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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 (F&A), 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 F&A, at its meeting of February 1, 2019,
55 recommended adoption of File No. 18-802 as amended with F&A Amendment I (vote 5-
56 1); and

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

61
62 WHEREAS, the Milwaukee County Board of Supervisors, at its meeting of
63 February 7, 2019, referred File No. 18-802 back to the Committee on Finance and Audit
64 (vote 15-3); and

65
66 WHEREAS, the Committee on Finance and Audit, at its meeting of March 14,
67 2019, recommended adoption of File No. 18-802 as amended with F&A Amendments II
68 and III (vote 4-2); now, therefore,

69
70 BE IT RESOLVED, the Milwaukee County Board of Supervisors authorizes the
71 Department of Administrative Services, working in conjunction with the Comptroller,
72 Office of the Comptroller, and Corporation Counsel, Office of Corporation Counsel, to
73 process an appropriation transfer from the Pension Obligation Bond Reserve (Fund
74 0010 Account 0899) for up to \$2.5 million to Org. Unit 1950 – Employee Fringe Benefits
75 to provide the anticipated funding to effectuate this resolution/ordinance; and

76
77 BE IT FURTHER RESOLVED, the County Board of Supervisors does hereby
78 adopt the following:

79
80 **AN AMENDED ORDINANCE**

81
82 The County Board of Supervisors of the County of Milwaukee does ordain as
83 follows:

84
85 **Section 1.** Section 201.24(2.19) is amended as follows:

86
87 2.19. - Retirement.

88

89 Retirement shall mean termination of employment after a member has fulfilled all
90 requirements for a pension. For all new applications filed on or after ~~January~~ July 1,
91 2019, all Rretirements, including disability retirements, as well as any other benefit
92 enhancements, such as those conferred under section 201.24(5.16) and related ERS
93 ordinances and rules, shall be considered as only commencing on the first day of the
94 month immediately following a member's last day of employment (or authorized leave of
95 absence, if later), and any retirement or annuity benefit payable to a member or
96 beneficiary shall terminate upon the last day of the month of the date of death of
97 retiree or beneficiary under option.

98
99 **Section 2.** Section 201.24(2.22) is deleted and recreated as follows:

100
101 2.22. - ~~Masculine and feminine pronouns.~~

102
103 ~~The masculine pronoun shall include the feminine.~~

104
105 **RPS**

106
107 RPS (may also be referred to as the Retirement Office elsewhere in the Ordinances and
108 Rules) shall mean Retirement Plan Services, the County department that maintains the
109 general ledger and related books of the retirement system, administers the pension
110 payroll, conducts retirement seminars, prepares estimates and processes benefits for
111 retirees and surviving beneficiaries of the retirement system, and otherwise executes
112 any administrative plan function delegated to it by the Pension Board or authorized by
113 the County.

114
115 **Section 3.** Section 201.24(2.23) is created as follows:

116
117 2.23. - Masculine and feminine pronouns

118
119 The masculine pronoun shall include the feminine.

120
121 **Section 4.** Section 201.24(3.1) is amended as follows:

122
123 3.1. - County Contributions

124
125 (1) *Budget year contributions.* The Pension Board shall furnish to the county executive,
126 prior to June 1 of each year:

- 127
128 (a) An estimated budget contribution required by the county, including
129 contributions required under section 3.3, to pay the following year's cost
130 and to amortize the amount of unfunded obligation of the county over such
131 period of years as determined from time to time by the county board ~~(e.g.,~~
132 ~~in 1984, estimate the cost to be incurred in 1985, which will be payable in~~
133 ~~1986); and~~

135 (b) The established actuarial assumptions supporting said required amount.
136 The county executive shall submit an informational report to the
137 committees on finance and audit and personnel for consideration during
138 the June committee cycle, providing for an estimated contribution amount
139 for the next year's budget and shall include this pension contribution
140 amount in the executive budget as transmitted to the county board. The
141 final amount appropriated in the adopted budget by the county board shall
142 be the estimated contribution to be expensed in the budget year, but paid
143 to the system in the next following budget year (e.g., in 1984, an estimate
144 will be made for the amount to be expensed in 1985 but paid in 1986).

145
146 (c) Beginning with the first quarter ending after 201.24(8.24) takes effect,
147 September 30, 2018, any contribution required from the County under
148 applicable law and regulations resulting from the County's assumption of
149 liability for overpayments made from the Retirement System in lieu of
150 collection of such overpayments from members or beneficiaries or related
151 to any other payment due to the Retirement System by the member or
152 beneficiary under this Ordinance, including section 201.24(8.24) or any
153 other applicable law or regulation, shall be calculated and contributed as
154 described below.

155
156 As soon as practicable but in no case later than two weeks following the
157 end of a quarter, RPS shall submit to the Comptroller and the Director of
158 the Department of Administrative Services a report of the aggregate
159 overpayments and interest falling under Option 1 as determined under
160 section 201.24(8.24)(3)(c)(i), in addition to all other payments by the
161 County required under subsection 8.24(5) or 8.24(6) (together, "Aggregate
162 Contribution").

163
164 The Aggregate Contribution shall be paid by the County to ERS by no
165 later than twenty business days following the end of the prior quarter from
166 the Pension Obligation Bond Reserve or other authorized source of funds.
167 Payments from the Pension Obligation Bond Reserve shall be approved
168 by the Comptroller and the Director of the Department of Administrative
169 Services.

170
171 (d) For overpayments, RPS shall maintain an accounting of all amounts owed
172 and paid by the County or any member or beneficiary under section
173 201.24(8.24)(3). The total amount collected by RPS on behalf of the
174 County from members or beneficiaries under Option 1 as specified in
175 subsection 8.24(3)(c)(i), whether by VLS, VRP, or VOP as specified in
176 subsection 8.24(3)(h).

177
178 i. Collections in the current year shall reduce the actual amount
179 contributed from the County's General Fund to the ERS Trust as County's
180 annual contribution required under subsection 3.1(1)(b) in the subsequent

181 year (if any) dollar for dollar. Separately, At the same time, any transfer
182 under subsection 3.1 (1)(b) occurs in the subsequent year, any reduction
183 made to the County's annual contribution under this subsection shall be
184 separately transferred from the County's General Fund to the Pension
185 Obligation Bond Fund. the total aggregate amount collected by RPS on
186 behalf of the County from members or beneficiaries under Option 1 as
187 specified in subsection 8.24(3)(c)(i), whether by VLS, VRP, or VOP as
188 specified in subsection 8.24(3)(h), in the current year, shall be transferred
189 at the same time any transfer under subsection 3.1(1)(b) occurs in the
190 subsequent year, to the Pension Obligation Bond Fund; and where the
191 amount collected on behalf of the County from members or beneficiaries
192 under Option 1 as specified in subsection 8.24(3)(c)(i) in the current year
193 exceeds the County's required annual contribution under subsection
194 3.1(1)(b) in the subsequent year, any portion of the required transfer to the
195 Pension Obligation Fund that remains after an offsetting reduction to the
196 annual contribution under subsection 3.1(1)(b) shall be paid by the ERS
197 Trust. RPS shall also collect, record and invest recoupment moneys
198 recovered from members or beneficiaries under Option 2 in the ERS
199 Trust, per subsection 8.24(3)(c)(ii), as directed by the Pension Board.

200
201 ii. If the amount collected on behalf of the County from members or
202 beneficiaries under Option 1 as specified in subsection 8.24(3)(c)(i) in the
203 current year exceeds the County's required annual contribution under
204 subsection 3.1(1)(b) in the subsequent year, any portion of the required
205 transfer to the Pension Obligation Fund that remains after an offsetting
206 reduction to the annual contribution under subsection 3.1(1)(b) shall be
207 paid by the ERS Trust to the County's Pension Obligation Fund in the
208 subsequent year.

209
210 (d e) RPS shall also collect, record, and invest recoupment monies recovered
211 from members or beneficiaries under Option 2 in the ERS Trust, per
212 subsection 8.24(3)(c)(ii), as directed by the Pension Board.

213
214 **Section 5.** Section 201.24(8.21) is deleted and recreated as follows:
215

216 ~~8.21. -- Delegation of authority.~~
217 ~~The secretary of the pension board is delegated the authority to implement all~~
218 ~~collective bargaining agreements which amend any provision with this ordinance~~
219 ~~governing the employees' retirement system or which create new benefits or result in~~
220 ~~different computations for entitlements as such relates to the members of specific~~
221 ~~collective bargaining unit. All provisions of such collective bargaining agreements as~~
222 ~~applicable to specific members and relating to the employees' retirement system are~~
223 ~~hereby incorporated by reference within this ordinance for the purpose of this delegation~~
224 ~~of authority.~~
225

226 8.21. – RPS Authorization.

227

228 (1) General Powers - RPS performs is authorized to act on behalf of the Pension
229 Board with respect to the general administration of the Employees' Retirement
230 System for the Pension Board. RPS shall report to the pension board at each
231 meeting of any material actions taken as reasonably adjudged by RPS under the
232 circumstances in existence at the time of the report.

233

234 (2) Collective Bargaining Agreements - RPS is authorized to implement all collective
235 bargaining agreements which amend any provision within this ordinance
236 governing the Employees' Retirement System or which create new benefits or
237 result in different computations for entitlements as such relates to the members
238 of specific collective bargaining units. All provisions of such collective bargaining
239 agreements as applicable to specific members and relating to the Employees'
240 Retirement System are hereby incorporated by reference within this ordinance
241 for the purpose of this delegation of authority.

242

243 (3) In taking any actions or refraining from taking action, RPS must operate in
244 conformity with the Ordinances and Pension Board Rules.

245

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

247

248 8.24. Correction of Underpayment and Overpayment of Benefits

249

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

257

258 (2) Erroneous Underpayments – Unless the underpaid amount is less than the de
259 minimis threshold amount set forth in subsection 8.24(5) below, if the benefit paid
260 to a member or beneficiary is determined to be less than that to which the
261 member or beneficiary is entitled under the provisions of this ordinance, RPS
262 shall authorize a single sum corrective payment in an amount equal to: (i) the
263 total amount of the underpayment for the claim period (as defined in subsection
264 8.24(6)); plus (ii) applicable interest (as defined in subsection 8.24(4)), calculated
265 as of the date of each such correction.

266

267 (3) Erroneous Overpayments – If the benefit paid to a member or beneficiary is
268 determined to be greater than that to which the member or beneficiary is entitled
269 under the provisions of this ordinance, the following shall apply:

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(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),
- 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.

(b) 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).

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(c) 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):

- 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 ~~prescribed~~ prescribed 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 no 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.

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- ii. 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 or 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.

- (d) 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.

- 408 (e) Collection Administered by RPS – RPS shall commence overpayment
409 collection as specified herein, beginning with the next full month following
410 the receipt of the Overpayment Collection Option Form or the next full
411 month following the 30th day after mailing of the Notice of Overpayment,
412 regardless of whether any action or appeal is filed to challenge any
413 element of, calculation of, or process related to the correction of the
414 monthly benefit amount and/or collection of any overpayment and/or any
415 applicable interest.
416
- 417 (f) Calculation of Monthly Overpayment Collection Amount – The monthly
418 overpayment collection amount shall be based upon the PAO under
419 Option 1 or the TAO under Option 2, and shall be no less than as
420 ~~prescribed~~ prescribed under the monthly repayment guidelines
421 established by the Wisconsin Department of Employee Trust Funds under
422 Wis. Stat. § 40.08. RPS shall implement and update ERS guidelines by
423 January 1 of each year using the most recent, effective version of Wis.
424 Stat. § 40.08 and Wisconsin Department of Employee Trust Funds
425 guidelines. In all cases, payments shall be applied first to applicable
426 Pension Interest, then County Interest, as further defined in subsection
427 8.24(4), and then, respectively, to the PAO under Option 1 or the TAO
428 under Option 2.
429
- 430 (g) Exceptions to Monthly Overpayment Collection Amount – If the member or
431 beneficiary presents verifiable documentation to RPS within 30 days of the
432 commencement of the collection or prior to the commencement of the
433 collection that either:
434
- 435 i. such member or beneficiary’s adjusted gross household income is
436 at or below the federal poverty threshold as established by the
437 United States Department of Health and Human Services, then the
438 monthly repayment amount shall not exceed five percent (5%) of
439 the member or beneficiary’s total monthly pension benefit; or
440
- 441 ii. such member or beneficiary is entitled to an equitable adjustment to
442 their monthly repayment amount, as determined by RPS, which
443 shall be unappealable to the Pension Board, based upon (a) the
444 financial status of the member or beneficiary and their household;
445 (b) the amount of the overpayment; (c) the amount of the monthly
446 benefit payment; (d) the culpability of the member or beneficiary in
447 the circumstances that gave rise to the overpayment; (e)
448 extraordinary medical or long-term care expenses; (f) whether the
449 member or beneficiary supports claimed dependents; and (g)
450 fairness to taxpayers.
451

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

467
468 (h) Collection Methods – Overpayments may be collected by any of the
469 following methods, listed in order of preference:

470
471 i. Method 1 – Lump Sum: whether a member or beneficiary elects
472 Option 1 or 2 under subsection 8.24(3)(c), the PAO or TAO may be
473 collected through a timely Voluntary Lump Sum (“VLS”) payment by
474 the member or beneficiary. If a VLS is made to the ERS trust by
475 the specified deadline, then ongoing monthly pension benefits, if
476 any, shall be paid at the corrected amount. If a VLS is made to the
477 ERS trust after the specified deadline, then the next monthly
478 pension benefit should be adjusted to account for additional
479 amounts owed, if any, and following that adjustment, monthly
480 benefits shall be paid at the corrected amount.

481
482 ii. Method 2 – Voluntary Repayment Plan or Voluntary Offset Plan:
483 whether a member or beneficiary elects Option 1 or 2 under
484 subsection 8.24(3)(c), the PAO or TAO may be collected through
485 either a “Voluntary Repayment Plan” (“VRP”), where there is no
486 longer any ongoing benefit payment, under which the member or
487 beneficiary agrees to make equal monthly direct payments through
488 an electronic fund transfer or similar means to the ERS trust, or
489 through a “Voluntary Offset Plan” (“VOP”), where benefit payments
490 are ongoing, under which the member or beneficiary agrees in
491 writing that each future monthly benefit payment will be reduced by
492 a specific amount that shall be no less than that required under
493 subsections 8.24(3)(f) and (g). If a member or beneficiary enters
494 into either type of voluntary agreement, such agreement may
495 provide for repayment over a shorter period and/or in a greater
496 amount than otherwise required under subsections 8.24(3)(f) and
497 (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 ~~prescribed~~ prescribed 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.

539 (4) Applicable Interest –

540

541 (a) The calculation of underpayments and overpayments, including the
542 calculation of a TAO, shall include simple interest at a rate of five percent
543 (5%) per annum on the underpaid or overpaid amount from the date of
544 incorrect payment(s) through the applicable period of payment to the
545 member by the trust in the case of an underpayment, or to the trust by the
546 County or member in the case of an overpayment, also known as the
547 “Pension Interest Rate” or “PIR.” The above notwithstanding, to the extent
548 that a different interest rate is mandated by the Internal Revenue Service
549 pursuant to the terms of a VCP submission under Ordinance section 8.23,
550 such rate shall be the applicable interest rate or “PIR” (if referring to the
551 interest portion of the TAO, also known as “Pension Interest” or “PI”).

552

553 (b) If the member or beneficiary selects Option 1 under subsection
554 8.24(3)(c)(i), once an overpayment is repaid to the trust by the County
555 under subsection 3.1(1)(c), and the member or beneficiary is placed into
556 an either a VRP or VOP under subsection 8.24(3)(h)(ii), RPS shall not
557 apply a simple interest rate of five percent (5%) per annum commencing
558 one year after the VRP or VOP begins, to the remaining balance of the
559 PAO, over the entire repayment period, also known as the “County
560 Interest Rate” or “CIR” (if referring to the interest payable under this
561 Subsection, also known as “County Interest” or “CI”).

562

563 (5) De Minimis Amounts –

564

565 (a) Overpayments. RPS shall waive a member’s or beneficiary’s repayment
566 obligation if the total of all overpayments is less than \$165.00, inclusive of
567 applicable interest under subsection 8.24(4).

568

569 (b) Underpayments. If the total underpayment payable to a member or
570 beneficiary is \$75 or less (inclusive of applicable interest under
571 subsection 8.24(4)), RPS will not pay such amounts to the member or
572 beneficiary.

573

574 (6) Claim Period – This subsection 8.24(6) applies only to benefit payments made on
575 or after ~~January~~ July 1, 2019. Any claim related to a benefit payment made on or
576 after ~~January~~ July 1, 2019, must be initiated by the aggrieved party in writing on
577 or before the sixth anniversary of the date on which the payment is issued by the
578 retirement system. For purposes of this subsection, a payment shall be a single
579 benefit payment or any single periodic payment if the benefit is paid in an
580 installment or annuity form. Any claim with respect to a periodic payment shall
581 apply to each subsequent periodic payment. A timely claim made during the
582 claim period shall remain valid during the period of appeal (to the pension board
583 or any court of law) and through final disposition of such appeal even if such
584 disposition occurs after the sixth anniversary of the date of payment. This

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

591
592 (7) Effective Date – Except as otherwise set forth above, this section shall apply to
593 any overpayment or underpayment that as of January 1, 2019: (i) is not
594 otherwise subject to an agreement or commitment of correction; (ii) is not
595 currently before a court of competent jurisdiction; and (iii) has not been finally
596 adjudicated by a court of competent jurisdiction.

597
598 **Section 7.** Section 201.24(11.7) is amended as follows:
599

600 11.7. - Exemption of funds and benefits from taxation, execution and assignment.
601

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

619
620 (a) Applicable requirements of Wisconsin Statutes or Milwaukee
621 County Ordinances;

622
623 (b) RPS's compliance with a lien, levy or similar request for payment
624 imposed on the member or beneficiary by the Internal Revenue
625 Service; or

626
627 (c) RPS's compliance with a lien, levy or similar request for payment
628 imposed on the member or beneficiary by the Wisconsin or other
629 state Department of Revenue.

630

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

632

633 11.8. - ~~Protection against fraud.~~ Falsification or Absence of Information and Records.

634

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

646

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

663

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

665

666 8.6. Rules and regulations.

667

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

672

673 **Section 10.**

674

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

681

682 **Section 11.**

683

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

689

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