ERS opt-out, the WRS "base pension", and the WRS Opt Out?
6. For new hires, how does the WRS defined benefit compare to the WRS money purchase option?
7. If Vested Employees can voluntarily move into WRS, what is the impact on ERS and County?

C. Fiscal Questions

- a. What is the administrative cost to the County if it joins ERS?
- b. What is the administrative cost to County of maintaining elements of ERS not moved to WRS.

V. Recommendation

The Workgroup on WRS feasibility recommends that at a minimum \$500,000 be allocated for the purposes of retaining and engaging the appropriate professionals to answer the above Legal, Actuarial and Fiscal questions above.



Teig Whaley-Smith  
Director, Dept. Admin. Services  
Workgroup Co-Chair



Scott Manske  
Comptroller  
Workgroup Co-Chair

Exhibits:

Exhibit A – How to Become a Participating Employer Under the Wisconsin Retirement System

Exhibit B – DRAFT Milwaukee County ERS Benefits Chart

Cc: Chris Abele, County Executive  
Raisa Koltun, Chief of Staff, County Executive's Office  
Kelly Bablitch, Chief of Staff, County Board  
County Board  
Kerry Mitchell, Chief Human Resources Officer  
Matt Hanchek, Compensation Director  
Workgroup Members  
Julie Esch, Director of Operations, DAS-Central Business Office  
Steve Cady, Research & Policy Director  
Janelle Jensen, County Clerk, Committee Coordinator