

From the Chief Human Resources Officer and the Director of Retirement Plan Services, Department of Human Resources, clarifying the Milwaukee County Code of General Ordinances regarding pension service credit for employees furloughed during the COVID-19 pandemic and requesting authorization to amend Chapters 201.24(2.7), 201.24(2.9), and 201.24(8.7) of the Milwaukee County Code of General Ordinances to reflect these changes, by recommending adoption of the following:

A RESOLUTION/ORDINANCE

WHEREAS, beginning in March 2020, many Milwaukee County (the County) employees were indefinitely or intermittently furloughed due to the effects of the Coronavirus Disease (COVID-19) pandemic; and

WHEREAS, employees who were indefinitely or intermittently furloughed have accrued unpaid time, which may affect their pension service credits; and

WHEREAS, an employee's monthly pension benefit is determined, in part, by how many years of service to the County are accrued; and

WHEREAS, the current Milwaukee County Code of General Ordinances (the Code) allows an employee one month of unpaid time in a calendar year to still receive a full year of service, except in the case of worker's compensation or military service; and

WHEREAS, some furloughed employees have over one month of unpaid time in the current calendar year due to the COVID-19 pandemic, and may accrue more unpaid time in 2021; and

WHEREAS, furloughs due to the COVID-19 pandemic should not affect an employee's years of service and, as a result, their monthly pension benefit; and

WHEREAS, an actuarial assessment performed by a County consultant determined that revising the Code to allow an exception to the unpaid time rule because of the COVID-19 pandemic will not increase expenses to the Employees' Retirement System (ERS), but will also not result in any savings to the ERS; and

WHEREAS, the Office of the Comptroller found that if the County chose not to provide service credit for unpaid hours in excess of one month, there would be negligible savings to the County; and

WHEREAS, these changes to the Code would not affect any other instances of unpaid time, except for worker's compensation, military service, and COVID-19 pandemic furloughs, and would not affect the calculation of a Final Average Salary in determining a monthly pension benefit; and

WHEREAS, changes to the Code are necessary in order to ensure that an employee's years of service to the County, which affect their monthly pension benefit, are not impacted by COVID-19 pandemic furloughs; and

WHEREAS, the Committee on Personnel, at its meeting of December 1, 2020, recommended adoption of File No. 20-909 (vote 5-0); and

WHEREAS, the Pension Study Commission, at its meeting of December 14, 2020, recommended adoption of File No. 20-909 (vote 5-0); now, therefore,

BE IT RESOLVED, Milwaukee County (County) employees who were indefinitely or intermittently furloughed due to the Coronavirus Disease (COVID-19) pandemic shall not lose any pension service credits because of unpaid time; and

BE IT FURTHER RESOLVED, the exceptions to the current one month limit on unpaid time as provided in the Milwaukee County Code of General Ordinances (the Code) shall be expanded from worker's compensation and military service, to include furloughs during the COVID-19 pandemic; and

BE IT FURTHER RESOLVED, the Milwaukee County Board of Supervisors hereby amends Chapters 201.24(2.7), 201.24(2.9), and 201.24(8.7) of the Code, by adoption of the following:

AN ORDINANCE

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

Section 1. Chapter 201.24(2.7) of the Milwaukee County Code of General Ordinances is hereby amended as follows:

2.7. - Earnable compensation.

Earnable compensation shall mean gross wages or salary total compensation that would be payable paid to an employee for services rendered in the course of his or her employment to a member if he/she worked the full normal working time for his/her position, plus all payments for authorized overtime but excluding payments in lieu of vacations and sick leave, provided that w Where service is credited during periods of absences from County employment due to military service as provided in Ordinance section 201.24(2.10) or for absences while receiving Workers

86 **Compensation pursuant to State statute for injuries received while in County**
87 **ERS-covered service as provided in section 2.9 hereof**, the employee shall be
88 considered to have earnable compensation during such periods of absence **as if the**
89 **employee had continued to work in his or her position equivalent to his/her**
90 **earnable compensation as of the last month of employment prior to the beginning**
91 **of such absences**. In cases where compensation includes maintenance, the **Pension**
92 **Board** shall fix the value of that portion of the compensation not payable in money.
93 Where the county pays less than the full rate of compensation for a position and the
94 balance is payable by some other government, company or individual, the amount paid
95 by the county shall be considered the ~~e-Earnable~~ ~~c-Compensation~~ for such period of
96 service, **except Earnable Compensation shall also include amounts paid by the**
97 **State for employees described in Ordinance section 201.24(2.4) who are regularly**
98 **employed by the State but who were previously employed by the County and who**
99 **has, pursuant to State statute, continued to be a member of ERS**. The annual
100 earnable compensation of each member taken into account for determining all benefits
101 provided under the system for any year shall not exceed the annual compensation limit
102 pursuant to Internal Revenue Code section 401(a)(17); provided, however, that this
103 limitation shall apply only with respect to members who first commence participation in
104 the system after 1995. The annual compensation limit shall be adjusted annually for
105 increases in the cost of living by the Secretary of the Treasury or his/her delegate,
106 except that the dollar increase in effect on January 1 of any calendar year is effective for
107 years beginning in such calendar year. The "annual compensation limit" is two hundred
108 thousand dollars (\$200,000.00), as indexed.

109
110 **Section 2.** Chapter 201.24(2.9) of the Milwaukee County Code of General
111 Ordinances is hereby amended as follows:

112
113 2.9. - Service.

114
115 Service shall mean service as an employee of the county or of any municipal
116 subdivision of the county in departments the operation of which is taken over by the
117 county, **provided such employee is a member of the System as defined by**
118 **Pension Board Rules 202, 203, and 204**. Service shall also include any period of
119 **service provided for in Ordinance section 201.24(8.7) military service recognized**
120 **hereunder**; any period of employment by the county or in any department of any town,
121 village, city or metropolitan sewerage commission in the county, which has been
122 absorbed by the county, prior to January 1, 1938; any period of continuous employment
123 with the City of Milwaukee which terminated between September 1 and December 31,
124 1937; and any prior service granted to new members brought into the system by any
125 amendment effective subsequent to January 1, 1938.
126

Section 3. Chapter 201.24(8.7) of the Milwaukee County Code of General Ordinances is hereby amended as follows:

8.7 Service Credit

(a) The board shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to one (1) year of service, but in no case shall more than one (1) year of service be creditable for all service in one (1) calendar year. ~~nor in any case shall the board allow~~ **Members shall not accrue** credit as service for any period of more than one (1) month's duration during which the employe was absent without ~~pay~~ **Earnable Compensation, except under subsections (b), (c), and (d) of this section 8.7.**

(b) **Employees furloughed as a result of COVID-19 Coronavirus and the budgetary shortfalls resulting from COVID-19 Coronavirus.**

(c) **Employees receiving worker's compensation for injuries received while in ERS-eligible County Service shall receive service credit for the period of time not otherwise credited under proper application therefor to the secretary.**

(d) **Employees granted Military Service Credit pursuant to Ordinance section 201.24(2.10).**

(e) **Accrual of service credit in excess of one (1) month during which the employe was absent without Earnable Compensation is not a vested property right.**

Section 4. The provisions of this Ordinance shall become effective upon passage and publication.

srb
12/01/2020
S:\Committees\2020\Dec\PER\Resolutions\20-909 ERS - 2020 Furlough Service Credit.docx