

Reply to Common Council File No. 131162
From DOA Budget and Management Division

December 10, 2013

Ref: 13004

File number 131162 contains a Charter Ordinance relating to the administration of the employees' retirement system.

The City of Milwaukee established the Employees' Retirement System (ERS) pursuant to home rule authority granted through state law. Therefore, the city may amend the ERS governing Charter ordinance (Chapter 36) in any manner the Common Council chooses, as long as no such amendment modifies the annuities, benefits or other rights of any persons who are members of the system prior to the effective date of such amendment or alteration.

Current law vests administration and responsibility for the proper operation of the ERS in an annuity and pension board (A&PB). The Board consists of eight members: the City Comptroller, who serves *ex officio*; three active ERS members, elected by the active membership; a retired member, elected by the retired membership; and three members appointed by the Common Council President, subject to Common Council confirmation. Appointed members serve two year terms and the elected members serve four year terms.

This Charter Ordinance increases from 8 to 11 the number of members of the annuity and pension board by establishing that three members shall be appointed to the board for two year terms by the mayor, subject to the confirmation of the common council.

This Charter Ordinance establishes that for the three members elected to the board for four year terms by members of the retirement system, one member each shall be a policeman, fireman, and general city employee in active service; and that only a member who is a policeman in active service shall be allowed to vote for the policeman member position, only a member who is a fireman in active service shall be allowed to vote for the fireman member position, and only a member who is a general city employee in active service shall be allowed to vote for the general city employee member position. Current elected members will serve until they vacate their position, or when the term expires.

In addition, this Charter Ordinance establishes that an executive director hired pursuant to an exemption granted by the board of city service commissioners shall continue to serve unless dismissal is approved by eight board members voting in open session. The legislation also updates an existing provision regarding the Board's control of certain valuation techniques to reflect the larger proposed membership.

The Administration has requested that this file be introduced in order to:

- Strengthen the Board's fiduciary capacity by increasing the number and proportion of Board members whose term is independent of the special interest considerations inherent in an election process;

- Ensure that the Board reflects a full range of member perspectives by apportioning the elected members to each of the four major member categories;
- Provide opportunities for inclusion on the Board of additional persons with investment oversight expertise by increasing the number of appointments that can be made from the community as a whole;
- Facilitate increased communication between the Board and the Plan sponsor by providing for mayoral appointments;
- Stabilize ERS administrative capacity by providing that a super majority of all Board members be required to dismiss the executive director.

The members of the Annuity & Pension Board have a fiduciary responsibility in the governance of the City of Milwaukee Employees' Retirement System. The primary responsibility of a pension fiduciary is the guardianship of trust assets to ensure that these assets are invested prudently and used solely for the purpose of members' retirement benefits. The fiduciary responsibility attaches regardless of how a member comes to serve on the Board and extends to the entire trust fund membership.

The proposed restructuring lends itself to strengthening the Board's fiduciary capacity by striking an effective balance among all membership perspectives, and by enabling a majority of the Board to serve based on considerations other than membership affiliation or electability. The restructuring maintains a significant and representative component of ERS members on the Board, which may be especially valuable to oversight of customer service and communications functions.

It is standard practice among municipal public employee retirement systems (PERS) to include the Plan sponsor's chief executive, and/or chief executive appointees, on the Board of Trustees. Recent events have demonstrated the fundamental relationship between the security of members' retirement benefits and the plan sponsor's commitment to, and financial capacity for, sound funding. The inclusion of mayoral appointees on the A&P Board will strengthen the coordination of city funding with the Board's fiduciary responsibility.

The proposed Charter Ordinance change has a modest estimated fiscal impact of \$9,000 on an annual basis.

RECOMMENDATION: ADOPT COMMON COUNCIL FILE NUMBER 131162



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Budget and Management Director