

Employes' Retirement System of the City of Milwaukee Rules and Regulations

Adopted by the Annuity and Pension Board

January 24, 2023

REVISIONS

09/24/99	Section XVII.K	04/26/10	Section XIX.D renumbered to XIX.F
10/21/99	Section III.A	04/26/10	Section XIX.D (new provision)
06/26/00	Section II.B.2 and 3	10/25/10	Section II.C.4
	Section III.H	11/18/10	Section XI.B
01/22/01	Section II. B.2 and 3	02/27/12	Section XIX.G
	Section XIX.B.2	10/22/12	Section XIII.A.9
04/23/01	Section XIII.A.9	10/22/12	Section XIII.A.10 (new provision)
07/23/01	Section II.C.6. (13)	09/23/13	Section XV.G
	Section XV.G	09/23/13	Section XIX.H (new provision)
	Section XVII.D.1	06/23/14	Section II
	Section XVII.L	06/23/14	Section III
09/24/01	Section II.C.4.15	06/23/14	Section V
	Section II.B.4	07/27/15	Section I.F.6 (created)
10/22/01	Section XVII.H.1	07/27/15	Section I.F.7 (created)
11/28/01	Section XV.A	07/27/15	Section III.F.1 (amended)
	Section XV.K	07/27/15	Section III.F.2 (amended)
	Section XVII.L	07/27/15	Section III.H.3 (amended)
02/26/02	Section V.B	07/27/15	Section XVII.N (created)
05/23/02	Section X	07/27/15	Section X (amended)
	Section XI	07/27/15	Section XI (amended)
	Section XIV	04/25/16	Section XVII.O (new provision)
	Section XVI	06/23/16	Section X.A (amended)
	Section XVII.M.1 and 2	07/25/16	Section III.B.1 (amended)
	Section I.F.1	09/26/16	Section III.B.1 (amended)
06/24/02	Section XVIII.H	05/24/18	Section IV (amended)
	Section XIX.A.1 and 2	05/24/18	Section VII.G.2 (amended)
09/23/02	Section XVII.J	07/23/18	Section II.A (amended)
06/23/03	Section V.D.5	07/23/18	Section II.B (amended)
06/23/03	Section XXI.B	10/28/19	Section XXI.B.7 (amended)
07/26/04	Section XV.G.2	01/27/20	Section IV.A (amended)
11/22/04	Section XIX.D	01/27/20	Section VII.E.1 (amended)
06/24/05	Section III H. 1 and 2	01/27/20	Section II.C.6.i (amended)
	Section XXI. B.4.f	01/24/23	Section III.E (amended)
09/26/05	Section X.C.6		
	Section XV.K.e		
12/22/05	Section XV.A		
09/25/06	Section II.B.2 and 3		
10/27/06	Section III.H. 3		
	Section IV.D.		
	Section VII.E.4.		
	Section XVII.G.2 and 3		
	Section XIX.B.2		
05/25/07	Section II.C.4.a		
	Section VI.G		
	Section XV.G		
	Section XVII.K		
	Section XIX.E		
11/28/07	Section XVI.C		
	Section XVII.M		
10/27/08	Section II.B.2		
10/27/08	Section II.B.3		
10/27/08	Section II.C.1		
10/27/08	Section IV		
10/27/08	Section XIII.B (repealed)		
05/26/09	Section III.G		
05/26/09	Section XVII.A (repealed)		
05/26/09	Section XIII.A		
05/26/09	Section XXI.B.7		
06/18/09	Section XVIII.L.1		
06/18/09	Section XVIII.L.2		

TABLE OF CONTENTS

PART I – ADMINISTRATION	4
I. MISSION STATEMENT/OBJECTIVES OF THE BOARD	4
A. NAME	4
B. HEADQUARTERS	4
C. MISSION OF THE FUND	4
D. MISSION OF THE TRUSTEE/MEMBERS OF THE BOARD	4
E. AUTHORITY	5
F. DEFINITIONS	5
II. MEMBERSHIP ON THE BOARD	6
A. NUMBER OF BOARD MEMBERS AND TERMS	6
B. SELECTION PROCESS AND ELECTIONS	7
C. DUTIES AND RESPONSIBILITIES OF OFFICERS AND EMPLOYEES	11
III. MEDICAL COUNCIL AND MEDICAL PANEL	17
IV. COMMITTEES OF THE BOARD	20
A. INVESTMENT COMMITTEE	20
B. LEGISLATIVE COMMITTEE	20
D. ADMINISTRATION AND OPERATIONS COMMITTEE	22
E. SPECIAL COMMITTEES	22
V. MEETINGS OF THE BOARD	22
A. NOTICE	22
B. QUORUM	22
C. AGENDA	23
D. MEETINGS	23
E. VOTING	24
F. PROCEDURAL MATTERS	24
VI. COMMUNICATIONS	24
A. RETIREES	24
B. EMPLOYEES	24
D. INTERESTED PARTIES	24
E. PUBLIC	25
F. MEDIA	25
G. RETIREE ADDRESSES	25
VII. BOARD MEMBERS/AREAS OF RESPONSIBILITY	25
A. STATEMENT OF FIDUCIARY RESPONSIBILITY	25
C. SPECIAL SKILLS AND EXPERTISE	26
D. APPROVAL OF BUDGET	26
E. SELECTION OF CONSULTANTS/INVESTMENT MANAGERS/ADVISORS	26
F. CONFLICTS OF INTEREST OF CONSULTANTS/ADVISORS	28
G. REVIEW AND APPROVAL OF CONTRACTS	29
H. BENEFIT LEVELS/DETERMINATION	30
VIII. LEGAL COUNSEL	30
A. CITY ATTORNEY	30
B. SPECIAL LEGAL COUNSEL	30
IX. PROXY VOTING GUIDELINES	31
X. CONFERENCES AND PROFESSIONAL DEVELOPMENT	31
A. PURPOSE	31
B. REQUIREMENTS	31
C. TRANSPORTATION AND ACCOMMODATIONS	32
XI. REIMBURSEMENT FOR CONFERENCES AND PROFESSIONAL DEVELOPMENT EXPENSES	33
A. TYPES OF EXPENSES REIMBURSED	33
B. PROCEDURE FOR SUBMITTING EXPENSES	33
XII. PROCEDURE FOR FUTURE REVISIONS/AMENDMENTS TO THE RULES	33
AND REGULATIONS	33
PART 2 – ELIGIBILITY AND BENEFITS	34
XIII. MEMBERSHIP	34
XIV. ACTIVE SERVICE	35
XV. SERVICE CREDIT	35
XVI. FINAL AVERAGE SALARY	38
XVII. RETIREMENT AND DEATH BENEFITS	38
XVIII. MEMBER'S CONTRIBUTIONS	44
XIX. MISCELLANEOUS	45
A. CITY-COUNTY TRANSFERS - SECTION 36-13-5-A	45
B. WISCONSIN RETIREMENT SYSTEM CREDIT	46
C. ACTUARIAL INFORMATION TO BARGAINING UNITS	46
E. INFORMATION DISTRIBUTION	47
F. DIRECT DEPOSIT	47
G. UNCLAIMED PROPERTY	48
XX. REVIEW	49
A. REQUEST	49
B. PROCEDURE	50
C. DECISION	50
XXI. APPEAL	50
A. REQUEST	50
B. PRACTICE AND PROCEDURE	50
C. JUDICIAL REVIEW	53

PART I – ADMINISTRATION

I. MISSION STATEMENT/OBJECTIVES OF THE BOARD

A. NAME

The Employees' Retirement System of the City of Milwaukee (hereinafter "ERS") shall be the corporate name of the special trust fund for the payment of pensions, annuities and other benefits as provided for by Chapter 396 of the Laws of 1937, of the State of Wisconsin and adopted by the Common Council of the City of Milwaukee on the 2nd day of August, 1937, and under said name all funds shall be held, and all of its business shall be transacted. The Annuity and Pension Board (hereinafter the "Board") shall be the name of the body constituted by the aforementioned law to administer the ERS. The Board is governed by the provisions of Chapter 36 of the Milwaukee City Charter.

Source: Milwaukee City Charter §§ 36-02-2, 36-02-6; Employees' Retirement System of the City of Milwaukee Rules and Regulations, Re-typed 10/92, Updated 7-2-96 (hereinafter "Rules and Regulations"), § I.1 (Name), § I.3 (Board)

B. HEADQUARTERS

The office of the retirement system shall be the office of the Secretary of the ERS. Applications and communications shall be filed at the office of the ERS and shall be stamped with the date and time of actual receipt. The date and time so stamped thereon shall be the legal time of filing of said applications and communications in the office of the ERS.

Source: Rules and Regulations, § I.2 (Headquarters)

C. MISSION OF THE FUND

The retirement system shall be maintained by the city and by such agencies to assure and guarantee the payment of retirement and other benefits to persons covered and to their beneficiaries and to such other persons who are authorized to receive benefits. The purpose shall further be to safeguard and protect the funds of the ERS and to invest the same in a prudent and vigilant manner.

Source: Milwaukee City Charter § 36-01

D. MISSION OF THE TRUSTEE/MEMBERS OF THE BOARD

The administration and responsibility for the proper operation of the ERS are vested in the Board. The Board shall also be responsible for administering the group life insurance program as provided for in ordinance adopted by the Common Council.

The purpose of the Board of Trustees is to assure the following:

1. The payment of retirement and other benefits;
2. The provision of retirement education;
3. Courteous and timely responses to the needs of the participants;
4. A retirement system based on sound actuarial principles;
5. Prudent investment of the assets of the ERS.

Source: Milwaukee City Charter § 36-15-1-a; Deloitte & Touché Mission Statement prepared for Board, October 1995

E. AUTHORITY

These Rules and Regulations are adopted pursuant to the authority of Section 36-15-6 of the Milwaukee City Charter. All rules and regulations, or revocation thereof, promulgated by the Board shall be filed with the city clerk within 30 days after they have been approved by the Board. In the event any of the provisions of these Rules and Regulations conflict with the City Charter, the City Charter shall control.

Source: Milwaukee City Charter § 36-15-6

F. DEFINITIONS

1. A. An active member shall include a member whose name appears on current payrolls or who is on an authorized leave of absence and is not otherwise gainfully employed, except as provided for under the provisions of the global pension settlement.
- B. For purposes of the global pension settlement, all benefit improvements applying to general city employees in active service shall include members on recognized contractual leave of absence, and members serving disciplinary suspension as of January 1, 2000. For purposes of the global pension settlement, firemen and policemen in active service shall include members on recognized contractual leave of absence, members on detached status and members serving disciplinary suspension as of January 1, 2000.
2. CITY AGENCY means any board, commission, division, department, office or agency of the city government as defined in Section 36-02-8 of the Milwaukee City Charter.
3. LEGAL COUNSEL means either the City Attorney or the Board designated Legal Counsel under Section VIII. of these Rules and Regulations.

4. MEMBER means any person eligible for membership as follows who has not otherwise waived, terminated or been denied membership:
 - a. Any employe who is entitled to and who elected membership at the time of the creation of the retirement system;
 - b. Any person who became an employe after January 1, 1938, and who is eligible under the provisions of Chapter 36 and who is:
 - i. a full-time employe;
 - ii. a part-time employe eligible for membership under the Board's Rules and Regulations; or
 - iii. an elected official who has evidenced an intention to join the ERS.
6. RETIRED MEMBER means a person who had been a member but who has retired from the retirement system and receives a retirement allowance.

Source: Milwaukee City Charter § 36-02-8; § 36-03; § 36-02-21; City Attorney Opinion Letter, November 19, 1984.

7. An APPLICATION FOR DUTY DISABILITY shall consist of the Duty Disability Application Form, A Physician Statement, copies of appropriate Worker's Compensation EB-49's, and properly executed medical authorizations.
8. An Application for Duty Disability is filed when all documentation set forth in I.F.7 above is submitted and certified as complete by the ERS.

II. MEMBERSHIP ON THE BOARD

A. NUMBER OF BOARD MEMBERS AND TERMS

The Board shall consist of:

1. Three Board members to be appointed by the President of the Common Council subject to the confirmation of such common council for a term of 2 years.

Commencing in 1997, when terms expire for members appointed by the President of the Common Council, members shall be appointed for terms expiring the 3rd Tuesday of April 2000. Thereafter, the President of the Common Council shall appoint members for a term of 2 years within 60 days of the commencement of a new Common Council term, and then within 60 days following 2 years of the commencement of a Common Council term. If a vacancy occurs in a Board position, the President shall appoint within 60 days after the vacancy occurs.

2. The City Comptroller, ex-officio, or, in case of sickness or absence, his or her deputy.
3. Three employe Board members who shall be members of the ERS and who shall be elected at large by the members of the ERS for a term of 4 years according to such rules and regulations as the Board shall adopt from time to time to govern such election.
4. One retired Board member elected each fourth year by members of the ERS who are retired and are receiving a retirement allowance for a term of 4 years, which term shall begin on the first day of January following election and that person shall serve until his or her successor has been elected and qualifies.

Source: Milwaukee City Charter 36-15-2; Rules and Regulations, II Officers and Employes)

B. SELECTION PROCESS AND ELECTIONS

1. Chair and Vice-Chair

The members of the Board shall elect from its membership at each annual meeting a Chair and a Vice-Chair who shall serve until their successors are elected.

Source: Milwaukee City Charter § 36-15-7; Rules and Regulations, § I.4 (a) (Officers and Employes)

2. Employe Board Member

The following rules shall govern the election of an employe member of the Board:

To be eligible for nomination and election, candidates must be in active service. A regularly scheduled election to fill a Board member vacancy due to expiration of the term of office will be held on the first Friday in November. A special election may be called at any time to fill a vacancy which occurs due to the removal, resignation, retirement or death of an employe Board member. Such special election shall be conducted as determined by the Board under rules published in the election bulletin adopted by the Board.

In the event that only two candidates file for a regularly scheduled election, the election will be held in November. In the event there are more than two candidates and one candidate receives one more than half the number of the legal votes cast at the election, then the person receiving said vote shall be declared elected to the office. In the event of failure of any one candidate to receive one more than half the number of the legal votes cast, then the two candidates having the highest number of votes shall have their names placed on a ballot for a run-off election to be held five weeks after the primary

election. In the event that only one eligible candidate files, no election shall take place and the candidate shall be declared elected to the office.

Nomination papers will be required of all candidates. Each candidate must have at least 100 and no more than 150 signatures of those members of the system in active service. Nomination papers will be issued in August preceding a regularly scheduled election and as determined by the Board for a special election at the office of the City Election Commission, Room 501, City Hall and must be filed within two weeks.

Positions on the ballot will be determined by lot and the drawing will take place in the office of the Election Commission. Attendance of candidates is optional. The election will be conducted by mail. Instruction sheet, ballot and return envelope are to be distributed to each active member of the system eligible to vote for the particular Board member position to be selected at least one week prior to the election.

Members will be required to mark the ballot and enclose it in the return envelope. For the sole purpose of checking voters against a tally list of eligible voters, members will be required to print their name and pension number or person identification number on the outside of the mailing envelope. Envelopes without a member's name, pension number or person identification number shall be disqualified and shall be declared illegal and shall be excluded from the election.

Ballots are to be mailed in the official envelopes addressed to the City of Milwaukee Election Commission via interdepartmental mail or via U.S. mail to the ERS post office box. Ballots will be removed from the post office box not later than 8:00 a.m. the day of the election and results will be tabulated in City Hall as specified by the Board. Any interested person may observe the entire procedure.

3. Retiree Board Member Elected by Retired ERS Members

The following rules shall govern the election to the Board of a member elected by retired members:

Candidates must be elected by the vote of persons who had been members but who have retired from the ERS and who are retired and are receiving a retirement allowance. The election will be held once in each 4-year period on the first Friday in November. In the event that only two candidates file, the election will be held in November. In the event there are more than two candidates and one candidate receives one more than half the number of the legal votes cast at the election, then the person receiving said vote shall be declared elected to the office. In the event of failure of any one candidate to receive one more than half the number of the legal votes cast, then the two

candidates having the highest number of votes shall have their names placed on a ballot for a run-off election to be held five weeks after the primary election. In the event that only one candidate files, no election shall take place and the candidate shall be declared elected to the office.

Nomination papers will be required of all candidates to be elected by retired members. Each candidate must have at least 5 and no more than 10 signatures of eligible retired members of the system.

Nomination papers will be issued at the office of the Election Commission, Room 501, City Hall and must be filed within four weeks. Positions on the ballot will be determined by lot and the drawing will take place in the office of the Election Commission. Attendance of candidates is optional. The election will be conducted by mail. Instruction sheet, ballot and return envelope are to be mailed to each retired eligible member of the system at least one week prior to the election.

Retired members will be required to mark the ballot and enclose it in the return envelope. For the sole purpose of checking voters against a tally list of eligible voters, members should print their name and pension number or person identification number on the outside of the mailing envelope. Envelopes without either a member's name, pension or person identification number shall be disqualified and shall be declared illegal and shall be excluded from the election. Ballots are to be mailed via U.S. mail in the official postage-paid envelopes addressed to the ERS post office box. Ballots will be removed from the post office box not later than 8:00 a.m. the day of the election and results will be tabulated in City Hall as specified by the Board.

Any interested person may observe the entire procedure.

Source: Rule adopted July 29, 1972; Milwaukee City Charter § 36-15-2; Rules and Regulations, §X (Election)

4. Recount Procedure

I. Preliminary

- A. A candidate requesting a recount shall deliver a signed statement requesting a recount to each opposing candidate on the ballot and the Executive Director within 3 business days of the certification of the results of the election.
- B. Upon receipt of such signed statement, the Executive Director shall review the results of the election. If the total of the successful candidate is within 50 votes of the total of an unsuccessful candidate the Executive Director shall convene a recount within two business days.

- C. The recount shall be conducted by a Board of Canvassers consisting of the Executive Director of the Employees' Retirement System, the Executive Director of the Election Commission and a third person to be selected by mutual agreement of the two canvassers.
 - D. The proceedings shall be before a court reporter.
 - E. The record shall consist of:
 - 1. A record shall be made of exhibits from the parties and the Canvassers and shall be consecutively numbered.
 - 2. A record shall be made of all objections, offers of evidence and determinations.
 - 3. Specific findings shall be made by the canvassers with respect to any objections and any matters of required of record by this procedure.
 - F. The candidate requesting the recount, all opposing candidates and interested parties shall be entitled to be present in person or by counsel and to observe the proceedings. Persons who are entitled to observe the proceedings shall not be permitted to handle any of the election materials.
 - G. Determination of tabulators. The Board of Canvassers shall select tabulators who shall be placed under oath and act under the direction of the Board of Canvassers. The canvassers and the tabulators are the only persons who shall be permitted to handle and touch election materials.
 - H. All decisions as part of the recount procedures shall be made by a majority of the Board of Canvassers.
- II. Determination of number of voters.
- A. Rejected ballot envelopes shall be examined to see whether they were properly rejected. Ballot envelopes were properly rejected if they did not show either the name or person number of a member or retired member eligible to vote in the election. If duplicate envelopes were received from the same person, the second envelope examined is rejected. Any improperly rejected ballot envelope shall be set aside and marked.
 - B. The used ballot envelopes shall be examined. Any defective ballot envelopes not identified as part of the election should be set aside as rejected and marked.
 - C. The number of voters shall consist of the number of used ballot envelopes increased by the number of improperly rejected ballot

envelopes and reduced by the number of improperly used ballot envelopes.

III. Ballot review.

- A. Any improperly rejected envelope shall be opened and the ballot shall be marked and included with the ballots to be counted.
- B. The ballots shall be examined and counted. The number of ballots should agree with the number of envelopes. If the number of ballots exceeds the number of eligible voters, the canvassers shall randomly draw from the ballots as many ballots as are necessary to reduce the number of ballots to equal the number of eligible voters.

IV. Counting the ballots.

- A. If any person objects to any ballot during its examination, it shall be set aside. A majority of the canvassers shall decide whether the ballot objected to shall be counted. The canvassers may consult with legal counsel regarding any objection.
- B. If during the examination of the ballots the canvassers find that a ballot is so defective that they cannot determine with reasonable certainty for whom it was cast, the canvassers shall set aside the ballot as defective and mark it. If duplicate ballots are received from the same person, the first ballot examined shall be counted and the second ballot examined shall be rejected. A ballot showing evidence of tampering shall be rejected. The canvasser shall not count the ballot set aside as defective.
- C. After completing the recount, the canvassers shall prepare a certificate of the revised election results and forward the recount returns and the minutes of the recount to the Annuity and Pension Board for its approval.

Source: City Attorney Opinion, dated June 18, 2001.

C. DUTIES AND RESPONSIBILITIES OF OFFICERS AND EMPLOYEES

1. Chair

The Chair shall preside at all regular Board meetings.

Source: Rules and Regulations, § I.4.a (Officers and Employees)

2. Vice-Chair

In the absence or illness of the Chair, the Vice-Chair shall perform all of the duties of the Chair; however, if the City Comptroller is elected Chair and is unable to preside, then in such instance his or her Deputy may preside as Chair in his or her place.

In the event of a vacancy in the office of Chair, the Vice-Chair shall automatically become the Chair and shall serve the unexpired term, and the Board shall elect a Vice-Chair at the next regular Board meeting.

Source: Rules and Regulations, § I.4.b (Officers and Employees)

3. Chair of Investment Committee

In the absence or illness of the Chair and Vice-Chair, the Chair of the Investment Committee shall perform all of the duties of the Chair.

4. Secretary and Executive Director

Currently, the civil service status position of Secretary and Executive Director filled under civil service procedure combines the following duties of the Executive Director and of the Secretary:

a. Executive Director

Under Section 36-15-7 of the Milwaukee City Charter, the ERS shall appoint an Executive Director. If the City Service Commission has determined that a vacancy in the Secretary and Executive Director position shall be filled by an exempt appointment, then the Annuity and Pension Board shall appoint the Director by six (6) affirmative votes at a meeting attended by at least six (6) members. The Director shall serve at the pleasure of the Board without a fixed tenure, and can be removed only upon the affirmative vote of eight (8) members voting in open session at a meeting attended by at least eight (8) members. The Executive Director shall serve as the Department Head of the ERS and manage the staff, which includes the Benefits Section, Accounting Section, Group Life Insurance and Clerical Personnel. The responsibilities include planning, organizing, directing and managing a professional staff involved in servicing members and beneficiaries of the ERS, and all functions necessary to assist the Board in carrying out its responsibilities in making effective the provisions of Chapter 36 of the Milwaukee City Charter, governing the ERS.

The Executive Director shall:

- 1) be the chief administrative officer; shall have supervision over all of the book, files, records (including electronic records) and seal of the ERS; and be the designated legal custodian of all ERS records for purposes of the Wisconsin public records law.
- 2) prepare and present the annual report of the Board.
- 3) keep a record of all proceedings of the Board.
- 4) sign all vouchers and checks lawfully authorized by the Board for payments from the various funds of the ERS.
- 5) hereby be authorized as part of his or her administrative duties and responsibilities under the Employees' Retirement Act to process, on a current basis, all vouchers and checks for payment of services and materials and all vouchers and checks for retirement allowances, separation refunds and death benefits due and payable under provisions of that act which in his or her judgment constitutes administrative procedures and determinations. In the event, however, any question shall arise as to the propriety of the payment of any item heretofore referred to, it shall be the duty of the Executive Director to bring such matter to the attention of the Board at the next meeting of such Board and such payments and disbursements shall be reported to the Board at the next meeting following the payment of any of the above items where no question exists.
- 6) administer the daily operations of the ERS, including interpreting and implementing the proper application of Chapter 36, including all rules, charter ordinances and legal opinions that apply thereto;
- 7) monitor the activities of the Chief Investment Officer relative to review of the investment activities of the ERS;
- 8) develop, justify and manage the departmental budget;
- 9) direct the planning of work and set schedules to ensure that the department's goals are achieved;
- 10) support and implement the affirmative action and equal employment policies;
- 11) administer the Group Life Insurance program for the City of Milwaukee;
- 12) supervise the Management Team and the Administrative Assistant;

- 13) manage the staff, including
 - a) establishing goals, monitoring and evaluating management employee performance;
 - b) providing a comprehensive, ongoing training program for all staff;
 - c) providing a work atmosphere that encourages teamwork and productivity innovation;
- 14) annually monitor the preparation of the Annual Report for distribution to the members and beneficiaries showing the fiscal transactions of the ERS for the preceding year, the amount of the assets of the system and the financial condition of the system as disclosed by an actuarial valuation of the system;
- 15) annually monitor the preparation and procedures for the processing of yearend work in order to initiate the distribution of the annual statements to the members of the system;
- 16) direct the preparation of the records of data to serve as the basis for the actuarial report and interpret information received from the Actuary;
- 17) supervise and develop the process and procedures used in the calculation of benefits;
- 18) administer the accounting system, including investment accounting benefit payment and contributions;
- 19) review the results of the findings of the Medical Panels and Council for consistent application of the Act;
- 20) approve payment of claims for death and disability benefits; and
- 21) oversee the retiree pension payroll to ensure that monthly benefits are processed timely.

The Executive Director reports to the Board and shall perform other similar or related duties as required or assigned by the Board.

Source: Milwaukee City Charter § 36-15-7; Rules and Regulations, § 1.4.d (Officers and Employees); City of Milwaukee Job Descriptions, 01/28/91 (Department Employees' Retirement System; Title - Executive Director)

b. Secretary

Under Section 36-15-7 of the Milwaukee City Charter, the ERS shall appoint a Secretary. The Secretary shall:

- 1) provide direction and support services to the Board, prepare the agenda for Board meetings, attend Board meetings and maintain a permanent record of such meetings.
- 2) investigate the operation and effect of the rules and procedures affecting the ERS and report any findings or recommend changes to the Board.
- 3) be authorized to prepare and recommend any legislative changes, which may become necessary due to a change in Board policy, the legal environment or any other circumstance.
- 4) represent the Board before various legislative committees as needed and keep the Board informed of any legislative matters or current developments that may affect the Board.
- 5) follow the activities and performance of the Fund's investment managers and consultants;
- 6) prepare reports as requested by the Board.

The position of Secretary may be filled by the person serving as the Executive Director.

Source: Milwaukee City Charter § 36-15-7; Rules and Regulations, § I.4.d (Officers and Employes); City of Milwaukee Job Description, 01/28/91 (Department - Employes' Retirement System; Title - Executive Director)

5. Deputy Director

The Board has a Deputy Director. In the absence or illness of the Secretary and Executive Director, the Deputy Director shall have the responsibilities and perform all of the duties of the Secretary and Executive Director, including signing vouchers and checks. In the absence of the Deputy Director, the Chief Investment Officer shall have such duties.

Source: Milwaukee City Charter § 36-15-7-b; Rules and Regulations, § I.4.e (Officers and Employes)

6. Chief Investment Officer

The Chief Investment Officer is responsible for:

- a) supervision of investment staff, investment policy supervision, including monitoring fund allocation versus guidelines, monitoring fund performance and reporting major concerns;
- b) recommending changes in investment policy, asset allocation and asset management;
- c) monitoring the Investment Managers as to policy;
- d) providing investment research and analysis as required by the Board or the Executive Director;
- e) evaluating various investment proposals for feasibility, structure and compliance with the ERS goals and prepare reports for the Executive Director and the Board;
- f) recommending changes in investment guidelines based on Investment Manager activity, economic circumstances or other factors;
- g) monitoring the activity of the Investment Managers of the assets of the ERS for compliance with investment goals and guidelines as set forth by the Board and monitor the economy and efficiency of Investment Managers' activities in such areas as utilization of funds (keeping fully invested), monitoring commission levels, proxy voting and related areas;
- h) monitoring the rate of return, style and risk parameters of the Investment Managers;
- i) recommending the hiring, firing and shifting of assets; conducting due diligence on any Investment Manager selected for hire by the Investment Committee, and summarizing and making specific recommendations to the Board;
- j) conducting a continuing asset allocation study, examining current investments and other alternatives and providing the Executive Director and the Board comprehensive reports regarding the Fund, managers and alternative investments;
- k) monitoring the Custodian of Funds for accuracy of reporting, securities lending activity and cash management;

- l) reviewing and making recommendations regarding consultants and sources of information (electronic and paper research) which may improve the return on invested assets; and assisting the Executive Director in contract reviews and analysis of Actuarial Reports.
- m) the Chief Investment Officer, or designated staff, are authorized to travel to and meet with, the various companies or individuals who provide investment or financial evaluation services to the Employees' Retirement System. The purpose of these meetings is to accomplish due diligence and resolve outstanding issues. The visits will occur, at a minimum, every other year or as deemed necessary by both the Chief Investment Officer and the Chairman of the Annuity and Pension Board and/or the Chairman of the Investment Committee of the Board. The visits will be followed by a written report from the Chief Investment Officer to the Annuity and Pension Board or the Investment Committee.

7. Custodian of Funds

The City Treasurer shall be the custodian of the several funds of the ERS and shall sign all checks covering disbursements of funds of the ERS upon presentation of vouchers bearing two authorized signatures. In the absence or illness of the City Treasurer, the Deputy City Treasurer shall perform the duties of the Custodian of Funds, including the signing of checks. All checks shall be signed by the City Treasurer and the Secretary of the ERS. Checks may also be signed by the Chair of the Board.

Source: Milwaukee City Charter § 36-15-11; Rules and Regulations, § 1.4.f (Officers and Employees)

III. MEDICAL COUNCIL AND MEDICAL PANEL

- A. The Medical Council shall consist of three primary physicians appointed by the Board. The Board may also appoint an alternate physician to the Medical Council. The alternate physician shall serve only as a replacement in the absence of one of the three primary physicians at their periodic meetings. No more than three physicians will serve at any one Medical Council meeting. All appointments shall be approved by a majority vote of the Board. Each physician shall be required to execute a professional service contract and receive the same rate of pay for services rendered.
- B. The Medical Council shall:
 - 1. arrange for and pass upon the following examinations:
 - a. Duty disability and ordinary disability medical examinations of general city employees that are required by the retirement system;

- b. Ordinary disability medical examinations of firemen and policemen that are required by the retirement system and duty disability medical examinations of firemen and policemen, who are not represented by a certified bargaining agent, that are required by the retirement system; and
 - c. Medical examinations required by the retirement system of policemen enrolled as members in the retirement system after June 28, 2005 and firemen enrolled as members in the retirement system after December 13, 2005, who apply for a duty disability retirement based on a mental injury. Policemen represented by MPSO who file an application for duty disability retirement on or after January 1, 2016, and policemen represented by MPA who file an application for duty disability retirement on or after June 19, 2016, and a fireman represented by Local 215, IAFF, who files an application for a duty disability retirement on or after July 30, 2016.
 - 2. investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement; and,
 - 3. report in writing to the Board its conclusions and recommendations upon all the matters referred to it.
- C. The Board may employ specialists if it is deemed necessary. In the event the Medical Council deems it is necessary to consult with or refer members to other physicians for examination in special cases, the Secretary shall arrange for such medical service.
- D. In the event it is necessary for the Medical Council to conduct a medical examination outside of regular headquarters, the Board may allow each examiner expenses in an amount reasonably necessary for such an examination.
- E. A member, retired on account of a duty disability retirement, who lives outside of the City of Milwaukee shall be required to return to Milwaukee to report to the Medical Council or Medical Panel for medical re-examination as provided in Section 36-05-3-c of the Milwaukee City Charter for Firemen and Policemen and Section 36-07-1 of the Milwaukee City Charter for other employees on duty disability retirement. However, the Board may authorize such examination to be made by a physician selected by the Medical Council and the fee for such examination shall be as determined by the Medical Council and shall be paid by the ERS upon receipt of a report from the physician. Notwithstanding the foregoing, the Executive Director may approve, upon recommendation by the selected physician Medical Panel Physicians or Medical Council that an in-person examination is not required, authorize a re-examination to be conducted remotely by virtual means. When the provision is waived the Executive Director will notify the Annuity and Pension Board at its next regular meeting.”
- F. 1. Appointment to the Medical Panel by the City as described in Chapter 36-02-20 of the Milwaukee City Charter shall be limited to physicians whose offices are located within

the U. S. Census Bureau Statistical Milwaukee Metropolitan Area (Milwaukee County, Washington County, Ozaukee County and Waukesha County).

- F. 2. If the first two doctors appointed to the Medical Panel, as provided in Section 36-02-20 of the Milwaukee City Charter, cannot agree and fail to appoint a third doctor within 30 days of the later-dated certification, then the Board will presume that the doctors are unable to fulfill this specific responsibility that each doctor agreed to undertake as a member of the Medical Panel. In such circumstances, as soon as administratively possible ERS will notify the union and the City to each select another doctor for the Medical Panel.

- G. Medical Council or Medical Panel certifications relative to the results of duty disability medical examinations and the results of periodic medical re-examinations shall be placed on the agenda for the next regularly scheduled meeting of the Board unless they are received within five working days of the regular meeting in which case they shall be placed on the agenda for the regular meeting of the Board next following the next regularly scheduled meeting. (Amended 05-26-2009 Board Meeting)

Source: Milwaukee City Charter § 36-15-12; Rules and Regulations, § 1.5 (Medical Council), p.4

- H. 1. The time period for annual/periodic medical examinations required by 36-05-3-c-1-a for disabilities approved by the Medical Panel or Medical Council, and 36-07 for disabilities approved by the Medical Council, will be calculated from completion of the last medical examination.

- H. 2. If a member of a Medical Panel appointed to undertake a periodic medical reexamination of a retired member under Milwaukee City Charter §36-05-3-c-1-a fails to return the required certification within 30 days of the reexamination of the retired member, the appointing authority shall be notified that it has 30 days to appoint a replacement physician to the medical panel for the member of the medical panel who failed to timely return the required certification.

- H. 3. Any beneficiary whose disability payments have been suspended for failing to undergo the required medical reexamination, and who remains eligible for the benefit after completion of the reexamination, will be paid any retroactive amounts due as soon as administratively feasible on the next regularly scheduled monthly payroll. The Board may suspend disability payments to a beneficiary who fails to sign medical authorizations that are necessary for reexamination and recertification of disability retirement. If subsequent to the suspension of disability payments the beneficiary executes the necessary medical authorizations, then the beneficiary will be paid the retroactive suspended payments as soon as administratively feasible on the next regularly scheduled monthly payroll.

IV. COMMITTEES OF THE BOARD

The following committees shall be appointed by the Chair of the Board. The Chair shall appoint the committee Chairs and each committee shall elect its own Vice Chair. The number of Board members assigned to each committee shall be at the discretion of the Chair, except the Investment Committee which shall be a committee of the whole. The committees shall be given the following assignments and such other matters as may be assigned by the Chair or Board. Questions of jurisdiction shall be decided by the Chair. With the exception of the contracting authority of the Investment Committee contained in Rule VII.G.2, action taken by a Board committee shall be subject to the approval of the Board.

The minutes of all committee meetings shall be tape recorded with the exception of meetings properly noticed and held in closed session according to Wis. Stat. §19.85.

A. INVESTMENT COMMITTEE

The Investment Committee shall be responsible for developing the Asset Allocation Policy and the Investment Policy. The Investment Committee shall select the Investment Consultant and Investment Managers. When the Investment Committee selects Investment Managers, the Investment Committee shall only consider Investment Managers recommended to ERS by ERS' Investment Consultant. The Investment Committee shall be responsible for periodic reviews of individual performance of any such Consultant and Investment Managers. The Investment Committee shall develop Investment Guidelines for the ERS, including establishing a Proxy Voting Policy. The Investment Committee is responsible for selecting the custodial bank and developing educational topics for the Board.

Source: Rules and Regulations, § XV (Committees), p. 19

B. LEGISLATIVE COMMITTEE

1. Legislative Matters

The Board of the ERS has a responsibility to monitor and, where appropriate, participate in legislative matters which may impact the ERS for the purpose of safeguarding the stability of the ERS, the Board shall advise the Common Council as to the actuarial soundness of any suggested proposal, amendment, alteration or modifications to existing pension, annuity or retirement systems, and the necessary contributions required as the result of the suggested change. To oversee this responsibility, the Chair of the Board shall appoint a Legislative Committee. The Executive Director shall regularly monitor proposed legislation impacting the ERS and shall report to the Legislative Committee concerning the potential impact of such legislation and where appropriate, make recommendations regarding a position of the Board as to proposed legislation.

The Legislative Committee shall review, consider, and recommend to the Board specific positions on any legislation having potential impact on the Board or the ERS. Thereafter, the Board shall consider and take action on the recommendations of the Legislative Committee.

The Board may consult with the City Attorney or Special Legal Counsel regarding proposed state legislation, City ordinances or other actions taken by public officials which impact upon the ERS to determine what position the Board should take in these matters.

After the Board has adopted a position on proposed legislation, the Chairs of the Board or the Legislative Committee and/or the Executive Director, shall communicate such position to the appropriate persons in the legislative process and, where appropriate, actively participate in the process to advocate and support the Board's position.

2. Member and Intergovernmental Relations

The Legislative Committee shall coordinate member correspondence directed to it by the Executive Director. The Committee shall request and review legal opinions from legal counsel on legislative matters. The Legislative Committee shall review and recommend changes to the Board Rules and Regulations.

Source: Rules and Regulations, § XV (Committees), p.20

C. LITIGATION COMMITTEE

When there is a potential for litigation or litigation is commenced against the Board or any of its members, the following procedures shall be followed:

1. The Executive Director shall forward copies of any communications and/or pleadings (litigation documents) to Board members, the City Attorney, Special Legal Counsel, and the liability insurance carrier.
2. As soon as practicable, the Board shall meet in executive session with legal counsel.
3. The Board shall develop a litigation plan including the following:
 - i. Selection of the spokesperson for the Board regarding the litigation. Normally the Chair and/or Executive Director will serve as spokesperson.
 - ii. Designation of the Litigation Committee to guide and work with legal counsel to implement the Board's objectives in the litigation.
4. All policy decisions concerning the litigation shall be made by the Board.

D. ADMINISTRATION AND OPERATIONS COMMITTEE

The Administration and Operations Committee shall review the annual budget, make recommendations to the Board concerning staff budget requests, monitor and participate in the budget approval process of the City of Milwaukee, ascertain internal staff requirements, computer needs and office remodeling needs, select an auditor, and exercise all powers and perform all duties specified in the A and O Committee Audit Charter, June 2005, and the Internal Audit Charter, June 2005.

E. SPECIAL COMMITTEES

The Chair may appoint committees as necessary on an ad hoc basis to carry out any specified task of concern to the Board in conducting its business as identified by the Chair or Board. The Chair may appoint a special committee at any Board meeting. A special committee shall not perform any tasks that fall within the function of an existing standing committee. A special committee shall cease to exist upon completing the task for which it was formed and upon presentation of its final report to the Board.

V. MEETINGS OF THE BOARD

A. NOTICE

Written notification of all Board regular meetings and all written materials to be considered at such meetings will be distributed to each Board member at least five days prior to a meeting. At least twenty-four hours' notice shall be given to each Board member in the case of a special meeting. The meeting notice shall state the time, place, subject matter, including any subject matter contemplated for Closed Session, and in the case of a special meeting; the purpose of the meeting. Public notice of Board and committee meetings shall be given in accordance with Wis. Stat. §19.84. Any gathering of Board members for the purpose of engaging in pension business and in sufficient number to determine the body's course of action regarding such pension business to be discussed is subject to the Open Meetings Law and requires notice.

Source: Wis. Stat. § 19.84; *State ex rel. Newspapers, Inc. v. Showers*, 135 Wis. 2d 77, 100-01, 398 N.W.2d 154 (1987); City Attorney Opinion Letter, April 16, 1996

B. QUORUM

Six members of the Board shall constitute a quorum. A quorum must be present in order for the Board to conduct business. In the case of a Board committee, a majority of the committee constitutes a quorum. A quorum must be present in order for a Board committee to conduct business. In the event the Board or a committee is without a quorum, the Chair may continue the meeting to provide information to members on any agenda topic and thereafter entertain a motion to adjourn.

Source: Provision based upon City Attorney Opinion Letter, April 18, 1996.

C. AGENDA

The agenda shall specify the time the meeting will commence and specify the order in which the topics to be addressed at the meeting will arise. At regular and special meetings of the Board, business will be transacted in the order specified in the agenda, unless the Chair or Board directs otherwise. All business must be submitted by members to the Secretary as an agenda item at least five days in advance of a regular meeting to allow action on the item at the meeting except where there is unanimous consent of the members present.

D. MEETINGS

1. Location

All meetings of the Board shall be held in accordance with the open meetings law.

2. Regular meetings

Regular meetings shall be held once each month as scheduled by the Board. No regular meeting shall be held during the month of August. For the transaction of business, an adjourned meeting shall be deemed a regular meeting.

3. Annual Meeting

The regular meeting of the Board held in January shall be the annual meeting. At the annual meeting, the Board shall select from its membership a Chair and a Vice-Chair, who shall serve until their successors are elected.

4. Special Meetings

A special meeting may be held on the call of the Chair or on written request of two members to the Secretary, provided that not less than twenty-four hours' notice of said meeting, stating the business to be considered, shall be given to all members of the Board. No business not stated in the call shall be transacted at a special meeting except by unanimous consent of the members present.

Source: Rules and Regulations, § II (Meetings)

5. Closed Sessions of the Annuity & Pension Board

When the Board convenes in closed session, the meeting is for Board members only, and those individuals and staff members that the Board invites to be in attendance for the closed session.

E. VOTING

Each member of the Board shall be entitled to one vote in the Board. A majority of members present shall be necessary for a decision by the members of the Board at any meeting of the Board. The majority of such members voting in the same manner shall constitute a valid action of the Board or any of its committees.

Source: Milwaukee City Charter § 36-15-5

F. PROCEDURAL MATTERS

When a dispute arises on procedural matters, the Board will rely on the most current edition of Robert's Rules of Order.

Source: Rules and Regulations, § II (Meetings)

VI. COMMUNICATIONS

A. RETIREES

All communications and requests to the Board from retired members of the ERS must be made in writing to the Executive Director. A request from a retired member regarding the member's account must include the member's account number and be signed by the member.

B. EMPLOYEES

All communications and requests to the Board from employe members of the ERS must be made in writing to the Executive Director.

C. BENEFICIARIES

The ERS shall be notified in writing by the beneficiary or appropriate party within a reasonable time upon the death of a retired member.

D. INTERESTED PARTIES

The Board shall maintain reasonable communications with participants in the ERS, the City of Milwaukee, its agencies and their representatives in fulfilling its fiduciary obligations in administering the retirement system. Written communications relating to the position of the Board on matters impacting the retirement system or the administration thereof shall be submitted and signed by the Executive Director or a person authorized by the Board to act for him or her on behalf of the Board. The Executive Director or a person authorized by the Board shall represent the Board at meetings with participants in the ERS and/or the City of Milwaukee, its agencies and

their representatives. Upon written request, agendas and minutes of Board meetings shall be sent to all interested parties.

E. PUBLIC

All communications and requests to the Board from the public shall be made in writing to the Executive Director. Personal records and accounts and medical records of members shall be considered confidential and shall not be open for public inspection. The Board may charge a person or entity a fee pursuant to Wis. Stat. § 19.35 for copies made of public information.

Source: Wis. Stat. § 19.35; Wis. Stat. §§ 146.81, 146.82; Rules and Regulations, § IX (Records), p. 13

F. MEDIA

All communications with the media shall be made through the Secretary and Executive Director or the Chair unless the Board specifically authorizes otherwise. Communications and requests to the Board from the media shall be subject to the procedure for public communications and shall be noted in the minutes of the next regular meeting.

G. RETIREE ADDRESSES

Except as required for the proper administration of the department, the ERS will not disclose the home address of current or former employees of the City of Milwaukee or city agencies to any person or organization unless permitted under section 19 of the Wisconsin Statutes, or unless authorized by the individual current or former employee.

VII. BOARD MEMBERS/AREAS OF RESPONSIBILITY

A. STATEMENT OF FIDUCIARY RESPONSIBILITY

Members of the Board are accountable for exercising fiduciary responsibility, which is acting in the best interests of the members and beneficiaries of the ERS consistent with the provisions of the Employees' Retirement Act of 1937, as amended and incorporated in Chapter 36 of the Milwaukee City Charter and the Rules and Regulations of the Board. In fulfilling its fiduciary obligation, the Board shall protect and preserve the rights, privileges and benefits of the members and beneficiaries of the ERS.

Source: Provision based upon Restatement (Second) of Trusts, § 164

B. Ethics

Members of the Board are governed by the City of Milwaukee Code of Ethics, which establishes standards of conduct and conflicts of interest. Members of the Board must annually file with the City of Milwaukee Board of Ethics a Statement of Economic Interests.

Source: Wis. Stat. § 19.59; Milwaukee Code of Ordinances, ch. 303

C. SPECIAL SKILLS AND EXPERTISE

A board member who has special skills or expertise in relation to the investment and management of trust assets, or is named in reliance upon his or her representation that he or she has such special skills or expertise, has a duty to use those special skills or expertise.

Source: Milwaukee City Charter, § 36-09-1-d-1

D. APPROVAL OF BUDGET

1. Annual Budget

During the month of April of each year, the Executive Director shall prepare and submit to the Board a budget of the ERS for the next fiscal year. The Board shall approve the budget at the April meeting of the Board for submission to the Mayor and the Common Council as proscribed by city ordinance. The budget shall include a detailed statement of all estimated expenses, which are to be incurred during the ensuing calendar year.

Source: Milwaukee City Charter § 36-08-3; Milwaukee City Charter Ch. 18

2. Securities Lending Fund Budget

The approval of funds related to the operation of the ERS from the Securities Lending Revenue Fund shall take place at the January meeting of the Board.

Source: ERS, General Guidelines for Expending Securities Lending Revenue

E. SELECTION OF CONSULTANTS/INVESTMENT MANAGERS/ADVISORS

1. Investment Managers

Investment Managers will be selected to fill investment needs identified by the Board. When the Investment Committee selects Investment Managers, the Investment Committee shall (a) Only consider Investment Managers recommended to ERS by ERS' Investment Consultant; and (b) Require any Investment Manager recommended to the Investment Committee by its

Investment Consultant to disclose to ERS whether or not they utilize a placement agent. The following guidelines will be required of any selected investment manager:

- a. A person under contract to the ERS who invests and manages trust assets owes a duty to comply with the Prudent Investor Rule. Fund assets must be invested with the skill, care and caution that a prudent investor would use by considering the purposes, terms, distribution requirements and other circumstances of the trust.
- b. A person under contract to the ERS who invests and manages trust assets who has special skills or expertise or is named in reliance upon his or her representation that he or she has special skills or expertise has a duty to use those special skills or expertise.
- c. Manager investment philosophy, style and strategy shall remain consistent and shall not change without the Board's approval.
- d. Sector and security selection, portfolio quality and timing of purchase and sales are delegated to the manager within the parameters of the Board's Investment Guidelines.
- e. Fees may directly relate to the achievement of performance objectives.
- f. Transactions shall be executed at competitive costs.
- g. A person under contract to the ERS to invest and manage trust assets shall diversify the investment of the trust unless the Board reasonably determines that because of the special circumstances, the purposes of the trust are better served without diversifying.
- h. The manager shall report monthly to the Executive Director and the Chief Investment Officer as to the status of the portfolio by way of a month ending written report.
- i. Exception reporting - extraordinary short-term gains or losses should be reported and explained within five days of the occurrence.
- j. Managers who are given proxy-voting responsibilities must follow the proxy voting guidelines established by the Board.

Source: Provision based upon Milwaukee City Charter, §36-09-1

2. Actuary

The Board shall select an Actuary who shall be the technical advisor of the Board on matters regarding the operation of the funds created by the provisions of Chapter 36 of the Milwaukee City Charter and who shall be responsible for the actuarial operation of the ERS in accordance with the actuarial provisions of the law. The Actuary shall be directly responsible to the Board for this work.

Source: Milwaukee City Charter, § 36-15-13; Rules and Regulations, § I.4.h

3. Attorneys

The Board shall consult legal counsel in the manner provided in Section VIII. of these Rules and Regulations as is deemed necessary to fulfill its fiduciary and administrative responsibilities.

4. Other Advisors

a. Accountant

The Board shall appoint an accountant who shall have charge of the general accounting work of the system.

Source: Rules and Regulations, § I.4.i (Accountant)

b. Auditor

At the close of each fiscal year, the Board shall retain an independent certified public accountant to conduct an examination of the books and records of the ERS in conformity with generally accepted accounting principles and to make a report to the Board.

c. Consultants

The Board shall retain any consultants required to assist the Administration and Operations Committee to perform the duties specified in the A and O Committee Charter, June 2005, and the Internal Audit Charter, June 2005.

F. CONFLICTS OF INTEREST OF CONSULTANTS/ADVISORS

1. Written Statement of Potential Conflict

A written statement must be submitted to the Board by any person in an advisory or decision-making role describing any potential conflict of interest with that person's

duties and the possible implications of such potential conflict. If new circumstances create a potential conflict of interest, a written statement as described shall be submitted to the Board. A person with a conflict shall immediately notify the Board of the circumstances giving rise to the conflict and submit a written statement of conflict as soon as possible but in no case longer than within two weeks after the person becomes aware of the conflict.

2. Time Period for Determination of Conflict

When a written statement of a conflict has been submitted to the Board, the Board shall determine whether a conflict exists, including the method of dealing with such potential conflict, at the next regular Board meeting.

G. REVIEW AND APPROVAL OF CONTRACTS

1. Staff

The Executive Director, and the Chief Investment Officer when requested by the Executive Director, must review and recommend, prior to submission to the Board, each proposed contract for professional services that is necessary for conducting the business of the ERS. Board members and staff shall not be permitted to disclose to proposers information contained in proposals to the Board or staff analysis or summaries of proposals to the Board without formal approval by the Board. The Board shall not consider a request for disclosure unless it is in writing and signed by an authorized representative of the proposer.

Source: Rules and Regulations, § I.4j (Contracts for Professional Services), p.3

2. Board

- a. Except as provided in subparagraph b, the Annuity and Pension Board shall have final approval over any contract entered into on behalf of the ERS after such contract has been approved by the staff and reviewed by legal counsel.
- b. The Investment Committee consists of all members of the Annuity and Pension Board and as such is considered a Committee of the Whole. The Investment Committee shall have full authority in the final approval and execution over investment-related contracts if:
 - i. The investment contract has been approved by staff and reviewed by legal counsel; and
 - ii. Delaying final approval of the investment contract to the next regular Board meeting would result in the loss of some advantage of the contract; and
 - iii. A quorum of the Board votes to approve the investment contract.

3. Legal Counsel

The Board shall select legal counsel in accordance with Section VIII. of these Rules and Procedures to review any contract to be entered into on behalf of the ERS.

H. BENEFIT LEVELS/DETERMINATION

Members' benefits are determined in accordance with Chapter 36 of the Milwaukee City Charter (and applicable labor contracts). A member who objects to a determination of benefits shall be entitled to review and appeal as authorized in Part 2, Sections XX and XXI of these Rules and Regulations.

VIII. LEGAL COUNSEL

A. CITY ATTORNEY

Under Chapter 36 of the Milwaukee City Charter, the City Attorney is the legal counsel to the Board with respect to legal matters not involving conflicts of interest with the City of Milwaukee or one of its agencies as determined by the Board under paragraph B below. The City Attorney's attendance at meetings of the Board or any of its Committees shall be when it is specifically requested, either by advance notice or during the course of the meeting of such Board or Committee, that the City Attorney's presence is necessary on a specific item on which the Board requires specific guidance.

B. SPECIAL LEGAL COUNSEL

1. In the event the City Attorney decides that it may not represent the Board due to a conflict, or does not receive written consent to do so, the City Attorney shall advise the Board to obtain special legal counsel and notify the Common Council of that decision.
2. The Board may consult with the City Attorney and/or other legal counsel at any time regarding whether special legal counsel should be retained on a particular matter.
3. If the Board and City Attorney do not agree on whether special counsel is justified, they shall immediately submit the matter, along with relevant information, to a third person chosen by the Board from a mutually agreed list of not less than three intermediaries developed by the Board and the City Attorney. The intermediary selected shall make a recommendation within 24 hours of receiving the mutual request. In the event of a recommendation from the intermediary that special legal counsel be retained, the Board may hire special legal counsel.
4. This rule shall expire on December 31, 1998. Commencing at least sixty days before the expiration date, the Board or its designee and the City Attorney shall

meet to determine if the procedure in this rule shall be extended, modified or eliminated. The Board will continue to make all final decisions regarding this procedure.

IX. PROXY VOTING GUIDELINES

The Board shall establish Investment Guidelines to provide direction to those exercising voting proxies on behalf of the Board of the ERS. Fund Managers who are given proxy-voting responsibilities must follow the proxy voting guidelines established by the Board in the Investment Guidelines.

X. CONFERENCES AND PROFESSIONAL DEVELOPMENT

A. PURPOSE

It is the policy of the Board to encourage its Board members and staff to annually attend educational training in support of their fiduciary responsibilities. Members of the Board owe a fiduciary responsibility to the members and beneficiaries of the ERS. The process of continuing education is necessary for board members to fulfill their fiduciary responsibilities. Board members are also encouraged to accompany investment staff on due diligence visits as part of continued education. For the sake of clarity, Board members' purpose for accompanying investment staff on due diligence visits is to learn more about how assets in the Fund are invested by investment managers and monitored by staff and the consultant(s). The actual due diligence of an investment manager is the responsibility of investment staff and the consultant(s). Board members and staff are expected to continue educating themselves to improve the level of responsibility, proficiency and service to the ERS.

B. REQUIREMENTS

1. Authorization

Members of the Board and professional staff (Executive Director, Deputy Director and Chief Investment Officer) shall submit conference requests to the Executive Director who will schedule such requests for approval at the next Board meeting. Emergency authorization may be granted when time does not permit action by the Board. Such authorization requires written approval by the Chair and will be reported and ratified at the next Board meeting. Other members of the ERS staff shall submit training requests to the Executive Director for approval.

2. Conference Materials

Board members are encouraged to distribute written materials on topical areas acquired from conference attendance to fellow board members and staff.

3. Statement of Expenses

Within 45 days of returning from a conference, the attendee shall file a statement of expenses, attaching transportation (i.e., air, rail, etc.) ground transport (shuttle service, taxi, or auto rental), hotel and registration (if not prepaid) receipts. If traveling by auto, reimbursement for mileage shall be based on the Internal Revenue Service standard mileage rate in effect. If a travel advance was paid, including any city credit card expenditure, the statement shall be submitted in compliance with MCO s. 350-181-7.

C. TRANSPORTATION AND ACCOMMODATIONS

1. Registration fees, transportation tickets (i.e., airfare) and hotel deposits may be prepaid directly from the office of the ERS. The Board, professional staff or staff member may request an advance for the amount of estimated out of pocket expenses exclusive of any amounts being prepaid.
2. Discounted airfare rates should be utilized if available.
3. Reimbursement for ground transportation will be provided in full.
4. Hotel accommodations shall be a standard room in the convention hotel if available for the days of the conference. Additional days are allowed if a savings can be shown (i.e., the cost of additional lodging and related expenses covered under the per diem allowance is more than offset by savings in airfare.)
5. All other related expenses incurred including, but not limited to meals, tips, telephone, etc. will be reimbursed for costs actually incurred, but such reimbursement shall be limited to an established per diem limitation. The per diem allowance shall be the U.S. General Services Administration meal per diem for the travel destination.
6. In addition to the days allowed under C.4 for hotel accommodations and under C.5 for related expenses, an additional day of hotel accommodation and related expenses shall be allowed.
7. Additional extraordinary or emergency expenses are allowed with approval from the Board.

Source: ERS Travel Policy Guidelines

XI. REIMBURSEMENT FOR CONFERENCES AND PROFESSIONAL DEVELOPMENT EXPENSES

A. TYPES OF EXPENSES REIMBURSED

Expenditures must be directly related to the operation of the ERS or for educational purposes, which fulfill each trustee's fiduciary responsibility.

B. PROCEDURE FOR SUBMITTING EXPENSES

Within 45 days of returning from training, Board and staff members are required to provide an accounting of all expenses related to the training on a form approved for this use by the Board (Statement of Expenses Incurred). This form shall provide for reporting the details of all actual costs incurred as provided for under this section, as well as the per diem limitation. Amounts paid directly by the ERS (either prepaid or charged on an ERS issued ProCard) and advances provided shall be deducted from total costs incurred to determine amounts due from or owed to the Trust by the Board or staff member. The Board or staff member shall sign The Statement of Expenses Incurred prior to submittal for approval, certifying that the expenses were incurred in conjunction with their duties and fiduciary responsibilities. If a travel advance was paid, including any city credit card expenditure, the Statement of Expenses Incurred shall be submitted in compliance with MCO s. 350-181-7.

If amounts paid and advanced to the Board or staff member exceeds the actual cost of the training, a check for the amount owed to the Trust shall accompany the Statement of Expenses Incurred.

Reimbursements to Board and staff members for expenditures associated with travel will be reviewed and approved by the Executive Director prior to settlement. Reimbursements to the Executive Director shall be reviewed by and approved by the Board Chair.

XII. PROCEDURE FOR FUTURE REVISIONS/AMENDMENTS TO THE RULES AND REGULATIONS

These Rules and Regulations may be amended at any regular meeting of the Board by the vote required or other decisions, provided the text of the proposed amendment is submitted to Board members at least seven days in advance of the meeting. The Legislative Committee shall act upon such amendments as provided in Section IV. B. Any revocations or amendments to the Rules and Regulations by the Board shall be filed with the city clerk within 30 days after they have been approved by the Board.

Source: Provision drafted based upon § 36-15-6, Milwaukee City Charter

PART 2 – ELIGIBILITY AND BENEFITS

XIII. MEMBERSHIP

A. The following shall not be considered as entitled to membership:

1. Members of boards and commissions;
2. All employes who have previously exercised options or elected not to become members unless they have been accepted by the Board after having passed such physical examination as may be required. Any employe, however, who has exercised an option or elected not to become a member and who separates from the service by resignation, discharge, or termination of employment, upon any future return to service shall come under the status of a new employe without receiving credit for service prior to the current employment and such employe shall be required to pass a physical examination;
3. Election inspectors and ballot clerks employed at voting precincts, and all other temporary help engaged by the Board of Election Commissioners preceding or during an election period;
4. Employes hired on emergency, part-time or temporary basis, or as City Laborer (Seasonal). (City Laborer-Seasonal shall become eligible upon receiving permanent status);
5. Part-time doctors employed after January 1, 1954;
6. Employes of temporary City agencies;
7. Employes working under work relief programs;
8. The Secretary of the Motion Picture Commission and the Secretary of the Milwaukee Fourth of July Commission;
9. Part-time employment is defined as employment which averages one-half of the hours, or less, required for one full year of service credit under XV.K. Temporary employment is defined as employment which averages 6 months per year or less and which does not lead toward year-round employment. Persons employed by the Milwaukee Board of School Directors who are not eligible for membership under this subsection as of December 31, 2012 shall only be eligible for membership as set forth in A.10.
10. Notwithstanding A.9 above, persons employed by the Milwaukee Board of School Directors on or after October 22, 2012 shall be enrolled as members only if the person is employed in a position regularly scheduled for 30 hours or more per week on either a 10 or 12-month basis.

Employees hired on a part-time or temporary basis are eligible for membership, if they satisfy the following requirements:

- a) A 10-month employe of MPS, if the employe works more than 800 hours during a calendar year;
- b) A prevailing wage employe, if the employe works more than 1000 hours during a calendar year; and
- c) Any other employe, except for an employe identified in (a) or (b) hereof, if the employe works more than 1040 hours during a calendar year.

Part-time employes shall become eligible as of the first day of the first payroll period following such employe's satisfaction of the eligibility requirements set forth above. The head of City departments and City agencies shall notify the ERS of an employe's satisfaction of eligibility requirements with the next bi-weekly payroll report. (Amended 05-26-2009 Board Meeting)

XIV. ACTIVE SERVICE

- A. Every member shall for all purposes be considered in active service whose name appears on current payrolls or who is on an authorized leave of absence and not otherwise gainfully employed, except as provided for under the provisions of the global settlement.
- B. Nothing herein shall prevent a member from being considered in active service where satisfactory evidence can be presented of an erroneous act of omission or commission on the part of a city official, department head or employe which may have jeopardized the member's status.
- C. For purposes of the global pension settlement, all benefit improvements applying to general city employees in active service shall include members on recognized contractual leave of absence, and members serving disciplinary suspension as of January 1, 2000. For purposes of the global pension settlement, firemen and policemen in active service shall include members on recognized contractual leave of absence, members on detached status and members serving disciplinary suspension as of January 1, 2000.

Source: Rules and Regulations, § IV, p.7

XV. SERVICE CREDIT

- A. 1. Paid Service. Service Credit for a member who is a full-time employe shall be granted on the basis of a twelve-month year, and all credits for partial months shall be based on a thirty-day month.

2. Unpaid Service. Service credit for periods of unpaid leaves of absence, suspensions, strikes or layoffs shall be granted subject to the following terms and conditions:
 - a. The service credit granted for unpaid time shall not exceed 160 hours per year (20 full-time days).
 - b. No service credit for unpaid time shall be granted unless the member agency has given the ERS appropriate documentation defining the specific dates of unpaid leaves of absence, suspensions, strikes or layoffs.
 - c. No service credit for unpaid time shall be granted unless the member was a twelve-month full-time employee during each pay period of the year during which the unpaid time was accrued, with a base of 2,590, 2080, 2,015, or 2,000 hours, for every pay period and wage transaction.
 - d. No service credit for unpaid time shall be granted for unpaid time accrued during the year of enrollment, or the year of retirement or separation.
- B. Service for a member who is an employe on an hourly or prevailing wage basis shall be credited on the basis of a 250-day or 2,000-hour year, provided not more than one year's credit shall be allowed within any calendar year and service for part-time shall be credited on the basis of actual time employed.
- C. Service for part-time physicians in the Fire and Police Departments shall be currently credited at half time and any necessary adjustment in service credit may be made at the time of retirement.
- D. Whenever any City employe is entitled to prior service credit for service performed prior to the effective date of the Employees' Retirement Act, the Secretary is instructed to prepare such prior service credit certificate and submit it to the Board for approval.
- E. Service credit shall not be allowed during periods in which an employe elected not to become a member.
- F. The records of all departments and City agencies relating to service and compensation of officers and employes shall be accessible to the Secretary of the Board, and to such persons as the Board shall designate for the examination of such service records and compensation claims.
- G. A member working more than part-time but less than full-time on a 12-month basis may qualify for benefits under Section 36-05-2, Section 36-05-6-c, and Section 36-05-6-d, Section 36-05-1-d-3, Section 36-05-6-a-1 (for general City employees only per Common Council File No. 130184) and Section 36-05-1-f of the Milwaukee City Charter receiving full service credit for more than part-time but less than full-time work. A member working part-time on a 12-month basis may qualify for benefits under Section 36-05-2, Section 36-05-6-c, Section 36-05-6-d, Section 36-05-1-d-3,

Section 36-05-6-a-1 (for general City employees only per Common Council File No. 130184) and Section 36-05-1-f and Section 36-05-6-d by receiving one-half full service credit for part-time work.

Service prior to 1995. A member in active service shall earn one year of service credit for each year of membership service, for purposes of qualifying for a benefit under ss. 36-05-2, 36-05-6-c, Section 36-05-6-d, Section 36-05-1-d-3, Section 36-05-6-a-1 (for general City employees only per Common Council File No. 130184) and Section 36-05-1-f of the Milwaukee City Charter.

Service from 1995 through 2001. A member in active service working full time during a full calendar year basis shall receive full service credit for purposes of qualifying benefits under ss. 36-05-2, 36-05-6-c, Section 36-05-6-d, Section 36-05-1-d-3, Section 36-05-6-a-1 (for general City employees only per Common Council File No. 130184) and Section 36-05-1-f of the Milwaukee City Charter. A member in active service working less than full time during a calendar year shall annually receive one-half full service credit for less than full time work.

Service after 2001. A member in active service working full time during a full calendar year shall receive service credit for purposes of qualifying for a benefit under ss. 36-05-2, 36-05-6-c, Section 36-05-6-d, Section 36-05-1-d-3, Section 36-05-6-a-1 (for general City employees only per Common Council File No. 130184) and Section 36-05-1-f of the Milwaukee City Charter. A member in active service working less than full time during a full calendar year shall annually receive service credit based on membership service.

Savings. This rule shall not be applied so as to increase the pre-qualification period for a member who qualified for and commenced receiving an allowance prior to the adoption of this rule.

- H. Service credit for an employe working less than full-time when transferred to full-time, or transferred to the County Retirement System shall be computed on the basis of actual time worked.
- I. Sabbatical leave service credit shall be granted proportionate to the salary received for the period of the leave.
- J. Board and Commissions Service Credit - Members appointed to Boards and Commissions and compensated at a flat rate biweekly shall be given four (4) hours service credit for each biweekly period and shall be credited on the basis of a 2,000-hour year provided, however, that in no case shall more than one year of service be credited for all service in one calendar year.

Source: Rules and Regulations, § V, p.7

- K. Where a member described in sub. A spends less than an average of 40 hours per week on a year-round basis on the payroll during a calendar year, the service credit granted for that year for purposes of determining the amount of the benefits payable will be calculated by multiplying one full year of service credit by a fraction: the numerator of which is the hours on the payroll plus time credited by rule XV-A, and the denominator of which is:
- a) 1600 hours for 10-month employees of MPS;
 - b) 2000 hours for prevailing wage employees
 - c) 2015 hours for MATC employees;
 - d) 2080 hours for all other employees, except for those employees identified in subs. a, b, c, or e hereof; and
 - e) 2590 hours for firemen defined in MCC § 36-02-16.

XVI. FINAL AVERAGE SALARY

- A. Employees who are allowed maintenance shall have the full amount of maintenance available for their position included in their earnable compensation, except that an allowance for automobile maintenance shall not be included in earnable compensation.
- B. In calculating “average annual earnable compensation” using the average biweekly pay rate, the biweekly rate shall be multiplied by the factor of 26.089285.

Source: Rules and Regulations, § VI, p.8

- C. To allow ERS to calculate “average annual earnable compensation” after a retroactive salary adjustment, City departments and agencies are required to report the amount for each year. The ERS will allocate each year’s retroactive payment based on the actual salary by multiplying for every pay period the retroactive payment by a fraction the numerator of which is the amount of pensionable wages for that pay period, and the denominator of which is the total pensionable wages for that year.

XVII. RETIREMENT AND DEATH BENEFITS

(Paragraph A repealed - May 26, 2009 Board Meeting).

- B. The Board may, in its discretion, require a medical examination of persons seeking permission to continue in service beyond the compulsory retirement age.
- C. [Affecting Section 36-05-5] A member shall be deemed in the actual performance of his or her duty within the meaning of Section 36-05-5 of the Employees' Retirement Act during the period of time when first directed to perform a duty within the scope of his or her employment and until the member has been released from performance of such duty. The test of whether or not such member is performing a duty within the

scope of his or her employment shall depend on whether such employe is subject to the control and direction of a supervisor at the time when the accident has occurred. Proofs of death provided for in Section 36-05-5 in the instance of firemen and policemen may be received from the medical panels of such respective departments.

- D.
1. Should any member who has separated from service and elected a separation benefit under Section 36-05-6-b-2, Section 36-05-6-c or Section 36-05-6-d-2 subsequently return to work in City employment for less than six months, he or she shall not be eligible for service credit for such time, and contributions deducted from the member's compensation during such period shall be returned to him or her and such service shall not terminate the retirement status of the member.
 2. Should any member who has elected a separation benefit as provided in Section 36-05-6-b-2, Section 36-05-6-c or Section 36-05-6-d-2 be restored to active service prior to attaining the minimum service retirement age, except members covered under paragraph 1, he or she shall again become an active member and upon subsequent retirement shall be credited with his or her service as member subsequent to his or her last restoration to membership and shall receive a retirement allowance computed as if he or she were a new entrant, and in addition he or she shall receive a retirement allowance for service prior to his or her reinstatement computed on the formula in effect at the time he or she first left such service.
 3. Should any member who elects a separation benefit under Section 36-05-6-b-2, Section 36-05-6-c or Section 36-05-6-d-2 and subsequently returns to active service after a lapse of less than one year from the date he or she left City employment and who remains in City employment until reaching retirement, he or she will have his or her ultimate benefit based on his or her total credited service with the city, excluding that period during which he or she was absent.
 4. Waiver of Deferred Retirement - Any member eligible for deferred retirement allowance at the minimum service retirement age may within six months of attaining the minimum service retirement age irrevocably establish a commencement date subsequent to attaining the minimum service retirement age but in no event later than April 1 of the calendar year following the calendar year in which the member turns 70½.

Any member who requests additional actuarial computations for retirement shall be required to pay the actuary's charges in excess of the charge for two retirement allowance computations.

- E.
1. Any reduction of a disability benefit on account of payments paid under United States Law other than Title 11 of the Social Security Act shall be discontinued when the retired member attains the minimum service retirement age.

2. Prior to filing an application for a duty disability retirement allowance, any member shall apply for a determination of any amounts paid or payable under the provisions of the worker's compensation law on account of the same disability. Any member currently receiving a duty disability retirement allowance who has not applied for or obtained a determination of any amounts paid or payable under the provisions of the worker's compensation law on account of the same disability shall apply for a determination within thirty days of his or her next scheduled periodic medical examination. Upon receipt of a determination of the amount paid or payable under the provisions of the worker's compensation law, an actuarial offset will be prospectively applied to the member's duty disability retirement allowance.
 3. Offset of Worker's Compensation Amounts Paid - Any amounts paid to a duty disability retiree, under the Worker's Compensation Law, prior to the effective date of such duty disability as approved by the Board, and on account of the same disability, shall be offset against the amounts due from the ERS, on a dollar-for-dollar basis, as provided under XVII.E.4 of these Rules and Regulations.
 4. Prior to the effective date of their duty disability retirements, members affected by XVII.E.3 of these Rules and Regulations must elect one of the following options. Members on duty disability on the effective date of this rule may, within 60 days, elect one of the following options:
 - a. Issue a lump sum payment to the ERS equal to the total principal amount of the Worker's Compensation award so that no offsets are applied to their duty disability pensions.
 - b. Authorize a monthly offset against the disability benefits for a period of 5 years from the effective date of such benefits, until an amount equal to the principal amount of the Worker's Compensation award is recovered; provided that the date of re-computation as a service retirement will not take effect before the expiration of said five years offset period.
 - c. Authorize a monthly offset against the duty disability for the period between the effective date of such benefits, and the date of the re-computation of the benefits as a service retirement allowance.
 5. In the event a member does not elect one of the options under Section 4 above, the offset provisions contained in Section 4.c will apply.
- F. In applying provisions of Section 36-06-9 of the ERS law, "Limitations of Payment under Coordinated Plan," it is hereby provided that effective with retirements beginning January 1, 1974, that only the Social Security Old Age Insurance benefit due will be used in determining the limitation for a Coordinated Plan member retiring from this system on a service retirement under Section 36-05-1 or on an early retirement under Section 36-05-6, unless the member is receiving or is eligible to

receive a Social Security Disability Insurance benefit beginning on or before the date of his or her ERS service or early retirement. Social Security Disability Insurance benefit will be used only in determining the limitation for a Coordinated Plan member who is retiring under ERS Ordinary or Duty Disability retirement provisions or who is receiving or is eligible to receive a Social Security Disability Insurance benefit beginning on or before the date of his or her ERS service or early retirement.

- G. All members on disability or other type of retirement affected by outside earnings limits provided in the Pension Law, must submit a copy of their federal income tax return not later than May 31 following the year being audited. In the event that the above beneficiaries do not file federal income tax returns due to their filing status, then they must file a certification to that effect in the form prescribed by the Board.
1. When evaluating Federal Income Tax Forms to determine applicable income toward any outside earnings the following will be considered: income identified as wages; salary; tips; business income (including rental property income in accordance with legal opinion dated 2/20/87). The following income will not be considered: interest and dividend income, income identified as alimony received; deferred compensation; dividends from tribal membership; disability income/insurance; and unemployment compensation. The following income will be considered but only if there is additional information indicating the income is from a business or occupation: capital gains/capital losses for real estate investments when the real estate business is identified as a business or occupation; gambling/lottery winnings when gambling is identified as a business or occupation.
 2. Any beneficiary who fails to comply with the outside earnings requirement will be assumed, until such time as the beneficiary complies with the requirement, to have outside earnings that result in a total offset of the beneficiary's retirement allowance.
 3. If, after compliance with the outside earnings reporting requirement, it is determined that a beneficiary who had been delinquent in reporting his outside earnings should not have had a complete offset of his retirement allowance, then any previously offset amount that is due will be paid to the beneficiary as soon as administratively feasible on the next regularly scheduled monthly payroll.
- H. All complaints relative to disability recipients will be referred to Employee Benefits Administration ("EBA"). Referrals from EBA relative to a disability recipient shall be presented to the Board for a determination as provided in Section 36-05-3-c-1-b.
- I. If a member who is involuntarily separated as provided under Section 36-05-6-b, or voluntarily separated as provided under Section 36-05-6-d fails to make an election within six (6) months of notification of his or her rights by the Board, the Board, as provided in Section 36-05-6-b-7 and Section 36-05-6-d-3, will elect on the member's behalf, the option to leave the member's contributions in the Fund until minimum

service retirement age and thereafter to receive a deferred retirement allowance. If the member is involuntarily separated from employment under Section 36-05-6-b and litigation is commenced within six months, the period is extended to a period ending six months from the completion of litigation.

Source: Rules and Regulations, § VII, p.9

- J. If a member of ERS, who is a part-time employee, dies prior to retirement and the beneficiary qualifies for the ordinary death benefit under 36-05-10, the following rule shall apply in calculating the death benefit (1/2 FAS). The final average salary (FAS) will be prorated based on the amount of actual service credit during the period of time used to determine the FAS (excluding the year of death, as a non-representative year). The calculation will be the actual service credit during the FAS period divided by the possible service credit time during the FAS period.

Justification is in CA opinion 63-OCA-430 and CA opinion dated June 22, 1999.

- K. Effective August 29, 2001 the minimum monthly allowance referred to in Chapter 36-05-1-a, s. 36-05-6-b-2, s. 36-05-6-d-2 and s. 36-05-10-a-3 is increased from \$25 to \$100. Each benefit authorized on or after July 1, 2001 shall be subject to the new minimum. Annually the minimum allowance shall be reviewed and may be increased by board approval by the cost of living as provided in s. 36-05-01-a rounded to the nearest \$10.

Justification is in CA opinion, dated March 23, 2001.

L. Lump Sum Bonus Payment.

1. If a member is eligible to receive a bonus under s. 36-05-11, at the time of commencement of the member's retirement allowance, the member shall be provided with lump sum bonus information and an election form at the time the members applies for the retirement allowance. If a member does not return the properly completed election form electing a rollover to a financial institution within thirty days of the date of the member's retirement, such bonus payment shall be paid in a direct rollover to an individual retirement plan designated by the Board. If a member dies prior to payment, the payment shall be payable to the beneficiary named in the election form or to the estate of the member.
2. If the ERS is required to make an adjustment payment to the bonus after it has been paid out or rolled over, the member shall be provided with notice of the adjustment and a dated adjustment election form. If the member does not return the properly completed adjustment election form electing a rollover of the adjustment payment to a financial institution within forty-five days of the date of the election form, such adjustment shall be paid in a direct rollover to an individual retirement plan designated by the Board. If a member dies prior to

payment, the payment shall be payable to the beneficiary named in the election form or to the estate of the member.

- M. A member in active service, who has received a final denial of a duty-disability allowance application based upon a finding by the medical panel or council that the member's incapacitation from duty was not permanent and/or total, may file a new application for a duty-disability allowance based on the same injury or injuries upon which the previous application was denied, provided that the new application includes a written report from the member's treating physician that the member's medical condition has changed since the final denial to the extent that the member is now permanently and/or totally incapacitated from duty. The treating physician's conclusion must be based on information that establishes a significant change of the active member's condition since his or her final denial and that was not previously considered by the medical panel or council. The medical panel or council shall determine whether a significant change in the member's condition has occurred so that the member has now become permanently and/or totally incapacitated from duty and shall make its certification based on that determination.
- N. False Information. The Board may dismiss the Application of any person who submits false information regarding an application for disability benefits or who submits false information to the Medical Panel, Medical Council, or any physician retained by the Medical Council to conduct an examination.
- O. Duty Disability Applications under § 62.624 Wisconsin Statutes. An application for duty disability retirement based on a claimed mental injury shall not be processed unless the requirements of §62.624(1) Wis. Stats. are satisfied.

If the employer does not certify that the claimed mental injury is duty-related under the standard set forth in §62.624(1)), the ERS will notify the member in writing of the determination that the member's application for duty disability retirement cannot be processed. The ERS will at the same time notify the member of his or her right to appeal the determination as provided for in §62.624(2) Wis. Stat. The determination will be sent to the member's address listed on the application for duty disability retirement unless the ERS is notified in writing of a change in address.

If the employer does not certify the claimed mental injury is duty-related, the application for duty disability retirement will be dismissed unless an appeal of the determination is filed with the Department of Workforce Development within forty-five (45) days of mailing of the determination. The forty-five (45) day time limitation does not apply if at the time of the determination an Application for Hearing relating to the compensability of the claimed mental injury under worker's compensation has already been filed with the Department of Workforce Development.

XVIII. MEMBER'S CONTRIBUTIONS

Section renumbered; old No. 5 deleted January 25, 1982 Board Meeting.

- A. Contributions of members who are allowed maintenance shall be based on the amount of salary received plus the amount of maintenance allowable, except that automobile maintenance shall not be considered in determining a member's contribution.
- B. A seasonal worker who is a member of the ERS and who is on layoff between seasons who does not return to work the season following layoff, shall be considered out of service as of the date of layoff and no further interest shall be credited to his or her account. Should the member be reinstated to city service at a later date, interest shall be credited on a current basis thereafter. Members who withdraw their contributions after attaining the minimum service retirement age and waive their rights to a pension shall have interest on their accounts computed to the first of the month of termination of service.
- C. Prior to terminating membership in accordance with Section 36-03-5 of the retirement law, the Secretary shall notify the member by mail addressed to his or her last known address, of such contemplated termination. If such member does not return to City employment and fails to apply for a refund of his or her accumulated contributions in the Annuity Savings Fund, the Secretary shall issue a check for such accumulated contributions and send it to such member by registered mail. If the address of the member is unknown, the Secretary shall transfer the amount of such member's accumulated contributions from the Annuity Savings Fund to a Suspense Account.
- D. The Board shall not accept excess contributions exceeding the annual normal contribution of a member. Excess contributions shall be payable only in lump sum amounts, annually or semi-annually, at the office of the ERS. Lump sum payments received on or before January 5th of each year shall be included in the initial balance as of the first of the year.
- E. The Secretary shall process vouchers and checks for refund of members accumulated contributions on a bi-weekly basis and shall submit resolutions for such refunds to the Board at the next regular meeting of the Board.
- F. Any member covered under Section 36-05-8, "Survivorship Benefits," who is on an approved Leave of Absence for personal illness shall be eligible to continue to participate in the survivorship benefits during such Leave of Absence provided such member continues to make his or her same contributions as required by Section 36-05-8.

- G. Members who contribute at the rate of \$1 per year, as provided in Section 36-08-7-b, shall have such contribution deducted during a single pay period and such contribution shall not be prorated for partial years.

Source: Rules and Regulations, § VIII, p. 12

- H. A member required to make a contribution to the combined fund in accordance with s. 36-08-7-m, expressed as 1.60% of the member's pensionable earnings during the 8-year period immediately following enrollment, shall be required to make such contribution in installments through payroll deductions of 1.6% of pensionable earnings for each pay period within the eight-year period. A member with accrued unpaid contributions (assuming the contribution is accrued biweekly in each pay period of the 8-year period) may elect to make a lump sum payment to the ERS of all or part of the accrued unpaid contributions. Any remaining accrued unpaid contributions shall be paid in equal installments through payroll deductions over a period established by the ERS not to exceed three years.

XIX. MISCELLANEOUS

A. CITY-COUNTY TRANSFERS - SECTION 36-13-5-A

1. Transfer from City System to County System.

With respect to transfer of employes from the City to the County, the determination of the retirement benefit for separations between January 1, 1968 and June 1, 1991, shall be predicated upon the city benefit formula in effect at the time of the employe's transfer from the City to the County. The amount of such benefit shall be certified to the County Retirement System for its records and will form the basis for the deduction from the total benefit as computed by the County Retirement System and the balance remaining shall be payable by the County Retirement System.

2. Transfer from County System to City System.

With respect to transfers of employes from the County to the City, the determination of retirement benefits for separation between January 1, 1969 and June 1, 1991, shall be predicated on the City benefit formula in effect on the date of separation and shall be inclusive of the combined creditable service in both the County and the City Retirement System. The benefit payable by the County shall be computed and certified by the County Retirement System on the basis of the County formula in effect at the time of the employe's transfer from the County to the City and such certified benefit from the County System shall form the basis for the deduction from the total benefit as computed by the City Retirement System and the balance remaining shall be payable by the City Retirement System.

3. Reciprocity - State Legislature (matter of state concern).

B. WISCONSIN RETIREMENT SYSTEM CREDIT

1. Service credit

The maximum credit for which a member of the ERS is entitled to receive for State service shall not exceed the length of service he or she has with the City Plan. [Section 36-13-5-h.]

2. Computation of Offset

Any member of the ERS on or After April 1, 1969, who had service credit with the Wisconsin Retirement System and has left his or her funds in the Wisconsin Retirement System or elected the withdrawal of his or her funds from the Wisconsin Retirement System after March 11, 1977, shall have offset the maximum annual retirement allowance which would have been payable to him or her from the Wisconsin Retirement System at his or her "normal retirement date" as specified under § 40.02(42) Stats. If the state service credit is reduced because of the limitations of B. 1 the offset shall be prorated. The offset shall not be applied so as to reduce the amount of the retirement allowance to an amount that is less than the amount of the retirement allowance the member would have received without the addition of state service credit.

C. ACTUARIAL INFORMATION TO BARGAINING UNITS

The following rules and guidelines govern the rights of bargaining units to receive actuarial information:

The information, which such bargaining unit is seeking, must be sought and obtained through the bargaining unit's own selected actuary. Such actuary will be required to submit, in writing to the Board, the type of information desired. The Board will then submit the request for this information to the Board's actuary and ascertain from the actuary whether or not he or she can supply such information. If he or she can supply it, the actuary shall determine upon a preliminary basis, what will be the cost and the bargaining unit will deposit in advance such amount preliminary to proceeding further. The deposit will stand until the work of the Board's actuary is completed and the total charges are known. If the deposit does not cover the charges of the Board's actuary, the difference shall be paid to the Board by the bargaining unit. Any excess deposit will be returned. Any conferences or other dealings shall be carried on by the actuary of the bargaining unit with the actuary for the Board, but no conferences shall include members of the bargaining unit but only the actuary for the unit shall be permitted to confer.

The Board shall have its own representative present at such conference.

Source: Rules and Regulations, § XII, p. 15

D. ACTUARIAL INFORMATION TO THE CITY OF MILWAUKEE AND CITY AGENCIES

The following rules and guidelines govern the rights of either the City of Milwaukee or a City Agency (as defined by MCC § 36-02-8), hereinafter referred to in this section as “requester,” to receive actuarial information and access to the Board’s actuary:

The Board shall provide the requester access to actuarial information and the Board’s actuary for the following purposes:

1. Development of estimates of the actuarial cost of potential collective bargaining proposals that affect Chapter 36 benefits.
2. Development of applications that allow the requester to project Plan assets, liabilities, and normal cost, in addition to its future contributions needed to meet Chapter 36 requirements.

Such access will be based on the following conditions:

1. The requester shall submit a letter to the Board describing its purpose (consistent with the purposes stated, above) for obtaining actuarial information and access to the Board’s actuary, prior to engaging in any contractual agreement with the Board’s actuary.
2. Written agreement by the requester that it shall bear the full responsibility for complete and timely payment of any actuarial fees pursuant to such a request.

(New paragraph approved - April 26, 2010 Board Meeting.)

E. INFORMATION DISTRIBUTION

The ERS may distribute retiree association information to prospective retiree, retirees or survivors, but only for those organizations that are exclusively comprised of ERS retirees and/or their survivors. Information distributed under this rule may not include any commercial advertisements or endorsements of candidates for public office or Board membership. The costs of distributing an association’s information will be borne by the respective association.

F. DIRECT DEPOSIT

All beneficiaries initially receiving a monthly allowance after December 31, 2004, shall be paid via direct deposit. Such beneficiaries shall be required to complete the System’s application for direct deposit containing the appropriate terms and conditions. Any beneficiary not having a bank account to enable such a payment method will be referred to the System’s current vendor for banking services for assistance in establishing a bank account. If a beneficiary is unable to open a bank

account for whatever reason and produces a letter from a bank as proof of their inability to comply, ERS will pay such member using checks or other methods as determined by the ERS. If a beneficiary is found to have fraudulently claimed to be unable to open a bank account, he or she shall be required to apply for direct deposit as prescribed.

In the event a beneficiary closes a bank account that is being used to directly deposit monthly allowances and fails to notify the ERS in a timely manner, ERS will pay such beneficiary one monthly payment by check upon receiving the funds back from the bank. Such a beneficiary will be required to complete another application for direct deposit, and all future monthly benefit payments shall be paid to the member via direct deposit. Any beneficiary who currently receives payment by check and who subsequently fails to cash more than three monthly benefit payments in a calendar year shall thereafter be paid via direct deposit under the same rules applying to beneficiaries initially receiving an allowance after December 31, 2004.

Amounts due any beneficiary failing to submit a properly completed direct deposit application, while required to, will be held by ERS until such time as the beneficiary complies. Such amounts withheld will be added as soon as administratively feasible to the next scheduled monthly benefit and paid accordingly via direct deposit. The Executive Director is authorized to waive this rule when necessary to ensure that a beneficiary receives his or her allowance.

(Section renumbered from XIX.D to XIX.F - April 26, 2010 Board Meeting).

G. UNCLAIMED PROPERTY

Definition: Any funds that can be categorized as outdated or stale checks, or any account balances, final payments, or actuarial equivalents that have not been claimed, and which have been available for disbursement for at least one year, will be marked as unclaimed and presumed abandoned (per definitions referenced in Wis. Stat. §§ 177.01(10)(a) and 177.13).

Notification: The ERS shall publish, on its website and annually in a local publication of record, a list of people with unclaimed property that resides with the ERS for a period of 6 years since the funds were marked (by the ERS as per the aforementioned definition) as unclaimed.

Procedure: The ERS shall perpetually maintain a list* of people for which it holds unclaimed property. The unclaimed property will be held as a liability to be paid out to a duly recognized beneficiary of the funds. No interest will be accrued to these funds as an additional liability.

*If the funds have been disclaimed in writing, the funds will be removed from the unclaimed property list.

Claimants: Must meet the ERS' documentation and eligibility requirements applicable to members, survivors or beneficiaries.

H. RETIRED PUBLIC SAFETY OFFICER INSURANCE PREMIUM DEDUCTION PROGRAM

A broker, marketer, placement agent or third party administrator (Vendor) designated as the agent for an Insurance Carrier, who seeks to enroll qualified members of the ERS in the Retired Public Safety Officers Insurance Premiums Program ("Program") must first submit documentation to the Executive Director that demonstrates the following: (a) the Vendor has been in business for at least 5 years; (b) the Vendor is solvent; (c) if the Vendor has been rated by the Better Business Bureau, the Vendor has received a rating of A or better; and (d) the Vendor does not have principals who have committed any dishonest or fraudulent act at any time. In order for any Insurance Carrier to participate in the Program, it must meet the following criteria: (a) have an investment grade rating from a Nationally Recognized Statistical Rating Organization (NRSRO), as per SEC reference; and (b) be licensed to operate in Wisconsin. The Executive Director will determine if the Vendor and the Insurance Carrier have satisfied these initial requirements and if the requirements have been met, the Executive Director will present the Vendor's and Insurance Carrier's information to the A & O Committee. The A & O Committee will decide whether to permit the Executive Director to release the names, addresses and emails of eligible retirees to the Vendor for the sole purpose of the Vendor conducting an outreach to the eligible retirees. If the Vendor obtains commitments to utilize its services from at least 5% of the eligible retirees, as evidenced by signatures on the required ERS authorization form ("Retired Public Safety Officer Authorization for Insurance Premium Deduction from Pension Payment"), then the Executive Director will present the Vendor and Insurance Carrier information to the Board for its consideration and determination as to whether the Vendor and Insurance Carrier will be authorized to participate in the program.

XX. REVIEW

A. REQUEST

A "request" is a written communication from a member asking that a previous decision be modified or reversed.

1. Written request shall be mailed or delivered to the office of the ERS within 30 days of notice of initial determination.
2. The request must state the ground upon which the member contends that the decision should be modified or reversed.

3. Any evidence and argument in support of the aggrieved member's position shall be annexed to the request.

Source: Wis. Stat. § 68.08

B. PROCEDURE

1. Review shall be made by an independent committee or person determined by the Board.
2. Review shall be within 15 days of receipt of a request unless the aggrieved member agrees to extend the time.

Source: Wis. Stat. § 68.09

C. DECISION

The committee or person designated by the Board may affirm, reverse or modify the initial determination and shall notify the member aggrieved the reason for such decision, his or her right to appeal and the time and place to file said appeal. The committee or person designated by the Board shall not have authority to grant a pension.

Source: Wis. Stat. § 68.09; Rules and Regulations, § XIII, p. 17

XXI. APPEAL

A. REQUEST

Appeal from a decision on review shall be taken within 30 days of notice of such decision. Written notice of appeal shall be filed with the person or office designated in the decision on review.

Source: Wis. Stat. §68.10

B. PRACTICE AND PROCEDURE

1. Notice of Appeal.

- a. The Board shall provide a hearing on an appeal within 15 days of receipt of the notice of appeal.
- b. The Board shall serve the appellant with notice of such hearing at least 10 days before such hearing, unless the appellant agrees to extend the time.
- c. The notice shall contain the following: (1) date, time and location of the hearing; (2) name of all parties; and (3) name of the person designated by the Board, as set forth in sub. (2), to conduct the hearing.

2. The hearing shall be conducted by an impartial person or committee designated to conduct the hearing and report to the Board.
3. Adjournments; Failure to Appear.
 - a. The person conducting the hearing may adjourn a hearing for good cause, upon written request by a party at least 5 business days prior to the scheduled hearing, and the hearing shall be reset or reconvened at his or her discretion.
 - b. Failure to appear.
 - (1) If an appellant fails to appear at a hearing following due notice, the person conducting the hearing may dismiss the appeal unless the appellant shows good cause for the failure to appear.
 - (2) If a respondent fails to appear, the person conducting the hearing may take testimony and/or take the allegations in an appeal as true as may be appropriate, unless good cause is shown for the failure to appear.
 - c. In determining whether good cause exists in subs. (a) or (b) of this subsection, the person conducting the hearing may consider the reason for the failure to appear, the prejudice to the other party that occurred as a result of the failure to appear, and such other circumstances or facts as may be appropriate.
4. Conduct of a Hearing.
 - a. At the hearing, both the appellant and the respondent, upon review, may be represented by counsel and call and examine witnesses and cross-examine witnesses of the other party.
 - b. Witnesses shall be sworn by the person conducting the hearing.
 - c. The Board, or any individual authorized pursuant to Wis. Stat. §68.11(2), may issue subpoenas.
 - d. The person conducting the hearing may, in his or her discretion, permit any party, counsel for a party or witness to appear by means other than in-person appearance such as by telephone, upon written request at least 5 days prior to the scheduled hearing for good cause shown. In determining whether good cause exists in this subsection, the person conducting the hearing may consider the factors, to the extent applicable, set forth in Wis. Stat. §807.13(2)(c)1-8.
 - e. The person conducting the hearing may require the parties to exchange all proposed hearing exhibits and to submit to him or her all proposed hearing exhibits in advance of the hearing so that a party, counsel for a party or witness appearing by means other than in-person appearance will have access to the

proposed exhibits during the hearing, or for such other reason as may be required for the orderly and efficient conduct of the hearing.

- f. The person conducting the hearing shall take notes of the testimony and shall mark and preserve all exhibits and shall cause the proceedings to be taken by a stenographic reporter at the expense of the Board. Any medical or hospital report or record shall be admissible, and may be relied upon by the person conducting the hearing in making his/her recommendation to the Board, so long as it is provided to the other party at least five days prior to the hearing or stipulated to by the parties. The person conducting the hearing shall indicate whether the findings were based on the credibility of the evidence.

5. Resolution of an Appeal without Appellant Appearing.

- a. The appellant may request that the person conducting the hearing decide the appeal based on written submissions. Such a request must be made in writing setting forth the reasons for the request at least 5 days prior to the scheduled hearing.
- b. In determining whether to grant an appellant's request for the appeal to be decided based on written submissions, the person conducting the hearing may consider the appellants reason for the request, prejudice to the other party, location of witnesses, difficulty of the appellant to appear or otherwise participate in a hearing, and such other circumstances or facts as may be appropriate.
- c. If the person conducting the hearing, in his or her discretion, grants the appellant's request for the appeal to be decided on written submissions, the person conducting the hearing shall issue a schedule for the submission of written materials by the parties.
- d. The person conducting the hearing may, in his or her discretion, make such other reasonable accommodations for the preservation of evidence and testimony at a hearing for orderly and efficient conduct of the hearing.

6. Within 30 days of the completion of the hearing on appeal, the person or committee designated to conduct the hearings shall simultaneously submit to the Board and all parties or their respective counsel, a written report, together with proof of mailing, in which he or she shall summarize the evidence presented, set forth a proposed decision and the reason therefore (including the evidence upon which the examiner relied), and proposed findings and conclusions in support of such decision.

7. Within 21 calendar days of mailing of such report, the parties shall be permitted to file written briefs with the Board setting forth their respective positions. Within 21 calendar days of mailing of such brief, the opposing party shall be permitted to file a response brief. No brief may exceed 10 pages in length, and no reply briefs shall be

permitted. All briefs filed with the Board must be simultaneously served upon the opposing party. Any reference to transcripts of the proceedings in the brief shall be accompanied by pertinent portions of the transcript. Within ten (10) days of its final decision, the Board shall mail or deliver to the appellant its written determination stating the reasons therefore. Such determination shall be final.

Source: Wis. Stat. §68.11 and §68.12

C. JUDICIAL REVIEW

Any person, aggrieved within the meaning of ch. 68, Wis. Stats., by a determination of the Board reviewable under ch. 68, Wis. Stats., may have such determination reviewed in accordance with the procedures established under Section 68.13, Wis. Stats.

Source: Wis. Stat. §68.13; Milwaukee City Charter Section 36-15-18; Rules and Regulations, §XIV, p.18