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A resolution/ordinance by Supervisor Schmitt and County Executive Abele, to amend Section 201.24 of the Milwaukee County Code of General Ordinances regarding the Employees' Retirement System to improve the accuracy of benefit calculations, and to provide procedures to resolve payment errors, by recommending adoption of the following:

**AN AMENDED RESOLUTION/ORDINANCE**

WHEREAS, Milwaukee County (the County) sponsors the Employees' Retirement System (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 Retirement Plan Services Division, Department of Human Resources, 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 Milwaukee County Board of Supervisors (County Board), and the County Pension Board, to help identify pension errors and develop procedures to help eliminate future errors; and

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

44 WHEREAS, the Committee on Personnel, at its meeting of November 29, 2018,  
45 recommended adoption of File No. 18-802 (vote 4-0); and

46  
47 WHEREAS, the Committee on Finance and Audit, at its meeting of  
48 December 6, 2018, recommended adoption of File No. 18-802 (vote 7-0); and

49  
50 WHEREAS, the Milwaukee County Board of Supervisors, at its meeting of  
51 December 13, 2018, referred File No. 18-802 back to the Committee on Finance and  
52 Audit (vote 16-0); and

53  
54 WHEREAS, the Committee on Finance and Audit, at its meeting of February 1,  
55 2019, recommended adoption of File No. 18-802 as amended (vote 5-1); and

56  
57 WHEREAS, the Pension Study Commission, at its meeting of February 4, 2019,  
58 recommended adoption of File No. 18-802 as amended by the Committee on Finance  
59 and Audit on February 1, 2019 (vote 3-0); now, therefore,

60  
61 BE IT RESOLVED, the Milwaukee County Board of Supervisors authorizes the  
62 Department of Administrative Services, working in conjunction with the Comptroller,  
63 Office of the Comptroller, and Corporation Counsel, Office of Corporation Counsel, to  
64 process an appropriation transfer from the Pension Obligation Bond Reserve (Fund  
65 0010 Account 0899) for up to \$2.5 million to Org. Unit 1950 – Employee Fringe Benefits  
66 to provide the anticipated funding to effectuate this resolution/ordinance; and

67  
68 BE IT FURTHER RESOLVED, the County Board of Supervisors does hereby  
69 adopt the following:

70  
71 **AN AMENDED ORDINANCE**

72  
73 The County Board of Supervisors of the County of Milwaukee does ordain as  
74 follows:

75  
76 **Section 1.** Section 201.24(2.19) is amended as follows:

77  
78 2.19. - Retirement.

79  
80 Retirement shall mean termination of employment after a member has fulfilled all  
81 requirements for a pension. For all new applications filed on or after January 1, 2019, all  
82 Retirements, including disability retirements, as well as any other benefit  
83 enhancements, such as those conferred under section 201.24(5.16) and related ERS  
84 ordinances and rules, shall be considered as only commencing on the first day of the  
85 month immediately following a member's last day of employment (or authorized leave of  
86 absence, if later), and any retirement or annuity benefit payable to a member or  
87 beneficiary shall terminate upon the last day of the month of the date of death of  
88 retiree or beneficiary under option.

89

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

91

92 2.22. - ~~Masculine and feminine pronouns.~~

93

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

95

96 **RPS**

97

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

105

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

107

108 2.23. - Masculine and feminine pronouns

109

110 The masculine pronoun shall include the feminine.

111

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

113

114 3.1. - County Contributions

115

116 (1) *Budget year contributions.* The Pension Board shall furnish to the county executive,  
117 prior to June 1 of each year:

118

119 (a) An estimated budget contribution required by the county, including  
120 contributions required under section 3.3, to pay the following year's cost  
121 and to amortize the amount of unfunded obligation of the county over such  
122 period of years as determined from time to time by the county board (~~e.g.,~~  
123 ~~in 1984, estimate the cost to be incurred in 1985, which will be payable in~~  
124 ~~1986); and~~

125

126 (b) The established actuarial assumptions supporting said required amount.  
127 The county executive shall submit an informational report to the  
128 committees on finance and audit and personnel for consideration during  
129 the June committee cycle, providing for an estimated contribution amount  
130 for the next year's budget and shall include this pension contribution  
131 amount in the executive budget as transmitted to the county board. The  
132 final amount appropriated in the adopted budget by the county board shall  
133 be the estimated contribution to be expensed in the budget year, ~~but paid~~  
134 ~~to the system in the next following budget year (e.g., in 1984, an estimate~~  
135 ~~will be made for the amount to be expensed in 1985 but paid in 1986).~~

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(c) 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 days following 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.

(d) 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).

i. Collections in the current year, shall reduce the actual amount contributed from the County's General Fund to the ERS Trust as County's annual contribution required under subsection 3.1(1)(b) in the subsequent year (if any) dollar for dollar. ~~Separately, At the same time, any transfer under subsection 3.1 (1)(b) occurs in the subsequent year, any reduction made to the County's annual contribution under this subsection shall be separately transferred from the County's General Fund to the Pension Obligation Bond Fund. 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~~

182 under Option 1 as specified in subsection 8.24(3)(c)(i) in the current year  
183 exceeds the County's required annual contribution under subsection  
184 3.1(1)(b) in the subsequent year, any portion of the required transfer to the  
185 Pension Obligation Fund that remains after an offsetting reduction to the  
186 annual contribution under subsection 3.1(1)(b) shall be paid by the ERS  
187 Trust. RPS shall also collect, record and invest recoupment moneys  
188 recovered from members or beneficiaries under Option 2 in the ERS  
189 Trust, per subsection 8.24(3)(c)(ii), as directed by the Pension Board.

191 ii. If the amount collected on behalf of the County from members or  
192 beneficiaries under Option 1 as specified in subsection 8.24(3)(c)(i) in the  
193 current year exceeds the County's required annual contribution under  
194 subsection 3.1(1)(b) in the subsequent year, any portion of the required  
195 transfer to the Pension Obligation Fund that remains after an offsetting  
196 reduction to the annual contribution under subsection 3.1(1)(b) shall be  
197 paid by the ERS Trust to the County's Pension Obligation Fund in the  
198 subsequent year.

199  
200 (~~e~~ e) RPS shall also collect, record, and invest recoupment monies recovered  
201 from members or beneficiaries under Option 2 in the ERS Trust, per  
202 subsection 8.24(3)(c)(ii), as directed by the Pension Board.  
203

204 **Section 5.** Section 201.24(8.21) is deleted and recreated as follows:  
205

206 ~~8.21. – Delegation of authority.~~

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

215  
216 8.21. – RPS Authorization.  
217

218 (1) General Powers - RPS is authorized to act on behalf of the Pension Board with  
219 respect to the general administration of the Employees' Retirement System.  
220 RPS shall report to the pension board at each meeting of any material actions  
221 taken as reasonably adjudged by RPS under the circumstances in existence at  
222 the time of the report.

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(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.

(2) 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.

(3) 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:

(a) 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).

- 269 • an explanation of the benefit determination error and overpayment,
- 270 • the Total Amount Owed in principal and interest,
- 271 • the Overpayment Options as defined in subsection 8.24(3)(c),
- 272 • the expected monthly benefit amount under either Overpayment
- 273 Option if the recoupment is not paid off in a VLS under subsection
- 274 8.24(3)(h)(i), and
- 275 • an explanation of interest applicable under subsection 8.24(4).

276  
277 The Notice shall also include the following process-related information:

- 278
- 279 • a member may meet with a representative of ERS in-person to
- 280 review relevant documents, to receive an explanation related to the
- 281 correction and collection, and/or to receive an explanation of the
- 282 Overpayment Collection Options;
- 283 • the member or beneficiary should consult with an attorney before
- 284 selecting either Overpayment Collection Option;
- 285 • the member or beneficiary shall be given a reasonable time to
- 286 consult with an attorney, which in no case shall be less than seven
- 287 (7) days after the date the Notice is mailed;
- 288 • the beneficiary or member shall be given no less than seven (7)
- 289 days to revoke the selection of an Overpayment Collection Option
- 290 following the date of execution of the Overpayment Collection
- 291 Form;
- 292 • the process to request an exception to a monthly overpayment
- 293 collection amount under subsection 8.24(3)(g);
- 294 • the appeal process for challenging a benefit correction and/or IOP
- 295 under Option 2; and
- 296 • contact information for RPS.

297  
298 (b) Overpayment Collection Option Form – The Notice of Overpayment shall

299 include a separate Overpayment Collection Option Form listing the

300 Overpayment Collection Options, the expected monthly benefit amount for

301 each Overpayment Collection Option if the recoupment is not paid off in a

302 VLS, explaining that the member or beneficiary must return the form within

303 thirty (30) days, and explaining that if the member or beneficiary fails to

304 return the form, he or she will be placed into Overpayment Collection

305 Option 2, as defined in subsection 8.24(3).

306  
307 (c) Overpayment Collection Options – A member or beneficiary shall have

308 two overpayment collection options set forth in an Overpayment Collection

309 Option Form, which shall accompany the Notice of Overpayment,

310 regardless of whether overpayment recoupments are collected through a

311 VLS, VRP, VOP, or IOP, as defined in subsection 8.24(3)(h):

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i. 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.



353 ii. Option 2: For the exclusive benefit of the ERS trust, if the member or  
354 beneficiary signs an Overpayment Collection Option Form selecting  
355 Option 2 or is placed into Option 2 as authorized under subsection  
356 8.24(3)(b) after failing to make an affirmative election within thirty (30)  
357 days of the date the Notice is mailed, RPS shall collect from the  
358 member or beneficiary an amount equal to: (i) the total amount of the  
359 overpayment for the claim period (as defined in subsection 8.24(6));  
360 plus (ii) applicable interest (as defined in subsection 8.24(4)),  
361 calculated as of the date of each such overpayment through the date  
362 the County would have made payment to the ERS trust on behalf of  
363 the member or beneficiary under Option 1, referred to herein together  
364 as the "Total Amount Owed" or "TAO," as detailed below, plus (iii)  
365 additional Pension Interest as specified in subsection 8.24(4) if a VRP,  
366 VOP, or IOP defined under subsection 8.24(3)(h) is required.

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

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

388  
389 (d) Other Waiver of Repayment – Notwithstanding anything else to the  
390 contrary in this section 201.24, RPS shall waive the collection of any  
391 overpayment if TAO is below the de minimis threshold as set forth in  
392 subsection 8.24(5). The above notwithstanding, there shall be no  
393 reduction or waiver of any repayment if the overpayment is the direct or  
394 indirect result of the member's or beneficiary's fraud, material  
395 misrepresentation or material omission as determined by RPS.  
396

- 397 (e) Collection Administered by RPS – RPS shall commence overpayment  
398 collection as specified herein, beginning with the next full month following  
399 the receipt of the Overpayment Collection Option Form or the next full  
400 month following the 30th day after mailing of the Notice of Overpayment,  
401 regardless of whether any action or appeal is filed to challenge any  
402 element of, calculation of, or process related to the correction of the  
403 monthly benefit amount and/or collection of any overpayment and/or any  
404 applicable interest.  
405
- 406 (f) Calculation of Monthly Overpayment Collection Amount – The monthly  
407 overpayment collection amount shall be based upon the PAO under  
408 Option 1 or the TAO under Option 2, and shall be no less than as  
409 proscribed under the monthly repayment guidelines established by the  
410 Wisconsin Department of Employee Trust Funds under Wis. Stat. § 40.08.  
411 RPS shall implement and update ERS guidelines by January 1 of each  
412 year using the most recent, effective version of Wis. Stat. § 40.08 and  
413 Wisconsin Department of Employee Trust Funds guidelines. In all cases,  
414 payments shall be applied first to applicable Pension Interest, then County  
415 Interest, as further defined in subsection 8.24(4), and then, respectively, to  
416 the PAO under Option 1 or the TAO under Option 2.  
417
- 418 (g) Exceptions to Monthly Overpayment Collection Amount – If the member or  
419 beneficiary presents verifiable documentation to RPS within 30 days of the  
420 commencement of the collection or prior to the commencement of the  
421 collection that either:  
422
- 423 i. such member or beneficiary’s adjusted gross household income is  
424 at or below the federal poverty threshold as established by the  
425 United States Department of Health and Human Services, then the  
426 monthly repayment amount shall not exceed five percent (5%) of  
427 the member or beneficiary’s total monthly pension benefit; or  
428
- 429 ii. such member or beneficiary is entitled to an equitable adjustment to  
430 their monthly repayment amount, as determined by RPS, which  
431 shall be unappealable to the Pension Board, based upon (a) the  
432 financial status of the member or beneficiary and their household;  
433 (b) the amount of the overpayment; (c) the amount of the monthly  
434 benefit payment; (d) the culpability of the member or beneficiary in  
435 the circumstances that gave rise to the overpayment; (e)  
436 extraordinary medical or long-term care expenses; (f) whether the  
437 member or beneficiary supports claimed dependents; and (g)  
438 fairness to taxpayers.  
439

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

455  
456 (h) Collection Methods – Overpayments may be collected by any of the  
457 following methods, listed in order of preference:

- 458  
459 i. Method 1 – Lump Sum: whether a member or beneficiary elects  
460 Option 1 or 2 under subsection 8.24(3)(c), the PAO or TAO may be  
461 collected through a timely Voluntary Lump Sum (“VLS”) payment by  
462 the member or beneficiary. If a VLS is made to the ERS trust by  
463 the specified deadline, then ongoing monthly pension benefits, if  
464 any, shall be paid at the corrected amount. If a VLS is made to the  
465 ERS trust after the specified deadline, then the next monthly  
466 pension benefit should be adjusted to account for additional  
467 amounts owed, if any, and following that adjustment, monthly  
468 benefits shall be paid at the corrected amount.  
469  
470 ii. Method 2 – Voluntary Repayment Plan or Voluntary Offset Plan:  
471 whether a member or beneficiary elects Option 1 or 2 under  
472 subsection 8.24(3)(c), the PAO or TAO may be collected through  
473 either a “Voluntary Repayment Plan” (“VRP”), where there is no  
474 longer any ongoing benefit payment, under which the member or  
475 beneficiary agrees to make equal monthly direct payments through  
476 an electronic fund transfer or similar means to the ERS trust, or  
477 through a “Voluntary Offset Plan” (“VOP”), where benefit payments  
478 are ongoing, under which the member or beneficiary agrees in  
479 writing that each future monthly benefit payment will be reduced by  
480 a specific amount that shall be no less than that required under  
481 subsections 8.24(3)(f) and (g). If a member or beneficiary enters  
482 into either type of voluntary agreement, such agreement may  
483 provide for repayment over a shorter period and/or in a greater  
484 amount than otherwise required under subsections 8.24(3)(f) and  
485 (g).

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- iii. 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).
  
- (i) Failure to Repay –
  - i. 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.
  
  - ii. 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.
  
  - iii. 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.
  
  - iv. 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.
  
- (j) 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.

- 527 (4) Applicable Interest –  
528  
529 (a) The calculation of underpayments and overpayments, including the  
530 calculation of a TAO, shall include simple interest at a rate of five percent  
531 (5%) per annum on the underpaid or overpaid amount from the date of  
532 incorrect payment(s) through the applicable period of payment to the  
533 member by the trust in the case of an underpayment, or to the trust by the  
534 County or member in the case of an overpayment, also known as the  
535 “Pension Interest Rate” or “PIR.” The above notwithstanding, to the extent  
536 that a different interest rate is mandated by the Internal Revenue Service  
537 pursuant to the terms of a VCP submission under Ordinance section 8.23,  
538 such rate shall be the applicable interest rate or “PIR” (if referring to the  
539 interest portion of the TAO, also known as “Pension Interest” or “PI”).  
540  
541 (b) If the member or beneficiary selects Option 1 under subsection  
542 8.24(3)(c)(i), once an overpayment is repaid to the trust by the County  
543 under subsection 3.1(1)(c), and the member or beneficiary is placed into  
544 an either a VRP or VOP under subsection 8.24(3)(h)(ii), RPS shall apply a  
545 simple interest rate of five percent (5%) per annum commencing one year  
546 after the VRP or VOP begins, to the remaining balance of the PAO, over  
547 the entire repayment period, also known as the “County Interest Rate” or  
548 “CIR” (if referring to the interest payable under this Subsection, also  
549 known as “County Interest” or “CI”).  
550  
551 (5) De Minimis Amounts –  
552  
553 (a) Overpayments. RPS shall waive a member’s or beneficiary’s repayment  
554 obligation if the total of all overpayments is less than \$165.00, inclusive of  
555 applicable interest under subsection 8.24(4).  
556  
557 (b) Underpayments. If the total underpayment payable to a member or  
558 beneficiary is \$75 or less (inclusive of applicable interest under  
559 subsection 8.24(4)), RPS will not pay such amounts to the member or  
560 beneficiary.  
561  
562 (6) Claim Period – This subsection 8.24(6) applies only to benefit payments made on  
563 or after January 1, 2019. Any claim related to a benefit payment made on or  
564 after January 1, 2019, must be initiated by the aggrieved party in writing on or  
565 before the sixth anniversary of the date on which the payment is issued by the  
566 retirement system. For purposes of this subsection, a payment shall be a single  
567 benefit payment or any single periodic payment if the benefit is paid in an  
568 installment or annuity form. Any claim with respect to a periodic payment shall  
569 apply to each subsequent periodic payment. A timely claim made during the  
570 claim period shall remain valid during the period of appeal (to the pension board  
571 or any court of law) and through final disposition of such appeal even if such  
572 disposition occurs after the sixth anniversary of the date of payment. This

573 subsection 8.24(6) shall not apply to: (i) any matter that is subject to a binding  
574 settlement agreement or commitment of correction; (ii) any matter currently  
575 before a court of competent jurisdiction; (iii) any matter that has been finally  
576 adjudicated by a court of competent jurisdiction; or (iv) any matter that is subject  
577 to a contrary directive by the IRS through its Employee Plans Compliance  
578 Resolution System.

579  
580 (7) Effective Date – Except as otherwise set forth above, this section shall apply to  
581 any overpayment or underpayment that as of January 1, 2019: (i) is not  
582 otherwise subject to an agreement or commitment of correction; (ii) is not  
583 currently before a court of competent jurisdiction; and (iii) has not been finally  
584 adjudicated by a court of competent jurisdiction.

585  
586 **Section 7.** Section 201.24(11.7) is amended as follows:

587  
588 11.7. - Exemption of funds and benefits from taxation, execution and assignment.

589  
590 All moneys and assets of the retirement system and all benefits and  
591 pensions and every portion thereof, both before and after payment to any  
592 member or beneficiary, granted under the retirement system shall be exempt  
593 from any state, county, or municipal tax, and from attachment or garnishment  
594 process, and shall not be seized, taken, detained or levied upon by virtue of  
595 any executions, or any process or proceeding whatsoever issued out of or by  
596 any court of this state, for the payment and ratification in whole and in part of  
597 any debt, claim, damage, demand or judgment against any member of or  
598 beneficiary under the retirement system, and no member of or beneficiary  
599 under the retirement system shall have any right to assign his benefit or  
600 allowance, or any part thereof, either by way of mortgage or otherwise,  
601 provided, however, that the pension board may at its option and under rules  
602 and regulations promulgated by it permit retired members to assign a portion  
603 of their pension for the regular monthly payment of medical, surgical and  
604 hospital care. The exemption from taxation contained herein shall not apply  
605 with respect to any tax on income. This section shall not prohibit the forfeiture  
606 or garnishment of benefits and pensions pursuant to:

607  
608 (a) Applicable requirements of Wisconsin Statutes or Milwaukee  
609 County Ordinances;

610  
611 (b) RPS's compliance with a lien, levy or similar request for payment  
612 imposed on the member or beneficiary by the Internal Revenue  
613 Service; or

614  
615 (c) RPS's compliance with a lien, levy or similar request for payment  
616 imposed on the member or beneficiary by the Wisconsin or other  
617 state Department of Revenue.

618

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

620

621 11.8. - ~~Protection against fraud.~~ Falsification or Absence of Information and Records.

622

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

634

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

651

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

653

654 8.6. Rules and regulations.

655

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

660

661 **Section 10.**

662

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

669

670 **Section 11.**

671

672 Savings Clause. If any provision of this Act is found to be invalid or unenforceable by  
673 any court of competent jurisdiction or is subject to a contrary directive by the IRS  
674 through its Employee Plans Compliance Resolution System, the validity, legality, and  
675 enforceability of the remaining provisions shall not in any way be affected or impaired  
676 thereby.

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