

**COUNTY OF MILWAUKEE**  
**DAS-Division of Employee Benefits**  
INTER-OFFICE COMMUNICATION

Date : December 27, 2011

To : Supervisor Lee Holloway, Chairman, Milwaukee County Board of Supervisors

From : Matthew Hanchek, Interim Director, Employee Benefits 

Subject : **Report from the Interim Director, Employee Benefits, requesting an amendment to Section 201.24(8.2) of the Milwaukee County Code of General Ordinances as it pertains to membership on the Pension Board.**

**Issue**

The Milwaukee County Pension Board is comprised of 5 appointed members (3 executive appointments and 2 appointments by the Chair of the County Board) and 4 elected members (3 active and 1 retiree representative). This board is tasked with stewardship of the County's Pension Trust and is supported in that effort by the Employees Retirement System (ERS). The Pension Board authorizes pension trust spending and directs the administration of the plan by ERS staff.

The proposed amendment to Section 201.24(8.2) of the Milwaukee County Code of General Ordinances addresses three issues currently impacting the Pension Board.

First, an elected employee member of the Pension Board who is also part of the support staff for the Pension Board would have inherent conflicts of interest that interfere with that person's ability to effectively carry out the fiduciary responsibility of both positions. The proposed amendment would preclude ERS employees from serving on the Pension Board.

Second, turnover within the Pension Board has led to instances of partial terms. The impact of partial terms on the term limits currently defined in ordinance is unclear. The proposed amendment would clarify full and partial terms, and overall term limits.

Finally, turnover and vacancies within the Board cause an impediment to the Board's ability to carry out its fiduciary duties. At the minimum, attendance for a quorum, a unanimous 5-0 vote, is required under current rules for the Pension Board to take actions. The proposed amendment would improve the Pension Board's ability to effectively carry out its duties at minimum quorum.

**Requested Action**

It is requested that the County Board of Supervisors authorize the attached amendment to Section 201.24(8.2) of the Milwaukee County Code of General Ordinances.

**A RESOLUTION**

To amend Sections 201.24(8.2) and (8.5) of the Milwaukee County Code of General Ordinances as they pertain to membership on the Pension Board and decision votes of the Pension Board.

WHEREAS, the Pension Board includes three members elected from amongst the active employees, and

WHEREAS, the Pension Board is supported by the staff of the Employees Retirement System office, and

WHEREAS, having elected employee members of the Pension Board who are also part of the support staff for the Pension Board can create conflicts of interest, confidentiality and loyalty concerns, and

WHEREAS, members have been appointed or confirmed to serve partial terms on the Pension Board and clarification is necessary to limit service on the Pension Board to two, full, three-year terms, not including any partial term of service, and

WHEREAS, members have served beyond the completion of their second three-year term as holdovers until a replacement has been confirmed, but such service is contrary to the term limit policy and clarification is necessary to prevent this practice, and

WHEREAS, members are required to have certain qualifications for appointment or election and codification of prior practice is appropriate to provide that members cannot continue to serve if, during the member's term, the member no longer possesses the qualifications applicable to the member's appointment or election such that the member would not be eligible for re-appointment or re-election, and

WHEREAS, the Pension Board must be able to operate when vacancies exist on the Board and the requirement of five votes for final decisions can prevent action when the Pension Board does not have full membership and is contrary to common practice for other bodies under Robert's Rules of Order,

NOW THEREFORE,

BE IT RESOLVED, that the Milwaukee County Board of Supervisors hereby amends Sections 201.24(8.2) and (8.5) of the Milwaukee County Code of General Ordinances by adopting the following:

**AN ORDINANCE**

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

50 **Section 1.** Section 201.24(8.2) of the General Ordinances of Milwaukee County is  
51 amended as follows:

52  
53 8.2 Membership

54  
55 Members shall not serve more than two (2) consecutive three-year terms, but the  
56 appointment or election of a member to complete the balance of a three year term of a  
57 prior member is not included in this limitation. Members may not continue to serve after  
58 the completion of any term, unless re-appointed and confirmed or re-elected. A member  
59 having served two (2) terms may be eligible for re-election or re-appointment after not  
60 having been a member for at least three (3) years from the last date of service on the  
61 board. If re-appointed or re-elected, the members must adhere to the same term  
62 limitation of two (2) consecutive three-year terms. A member may not continue to serve  
63 if at any time the member does not possess the qualifications that would be applicable to  
64 the member at the time of the member's appointment, election, re-appointment or re-  
65 election. The board shall determine any question concerning a member's qualification or  
66 eligibility to continue to serve as a member, but the votes of five (5) members shall be  
67 necessary for a decision of the board on any such question.

68  
69 None of the appointed members of the pension board nor any family members of  
70 the appointed members of the pension board shall be participants in, or beneficiaries of,  
71 the Milwaukee County Employee Retirement System. None of the appointed members  
72 of the pension board shall have relationships or ties to any provider of services to the  
73 Milwaukee County Retirement System, Milwaukee County Pension Board, or the  
74 Milwaukee County Pension Study Commission.

75  
76 The membership of the board shall consist of the following:

- 77
- 78 (a) Three (3) members to be appointed by the county executive (subject  
79 to confirmation by two-thirds (2/3) or more of the members-elect of the  
80 county board), for a term of three (3) years.
  - 81
  - 82 (b) Two (2) members appointed by the county board chairperson (subject  
83 to the confirmation of the county board and to county executive approval  
84 or veto, with proceedings on veto), for a term of three (3) years.
  - 85
  - 86 (c) Four (4) elected members consisting of three (3) employee members  
87 and one (1) retiree member who shall be members of the system and  
88 who shall be elected by members of the system except for the retiree  
89 member who shall be elected by retired members only for terms of three  
90 (3) years. Employees who work for the Employees Retirement System  
91 are not eligible for election to, or service on, the pension board. The  
92 board may adopt rules and regulations governing such election  
93 including a division of county employees into groups for the purpose of  
94 electing one (1) employee member of the board from among the  
95 employees of each group. Appointing authorities shall ensure that the  
96 employee members of the pension board are released from their work  
97 assignments to attend meetings of the pension board and any other  
98 meeting related to pension board business for which public notice is  
99 required which occurs during their regularly scheduled work shift.

101 **Section 2.** Section 201.24(8.5) of the General Ordinances of Milwaukee County is  
102 amended as follows:

103  
104 8.5 Decision vote.

105  
106 Each member of the board shall be entitled to one (1) vote in the board. ~~Five (5)~~  
107 ~~votes~~ The votes of a majority of the members present and voting, but no less than four  
108 (4) votes, shall be necessary for a decision by the members of the board at any meeting  
109 of the board.

110  
111 **Section 3.** This ordinance shall be effective upon passage and publication.

**MILWAUKEE COUNTY FISCAL NOTE FORM**

**DATE:** December 27, 2011

Original Fiscal Note

Substitute Fiscal Note

**SUBJECT:** Request to amend Section 201.24(8.2) of the Milwaukee County Code of General Ordinances as it pertains to membership on the Pension Board.

**FISCAL EFFECT:**

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> No Direct County Fiscal Impact                                     | <input type="checkbox"/> Increase Capital Expenditures |
| <input checked="" type="checkbox"/> Existing Staff Time Required                                       | <input type="checkbox"/> Decrease Capital Expenditures |
| <input type="checkbox"/> Increase Operating Expenditures<br>(If checked, check one of two boxes below) | <input type="checkbox"/> Increase Capital Revenues     |
| <input type="checkbox"/> Absorbed Within Agency's Budget   | <input type="checkbox"/> Decrease Capital Revenues     |
| <input type="checkbox"/> Not Absorbed Within Agency's Budget   |  |
| <input type="checkbox"/> Decrease Operating Expenditures   | <input type="checkbox"/> Use of contingent funds       |
| <input type="checkbox"/> Increase Operating Revenues   |  |
| <input type="checkbox"/> Decrease Operating Revenues   |  |

*Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.*

	<b>Expenditure or Revenue Category</b>	<b>Current Year</b>	<b>Subsequent Year</b>
<b>Operating Budget</b>	Expenditure		
	Revenue		
	Net Cost		
<b>Capital Improvement Budget</b>	Expenditure		
	Revenue		
	Net Cost		

## DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated.<sup>1</sup> If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

A.) Approval of this request would amend Section 201.24(8.2) of the Milwaukee County Code of General Ordinances as it pertains to membership on the Pension Board. This ammendment would prohibit employees of ERS from serving on the body tasked with directing ERS. Further, the ammendment would alter the minimum number of affirmative votes required for the pension board to approve action. The mandatory quorum remains unchanged.

B.) The proposed change is intended to allow the Pension Board to carry out its fiduciary responsibilities despite vacancies that may occur due to pending appointments and elections. There is no cost to the County, other than time of existing staff.

C.) No budgetary impact

D.) None

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<sup>1</sup> If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

Department/Prepared By Matthew Hanchek, Interim Director - Employee Benefits

Authorized Signature 

Did DAS-Fiscal Staff Review?  Yes  No

## MILWAUKEE COUNTY BOARD OF SUPERVISORS

AMENDMENT NO. 1

DATE: January 26, 2012

TO: File 12-69

COMMITTEE: Finance

OFFERED BY SUPERVISOR(S): Thomas

Amend Section 1 of the Ordinance beginning on line \_\_\_ as follows:

### 8.2 Membership

Members shall not serve more than two (2) consecutive three-year terms, but the appointment or election of a member to complete the balance of a three year term of a prior member is not included in this limitation. Members may not continue to serve after the completion of any term, unless re-appointed and confirmed or re-elected. A member having served two (2) terms may be eligible for re-election or re-appointment after not having been a member for at least three (3) years from the last date of service on the board. If re-appointed or re-elected, the members must adhere to the same term limitation of two (2) consecutive three-year terms. A member may not continue to serve if at any time the member does not possess the qualifications that would be applicable to the member at the time of the member's appointment, election, re-appointment or re-election. The board shall determine any question concerning a member's qualification or eligibility to continue to serve as a member, but the votes of five (5) members shall be necessary for a decision of the board on any such question.

None of the appointed members of the pension board nor any family members of the appointed members of the pension board shall be participants in, or beneficiaries of, the Milwaukee County Employee Retirement System. None of the appointed members of the pension board shall have relationships or ties to any provider of services to the Milwaukee County Retirement System, Milwaukee County Pension Board, or the Milwaukee County Pension Study Commission.

No member shall be eligible to serve, or to continue serving, on the pension board who has been found or determined by any Wisconsin governmental unit or agency to have violated any provision of an

**applicable ethics or lobbying code or who has been convicted of any crime of misconduct in office or any crime involving dishonesty or theft.**

The membership of the board shall consist of the following:

- (a) Three (3) members to be appointed by the county executive (subject to confirmation by two-thirds (2/3) or more of the members-elect of the county board), for a term of three (3) years.
- (b) Two (2) members appointed by the county board chairperson (subject to the confirmation of the county board and to county executive approval or veto, with proceedings on veto), for a term of three (3) years.
- (c) Four (4) elected members consisting of three (3) employee members and one (1) retiree member who shall be members of the system and who shall be elected by members of the system except for the retiree member who shall be elected by retired members only for terms of three (3) years. Employees who work for the Employees Retirement System are not eligible for election to, or service on, the pension board. The board may adopt rules and regulations governing such election including a division of county employees into groups for the purpose of electing one (1) employee member of the board from among the employees of each group. Appointing authorities shall ensure that the employee members of the pension board are released from their work assignments to attend meetings of the pension board and any other meeting related to pension board business for which public notice is required which occurs during their regularly scheduled work shift.