

**EMPLOYEES' RETIREMENT SYSTEM OF THE CITY OF MILWAUKEE
ANNUITY AND PENSION BOARD**

Minutes of the Legislative Committee Meeting
held July 31, 2017

The meeting was called to order at 12:34 p.m.

Committee Members Present: Tom Klusman
Rudolph Konrad, Chair
Gust Petropoulos

ERS Staff Present: Bernard J. Allen, Executive Director
Melody Johnson, Deputy Director/Chief Financial Officer
Mary Turk, ERS Business Operations Analyst
Jan Wills, Board Stenographer

Others Present: John Barmore, Annuity and Pension Board Chair; Patrick McClain, City Attorney's office; Terry Siddiqui, Partner, DS Consulting Group.

Mr. Allen noted the first three agenda items are either in litigation or first notice of claim was received that litigation may ensue.

Proposed amendment of Board Rule II.B.2 – Membership on the Board; Selection Process and Elections. Mr. Allen stated the Wisconsin Supreme Court has taken up the case regarding the composition of the ERS Board that includes reference to election of employee trustees. Mr. Allen noted one trustee is elected from fire, one from police and one from general city. This case involves an appeal of the two lower-court positions that are challenging that arrangement. Mr. Allen said there may be a decision from the Wisconsin Supreme Court yet this year. Mr. Allen recommended tabling this item until the court decision is known.

Adopt Board Rule for determination whether the pension contribution offset should be included in the final average salary for purposes of calculating the benefit for Conversion to Service Retirement allowance in accordance with §36-05-03, MCC. Mr. Allen said there is no current litigation but first notice of claim was received from certain duty disability retirees regarding the inclusion of the pension contribution offset special pay (5.8%) in the calculation of final average salary for duty disability purposes and by extension to conversion to service retirement. Mr. Allen stated since litigation is likely to occur, it might not be appropriate to promulgate rules that will become moot even as they are being adopted. Mr. Allen recommended tabling this item pending some further development in the litigation. Mr. Konrad also recommended tabling this item.

Adopt Board Rule for determination whether the pension contribution offset should be included in the current annual salary for purposes of calculating the Extended Life Retirement Allowance in accordance with §36-05-3-c-3-f, MCC. Mr. Allen said there is no current litigation but first notice of claim was received from certain duty disability retirees

regarding the inclusion of the pension contribution offset special pay (5.8%) in the calculation of final average salary for duty disability purposes and by extension to conversion to service retirement. Mr. Allen stated since litigation is likely to occur, rules should not be promulgated that will become moot even as they are being adopted. Mr. Allen recommended tabling this item pending some further development in the litigation. Mr. Konrad also recommended tabling this item.

Review Outside Earnings Limitation Pursuant to MCC-36-05-3-c-1-b and Board Rule XVII.

G. Mr. Allen presented a comparison prepared by staff of practices by other public pension plans with regard to outside earnings limitation. Mr. Allen noted that the 1040 form is generally used to report earnings in public pension plans. He noted the offset generally is triggered dollar for dollar once the person's salary is exceeded. He noted staff could not identify any plans that determine earnings capacity rather than actual earnings. Discussion ensued. The committee requested staff to contact a certain duty disability retiree who is reportedly engaged in a high profile business to inquire why he does not report any income from business operations.

Mr. Klusman made a motion to adjourn the meeting and Mr. Petropoulos seconded it. There being no further business, Mr. Konrad adjourned the meeting at 1:03 p.m.

Bernard J. Allen
Secretary and Executive Director

(NOTE: All proceedings of the Annuity and Pension Board Meetings and related Committee Meetings are recorded. All recordings and material mentioned herein are on file in the office of the Employees' Retirement System, 789 N. Water Street, Suite 300.)