By Supervisor Schmitt and County Executive Abele File No. 18-802

**A RESOLUTION/ORDINANCE**

To amend Section 201.24 of the Milwaukee County Code of General Ordinances relating to the Employees’ Retirement System to improve the accuracy of benefit calculations and to provide procedures to resolve payment errors

WHEREAS, Milwaukee County sponsors the Employees’ Retirement System of the County of Milwaukee (ERS), a defined benefit retirement plan for the exclusive benefit of its employees and beneficiaries; and

WHEREAS, the ERS must adhere to its written plan document (the Ordinances and Rules) so that it maintains its tax-qualified status as granted by the Internal Revenue Service (IRS); and

WHEREAS, the IRS provides retirement plan sponsors an opportunity to self-report errors in the administration of the plan through the Voluntary Correction Program (VCP), which reduces the potential for penalties if the errors were otherwise discovered via an IRS audit; and

WHEREAS, the County filed a VCP with the IRS in 2007 related to several errors in the administration of the plan; the IRS issued their compliance statement in June 2016 and ERS finalized all corrections in December 2016, making it one of the longest open VCPs in recollection; and

WHEREAS, additional errors discovered as part of an internal 2012 Audit as well as errors discovered by the staff in the Department of Human Resources - Retirement Plan Services Division ("RPS") were reported to the IRS in a supplemental VCP filing dated April 22, 2014; and

WHEREAS, the 2014 Supplemental VCP was amended in December 2017 to reflect new errors discovered in the Baker Tilly agreed upon procedures review authorized by the County Board and the Pension Board to help identify pension errors and develop procedures to help eliminate future errors; and

WHEREAS, the Milwaukee County Board of Supervisors hereby recognizes that eligible retirees deserve to be paid an accurate pension that reflects the benefits accrued in their service to Milwaukee County; now, therefore,

BE IT RESOLVED, that the Milwaukee County Board of Supervisors authorizes the Department of Administrative Services, working in conjunction with the Comptroller and Corporation Counsel, to process an appropriation transfer from the Pension Obligation Bond Reserve (Fund 0010 Account 0899) for up to $2.5 million to Org. Unit 1950 – Employee Fringe Benefits to provide the anticipated funding to effectuate this resolution/ordinance; and

BE IT FURTHER RESOLVED, that the County Board of Supervisors does hereby adopt the following:

# AN ORDINANCE

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

**Section 1**. Section 201.24(2.19) is amended as follows:

**2.19. - Retirement.**

Retirement shall mean termination of employment after a member has fulfilled all requirements for a pension. For all new applications filed on or after January 1, 2019, all ~~R~~retirements, including disability retirements, as well as any other benefit enhancements, such as those conferred under section 201.24(5.16) and related ERS ordinances and rules, shall ~~be considered as~~ only commence~~ing~~ on the first day of the month immediately following a member's last day of employment (or authorized leave of absence, if later), and any retirement or annuity benefit payable to a member or beneficiary shall terminate~~ing~~ upon the last day of the month of the date of death of retiree or beneficiary.

**Section 2**. Section 201.24(2.22) is deleted and recreated as follows:

**2.22. - ~~Masculine and feminine pronouns.~~**

~~The masculine pronoun shall include the feminine~~.

**RPS**

RPS (may also be referred to as the Retirement Office elsewhere in the Ordinances and Rules) shall mean Retirement Plan Services, the County department that maintains the general ledger and related books of the retirement system, administers the pension payroll, conducts retirement seminars, prepares estimates and processes benefits for retirees and surviving beneficiaries of the retirement system, and otherwise executes any administrative plan function delegated to it by the Pension Board or authorized by the County.

**Section 3**. Section 201.24(2.23) is created as follows:

**2.23. - Masculine and feminine pronouns**

The masculine pronoun shall include the feminine.

**Section 4**. Section 201.24(3.1) is amended as follows:

**3.1. - County Contributions**

(1) *Budget year contributions.* The Pension Board shall furnish to the County Executive, prior to June 1 of each year:

1. An estimated budget contribution required by the County, including contributions required under section 201.24(3.3), to pay the following year's cost and to amortize the amount of unfunded obligation of the County over such period of years as determined from time to time by the County Board ~~(e.g., in 1984, estimate the cost to be incurred in 1985, which will be payable in 1986);~~ and
2. The established actuarial assumptions supporting said required amount. The County Executive shall submit an informational report to the committees on finance and audit and personnel for consideration during the June committee cycle, providing for an estimated contribution amount for the next year's budget and shall include this pension contribution amount in the executive budget as transmitted to the County Board. The final amount appropriated in the adopted budget by the County Board shall be the estimated contribution to be expensed in the budget year~~., but paid to the system in the next following budget year (e.g., in 1984, an estimate will be made for the amount to be expensed in 1985 but paid in 1986).~~
3. Beginning with the quarter ending September 30, 2018, any contribution required from the County under applicable law and regulations resulting from the County’s assumption of liability for overpayments made from the Retirement System in lieu of collection of such overpayments from members or beneficiaries or related to any other payment due to the Retirement System by the member or beneficiary under this Ordinance, including section 201.24(8.24) or any other applicable law or regulation, shall be calculated and contributed as described below.

As soon as practicable but in no case later than two weeks following the end of a quarter, RPS shall submit to the Comptroller and the Director of the Department of Administrative Services a report of the aggregate overpayments and interest falling under Option 1 as determined under section 201.24(8.24)(3)(c)(i), in addition to all other payments by the County required under subsection 8.24(5) or 8.24(6) (together, “Aggregate Contribution”).

The Aggregate Contribution shall be paid by the County to ERS by no later than twenty business daysfollowing the end of the prior quarter from the Pension Obligation Bond Reserve or other authorized source of funds. Payments from the Pension Obligation Bond Reserve shall be approved by the Comptroller and the Director of the Department of Administrative Services.

1. For overpayments, RPS shall maintain an accounting of all amounts owed and paid by the County or any member or beneficiary under section 201.24(8.24)(3).  The total amount collected by RPS on behalf of the County from members or beneficiaries under Option 1 as specified in subsection 8.24(3)(c)(i), whether by VLS, VRP, or VOP as specified in subsection 8.24(3)(h), in the current year, shall reduce the County’s annual contribution required under subsection 3.1(1)(b) in the subsequent year (if any) dollar for dollar. Separately, the total aggregate amount collected by RPS on behalf of the County from members or beneficiaries under Option 1 as specified in subsection 8.24(3)(c)(i), whether by VLS, VRP, or VOP as specified in subsection 8.24(3)(h), in the current year, shall be transferred at the same time any transfer under subsection 3.1(1)(b) occurs in the subsequent year, to the Pension Obligation Bond Fund; and where the amount collected on behalf of the County from members or beneficiaries under Option 1 as specified in subsection 8.24(3)(c)(i) in the current year exceeds the County’s required annual contribution under subsection 3.1(1)(b) in the subsequent year, any portion of the required transfer to the Pension Obligation Fund that remains after an offsetting reduction to the annual contribution under subsection 3.1(1)(b) shall be paid by the ERS Trust. RPS shall also collect, record and invest recoupment moneys recovered from members or beneficiaries under Option 2 in the ERS Trust, per subsection 8.24(3)(c)(ii), as directed by the Pension Board.

**Section 5**. Section 201.24(8.21) is deleted and recreated as follows:

**~~8.21. - Delegation of authority.~~**

~~The secretary of the pension board is delegated the authority to implement all collective bargaining agreements which amend any provision with this ordinance governing the employes' retirement system or which create new benefits or result in different computations for entitlements as such relates to the members of specific collective bargaining unit. All provisions of such collective bargaining agreements as applicable to specific members and relating to the employes' retirement system are hereby incorporated by reference within this ordinance for the purpose of this delegation of authority.~~

**8.21. – RPS Authorization.**

1. General Powers - RPS is authorized to act on behalf of the Pension Board with respect to the general administration of the Employees’ Retirement System. RPS shall report to the pension board at each meeting of any material actions taken as reasonably adjudged by RPS under the circumstances in existence at the time of the report.
2. Collective Bargaining Agreements - RPS is authorized to implement all collective bargaining agreements which amend any provision within this ordinance governing the Employees' Retirement System or which create new benefits or result in different computations for entitlements as such relates to the members of specific collective bargaining units. All provisions of such collective bargaining agreements as applicable to specific members and relating to the Employees' Retirement System are hereby incorporated by reference within this ordinance for the purpose of this delegation of authority.
3. In taking any actions or refraining from taking action, RPS must operate in conformity with the Ordinances and Pension Board Rules.

**Section 6**. Section 201.24(8.24) is created as follows:

**8.24. Correction of Underpayment and Overpayment of Benefits**

1. General – In the event that a benefit paid to a member or beneficiary is determined to be incorrect, RPS shall take appropriate action under this subsection and the Ordinances and Rules to: (i) correct such error; (ii) calculate and pay the correct benefit amount on a prospective basis, including any net impact of multiple corrections, without regard to subsection 201.24(8.24)(6); and (iii) maintain the federal tax-qualified status of the retirement system under the Internal Revenue Code.

1. Erroneous Underpayments – Unless the underpaid amount is less than the de minimis threshold amount set forth in subsection 8.24(5) below, if the benefit paid to a member or beneficiary is determined to be less than that to which the member or beneficiary is entitled under the provisions of this ordinance, RPS shall authorize a single sum corrective payment in an amount equal to: (i) the total amount of the underpayment for the claim period (as defined in subsection 8.24(6)); plus (ii) applicable interest (as defined in subsection 8.24(4)), calculated as of the date of each such correction.

1. Erroneous Overpayments – If the benefit paid to a member or beneficiary is determined to be greater than that to which the member or beneficiary is entitled under the provisions of this ordinance, the following shall apply:
   * 1. Notice of Overpayment – RPS shall provide a written “Notice of Overpayment” to the member and/or beneficiary of the overpayment within two months of determining that an overpayment occurred. Such Notice shall specify the following substantive information:

* the currently payable incorrect monthly pension benefit (if any),
* the correct monthly pension benefit absent any collection offset (if any),
* an explanation of the benefit determination error and overpayment,
* the Total Amount Owed in principal and interest,
* the Overpayment Options as defined in subsection 8.24(3)(c),
* the expected monthly benefit amount under either Overpayment Option if the recoupment is not paid off in a VLS under subsection 8.24(3)(h)(i), and
* an explanation of interest applicable under subsection 8.24(4).

The Notice shall also include the following process-related information:

* a member may meet with a representative of ERS in-person to review relevant documents, to receive an explanation related to the correction and collection, and/or to receive an explanation of the Overpayment Collection Options;
* the member or beneficiary should consult with an attorney before selecting either Overpayment Collection Option;
* the member or beneficiary shall be given a reasonable time to consult with an attorney, which in no case shall be less than seven (7) days after the date the Notice is mailed;
* the beneficiary or member shall be given no less than seven (7) days to revoke the selection of an Overpayment Collection Option following the date of execution of the Overpayment Collection Form;
* the process to request an exception to a monthly overpayment collection amount under subsection 8.24(3)(g);
* the appeal process for challenging a benefit correction and/or IOP under Option 2; and
* contact information for RPS.
  + 1. Overpayment Collection Option Form – The Notice of Overpayment shall include a separate Overpayment Collection Option Form listing the Overpayment Collection Options, the expected monthly benefit amount for each Overpayment Collection Option if the recoupment is not paid off in a VLS, explaining that the member or beneficiary must return the form within thirty (30) days, and explaining that if the member or beneficiary fails to return the form, he or she will be placed into Overpayment Collection Option 2, as defined in subsection 8.24(3).
    2. Overpayment Collection Options – A member or beneficiary shall have two overpayment collection options set forth in an Overpayment Collection Option Form, which shall accompany the Notice of Overpayment, regardless of whether overpayment recoupments are collected through a VLS, VRP, VOP, or IOP, as defined in subsection 8.24(3)(h):
       - 1. Option 1: For the exclusive benefit of the ERS trust, if the member or beneficiary signs an Overpayment Collection Option Form selecting Option 1, on behalf of the overpaid member or beneficiary, whether newly-identified or currently in a recoupment process as of the effective date of this provision, the County shall make payment to the ERS trust of the TAO (i.e., the amount of the overpayment plus all interest applicable under subsection 8.24(4) through the date of repayment, as proscribed in subsection 3.1(1)(c)), and RPS shall recoup from the member or beneficiary an amount equal to the total amount of the overpayment for the claim period (as defined in subsection 8.24(6)), but not applicable interest (as defined in subsection 8.24(4)), referred to herein as the “Principal Amount Owed” or “PAO.”

Under Option 1, a member or beneficiary must agree to the benefit correction, accept the County’s payment of the TAO on the member’s behalf and, agree to waive any and all claims and rights to challenge the benefit correction and recoupment, whether by a VLS, VRP, or VOP as defined in subsection 8.24(3)(h). Under Option 1, the member is only responsible for the PAO, and if a VRP or VOP is required, the interest on the PAO will not begin to accrue for one year (a grace period) and it will be at the lower County Interest Rate under subsection 8.24(4).

Option 1 shall not be available to a member or beneficiary if the overpayment is the direct or indirect result of the member’s or beneficiary’s fraud, material misrepresentation or material omission as determined by RPS.

Option 1 shall not be available as of right to any member or beneficiary who has a pension benefit dispute that (i) is subject to an executed and binding settlement agreement or commitment of correction; (ii) is currently before a court of competent jurisdiction; or (iii) has been finally adjudicated by a court of competent jurisdiction.

Any payments made to the retirement system by the County prior to the effective date of this subsection shall remain assets of the ERS trust and shall not be refunded or otherwise returned to the member or beneficiary. Further, no provision in this section 8.24 shall provide any member or beneficiary any retroactive rights or benefits.

* + - * 1. Option 2: For the exclusive benefit of the ERS trust, if the member or beneficiary signs an Overpayment Collection Option Form selecting Option 2 or is placed into Option 2 as authorized under subsection 8.24(3)(b) after failing to make an affirmative election within thirty (30) days of the date the Notice is mailed, RPS shall collect from the member or beneficiary an amount equal to: (i) the total amount of the overpayment for the claim period (as defined in subsection 8.24(6)); plus (ii) applicable interest (as defined in subsection 8.24(4)), calculated as of the date of each such overpayment through the date the County would have made payment to the ERS trust on behalf of the member of beneficiary under Option 1, referred to herein together as the “Total Amount Owed” or “TAO,” as detailed below, plus (iii) additional Pension Interest as specified in subsection 8.24(4) if a VRP, VOP, or IOP defined under subsection 8.24(3)(h) is required.

Under Option 2, a member or beneficiary wishes to potentially dispute the benefit correction now or in the future, and therefore, the member of beneficiary rejects the County’s payment of the TAO on the member’s behalf and refuses to waive any and all claims and rights to challenge the benefit correction and recoupment. Under Option 2, the member or beneficiary will be responsible for the entire amount of the TAO, and if a VRP, VOP, or IOP is required, as well as interest on the entire TAO that will continue to accrue (no grace period) at the higher Pension Interest Rate under subsection 8.24(4).

Under Option 2, corrected benefit payments, along with any VRP, VOP, or IOP, shall continue unless and until the member or beneficiary obtains a final, favorable judgment from a court of competent jurisdiction and/or before an appropriate administrative body, or enters into a binding settlement agreement, whereby the benefit correction, overpayment collection, and/or applicable interest is deemed to be in error or otherwise inapplicable; should such occur, RPS shall calculate the appropriate adjustments to the member’s monthly benefit, collection amount, and/or interest and effectuate and account for those adjustments as soon as practicable.

* + 1. Other Waiver of Repayment – Notwithstanding anything else to the contrary in this section 201.24, RPS shall waive the collection of any overpayment if TAO is below the de minimis threshold as set forth in subsection 8.24(5). The above notwithstanding, there shall be no reduction or waiver of any repayment if the overpayment is the direct or indirect result of the member’s or beneficiary’s fraud, material misrepresentation or material omission as determined by RPS.
    2. Collection Administered by RPS – RPS shall commence overpayment collection as specified herein, beginning with the next full month following the receipt of the Overpayment Collection Option Form or the next full month following the 30th day after mailing of the Notice of Overpayment, regardless of whether any action or appeal is filed to challenge any element of, calculation of, or process related to the correction of the monthly benefit amount and/or collection of any overpayment and/or any applicable interest.
    3. Calculation of Monthly Overpayment Collection Amount – The monthly overpayment collection amount shall be based upon the PAO under Option 1 or the TAO under Option 2, and shall be no less than as proscribed under the monthly repayment guidelines established by the Wisconsin Department of Employee Trust Funds under Wis. Stat. § 40.08. RPS shall implement and update ERS guidelines by January 1 of each year using the most recent, effective version of Wis. Stat. § 40.08 and Wisconsin Department of Employee Trust Funds guidelines. In all cases, payments shall be applied first to applicable Pension Interest, then County Interest, as further defined in subsection 8.24(4), and then, respectively, to the PAO under Option 1 or the TAO under Option 2.
    4. Exceptions to Monthly Overpayment Collection Amount – If the member or beneficiary presents verifiable documentation to RPS within 30 days of the commencement of the collection or prior to the commencement of the collection that either:
       1. such member or beneficiary’s adjusted gross household income is at or below the federal poverty threshold as established by the United States Department of Health and Human Services, then the monthly repayment amount shall not exceed five percent (5%) of the member or beneficiary’s total monthly pension benefit; or

* + - 1. such member or beneficiary is entitled to an equitable adjustment to their monthly repayment amount, as determined by RPS, which shall be unappealable to the Pension Board, based upon (a) the financial status of the member or beneficiary and their household; (b) the amount of the overpayment; (c) the amount of the monthly benefit payment; (d) the culpability of the member or beneficiary in the circumstances that gave rise to the overpayment; (e) extraordinary medical or long-term care expenses; (f) whether the member or beneficiary supports claimed dependents; and (g) fairness to taxpayers.

Documentation required to be submitted by the member or beneficiary to qualify for either adjustment under subsection 8.24(3)(g) shall include, but is not limited to, the member or beneficiary’s (and similar documents related to the member or beneficiary’s household if the member or beneficiary does not live alone) most recent IRS Form 1040 and a complete disclosure of all member or beneficiary assets including investments, real estate, savings, checking, or any other assets, as well as the same documents and statement of assets for any claimed dependent and/or spouse. Nothing in this subsection shall operate to reduce the total TAO or PAO owed, in addition to any applicable interest, as defined below in subsection 8.24(4). This subsection applies regardless of which Overpayment Collection Option a member or beneficiary selects under subsection 8.24(3)(c). RPS and/or the Pension Board may promulgate additional procedures and documentation mandates under this subsection.

* + 1. Collection Methods – Overpayments may be collected by any of the following methods, listed in order of preference:
       1. Method 1 – Lump Sum: whether a member or beneficiary elects Option 1 or 2 under subsection 8.24(3)(c), the PAO or TAO may be collected through a timely Voluntary Lump Sum (“VLS”) payment by the member or beneficiary. If a VLS is made to the ERS trust by the specified deadline, then ongoing monthly pension benefits, if any, shall be paid at the corrected amount. If a VLS is made to the ERS trust after the specified deadline, then the next monthly pension benefit should be adjusted to account for additional amounts owed, if any, and following that adjustment, monthly benefits shall be paid at the corrected amount.
       2. Method 2 – Voluntary Repayment Plan or Voluntary Offset Plan: whether a member or beneficiary elects Option 1 or 2 under subsection 8.24(3)(c), the PAO or TAO may be collected through either a “Voluntary Repayment Plan” (“VRP”), where there is no longer any ongoing benefit payment, under which the member or beneficiary agrees to make equal monthly direct payments through an electronic fund transfer or similar means to the ERS trust, or through a “Voluntary Offset Plan” (“VOP”), where benefit payments are ongoing, under which the member or beneficiary agrees in writing that each future monthly benefit payment will be reduced by a specific amount that shall be no less than that required under subsections 8.24(3)(f) and (g). If a member or beneficiary enters into either type of voluntary agreement, such agreement may provide for repayment over a shorter period and/or in a greater amount than otherwise required under subsections 8.24(3)(f) and (g).
       3. Method 3 – Involuntary Offset Plan: only where member or beneficiary elects Option 2 or fails to make a selection between Options 1 and 2, as specified under subsection 8.24(3)(c), RPS shall place the member of beneficiary into an “Involuntary Offset Plan” (“IOP”), whereby each future monthly benefit payment is offset by an amount as proscribed under subsections 8.24(3)(f) and (g).
    2. Failure to Repay –
       1. If the member or beneficiary fails to make a payment under a VLS, or VRP, and such payment is outstanding for thirty days, RPS shall commence such recoupment by an IOP in the manner set forth herein.
       2. If the member or beneficiary refuses, despite reasonable efforts, to enter into a VLS or VRP when an overpayment exists with no future benefits are payable, and any amount remains outstanding for more than thirty days, RPS shall report the same to the County and ERS, which each may elect to collect any amounts remaining through legal action.
       3. Upon the death of member or beneficiary that becomes known to ERS, the County or ERS may elect to attempt to collect any remaining amount owed from the estate or from future benefits payable to any remaining beneficiary.
       4. Outstanding Collection amounts, where no reasonable method of collection is available to the County or RPS, may be written off after a period of five years, if owed to the County under Option 1. Any uncollected amounts owed to the ERS trust under Option 2, where no reasonable method of collection is available, may be written off after a period of five years. Such written off balances under Option 2, shall require payment by the County.
    3. Settlement Authority Remains – Nothing in this Ordinance impacts or curtails the County or the Pension Board’s authority to settle litigation matters where the Pension Board, ERS or the County are named as parties.

1. Applicable Interest –
   1. The calculation of underpayments and overpayments, including the calculation of a TAO, shall include simple interest at a rate of five percent (5%) per annum on the underpaid or overpaid amount from the date of incorrect payment(s) through the applicable period of payment to the member by the trust in the case of an underpayment, or to the trust by the County or member in the case of an overpayment, also known as the “Pension Interest Rate” or “PIR.” The above notwithstanding, to the extent that a different interest rate is mandated by the Internal Revenue Service pursuant to the terms of a VCP submission under Ordinance section 8.23, such rate shall be the applicable interest rate or “PIR” (if referring to the interest portion of the TAO, also known as “Pension Interest” or “PI”).
   2. If the member or beneficiary selects Option 1 under subsection 8.24(3)(c)(i), once an overpayment is repaid to the trust by the County under subsection 3.1(1)(c), and the member or beneficiary is placed into an either a VRP or VOP under subsection 8.24(3)(h)(ii), RPS shall apply a simple interest rate of five percent (5%) per annum commencing one year after the VRP or VOP begins, to the remaining balance of the PAO, over the entire repayment period, also known as the “County Interest Rate” or “CIR” (if referring to the interest payable under this Subsection, also known as “County Interest” or “CI”).

1. De Minimis Amounts –
   1. Overpayments. RPS shall waive a member’s or beneficiary’s repayment obligation if the total of all overpayments is less than $165.00, inclusive of applicable interest under subsection 8.24(4).
   2. Underpayments. If the total underpayment payable to a member or beneficiary is $75 or less (inclusive of applicable interest under subsection 8.24(4)), RPS will not pay such amounts to the member or beneficiary.
2. Claim Period – This subsection 8.24(6) applies only to benefit payments made on or after January 1, 2019. Any claim related to a benefit payment made on or after January 1, 2019, must be initiated by the aggrieved party in writing on or before the sixth anniversary of the date on which the payment is issued by the retirement system. For purposes of this subsection, a payment shall be a single benefit payment or any single periodic payment if the benefit is paid in an installment or annuity form. Any claim with respect to a periodic payment shall apply to each subsequent periodic payment. A timely claim made during the claim period shall remain valid during the period of appeal (to the pension board or any court of law) and through final disposition of such appeal even if such disposition occurs after the sixth anniversary of the date of payment. This subsection 8.24(6) shall not apply to: (i) any matter that is subject to a binding settlement agreement or commitment of correction; (ii) any matter currently before a court of competent jurisdiction; (iii) any matter that has been finally adjudicated by a court of competent jurisdiction; or (iv) any matter that is subject to a contrary directive by the IRS through its Employee Plans Compliance Resolution System.
3. Effective Date – Except as otherwise set forth above, this section shall apply to any overpayment or underpayment that as of January 1, 2019: (i) is not otherwise subject to an agreement or commitment of correction; (ii) is not currently before a court of competent jurisdiction; and (iii) has not been finally adjudicated by a court of competent jurisdiction.

**Section 7**. Section 201.24(11.7) is amended as follows:

**11.7. - Exemption of funds and benefits from taxation, execution and assignment.**

All moneys and assets of the retirement system and all benefits and pensions and every portion thereof, both before and after payment to any member or beneficiary, granted under the retirement system shall be exempt from any state, county, or municipal tax, and from attachment or garnishment process, and shall not be seized, taken, detained or levied upon by virtue of any executions, or any process or proceeding whatsoever issued out of or by any court of this state, for the payment and ratification in whole and in part of any debt, claim, damage, demand or judgment against any member of or beneficiary under the retirement system, and no member of or beneficiary under the retirement system shall have any right to assign his benefit or allowance, or any part thereof, either by way of mortgage or otherwise, provided, however, that the pension board may at its option and under rules and regulations promulgated by it permit retired members to assign a portion of their pension for the regular monthly payment of medical, surgical and hospital care. The exemption from taxation contained herein shall not apply with respect to any tax on income. This section shall not prohibit the forfeiture or garnishment of benefits and pensions pursuant to:

1. Applicable requirements of Wisconsin Statutes or Milwaukee County Ordinances;
2. RPS’s compliance with a lien, levy or similar request for payment imposed on the member or beneficiary by the Internal Revenue Service; or

(c) RPS’s compliance with a lien, levy or similar request for payment imposed on the member or beneficiary by the Wisconsin or other state Department of Revenue.

**Section 8**. Section 201.24(11.8) is amended as follows:

**11.8. - ~~Protection against fraud.~~ Falsification or Absence of Information and Records.**

1. Protection Against Fraud - Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record(s) of this retirement system in any attempt to defraud such system as a result of such act shall be guilty of a misdemeanor and shall be punishable therefor under the laws of the state. Should any change or error in the records result in any member or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the information and records been correct, the board shall correct such error, and as far as practicable shall adjust the payments in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

(b) Missing Information – In the event that the records containing information necessary to calculate a member’s or beneficiary’s benefits under the system are missing, RPS may make reasonable estimates of such information as necessary to calculate the member’s or beneficiary’s benefits. Any such calculations based upon reasonable estimates shall be presumed correct and binding upon the member or beneficiary. The above notwithstanding, should any information and records subsequently become available, any member or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the information and records been correct, the Pension Board shall correct such error, and as far as practicable shall adjust the payments in such manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid. If the corrected amount results in an overpayment greater than the de minimis threshold as set forth in subsection 8.24(5), RPS shall seek to recoup any overpayment in the manner set forth in subsection 8.24(3).

**Section 9**. Section 201.24(8.6) is amended as follows:

**8.6. Rules and regulations.**

Subject to the limitations of this ordinance, the Pension Board shall, from time to time, establish rules and regulations for the administration of the funds created by this ordinance and for the transaction of its business. To the extent the terms of a Rule conflict with an Ordinance, the Ordinance’s terms shall apply.

**Section 10.**

Effective Date. Each provision of this Act shall be effective as of the date stated therein. If no such date is stated, the provision shall be effective upon passage and publication as proscribed by law. The Pension Board or RPS may, as appropriate, delay the disposition of any matter pending the establishment or amendment of interpretive Rules issued pursuant to section 8.6. In no event shall such delay invalidate the effective date or applicability of such provision.