

..Number
230362
..Version
SUBSTITUTE 1
..Reference
..Sponsor
ALD. PEREZ
..Title

A substitute charter ordinance relating to the employees' retirement system.

..Sections
36-01 am
36-02-2.5 am
36-02-8 am
36-02-13 am
36-02-17.5 rc
36-03-6-k cr
36-03-7 cr
36-08-6-h-2 am
36-08-6-h-3 rn
36-08-6-h-3 cr
36-13-2-i cr
36-14 rc
36-15-15 rc
36-15-15-b rc

..Analysis

This ordinance revises Chapter 36 of the Milwaukee City Charter to close the Employees' Retirement System to new members after December 31, 2023, and to comply with other provisions of 2023 Wisconsin Act 12.

..Body

Whereas, 2023 Wisconsin Act 12 was enacted on June 20, 2023; and

Whereas, 2023 Wisconsin Act 12 imposes changes upon the retirement systems of 1st class cities that adopt a sales and use tax ordinance under s. 77.701(1), Wis. Stats.; and

Whereas, The City of Milwaukee adopted a sales and use tax ordinance under s. 77.701(1), Wis. Stats., on July 11, 2023; and

Whereas, Chapter 36 of the Milwaukee City Charter must be amended to conform to the various requirements of 2023 Wisconsin Act 12, including closing the Employees' Retirement System to new members after December 31, 2023; now, therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 36-01 of the charter is amended to read:

36-01. Purpose.

The retirement system provided for herein shall be maintained by the city and by such agencies as are included specifically within the provisions of this chapter to assure and guarantee the payment of retirement and other benefits to persons covered by this chapter and to their beneficiaries and to such other person who are authorized by the provisions of this chapter to receive benefits. If a person is a member of either the firemen's annuity and benefit fund or the policemen's annuity and benefit fund then he shall be ineligible to participate as a member in this system. The purpose of this chapter shall further be to safeguard and protect the funds of such retirement system and to invest the same in a prudent and vigilant manner. >>The retirement system provided for herein shall be closed to new members after December 31, 2023.<<

Part 2. Section 36-02-2.5, 8, and 13 of the charter is amended to read:

36-02. Definitions.

2.5. ACTUARIAL CONTRIBUTION RATE shall mean the percentage of covered compensation that determines the amount of the annual contribution from the city and city agencies to the combined fund beginning with the contribution due on January 31, 2014. >>Beginning with the contribution due on December 31, 2025, actuarial contribution rate shall mean the dollar amount calculated by the actuary pursuant to ss. 36-15-15 and 62.625, Wis. Stats.<<

8. CITY AGENCY shall mean any board, commission, division, department, office or agency of the city government, including its school board under ch. 119, Wis. Stats., an exposition center under ch. 229, Wis. Stats., a local exposition district board under ch. 229, Wis. Stats., annuity and pension board under s. 62.63, Wis. Stats., a metropolitan sewerage district >>and commission<< under ch. 66, Wis. Stats., a vocational, technical and adult education district under ch. 38, Wis. Stats., a housing authority under ch. 66, Wis. Stats., ~~[[and]]~~ a redevelopment authority under ch. 66, Wis. Stats., having jurisdiction within such city, >>an auditorium board, fire and police departments, a board of vocational and adult education, Wisconsin Center District, a water department, Veolia Milwaukee with respect to employees who are participants in the retirement system of Milwaukee on June 22, 2023, and public school teachers' annuity and retirement fund,<< by which an employee of the city or city agency is paid.

13. EMPLOYEE shall mean any person whose name appears on a regular payroll of the city or city agency, except persons who are contributing under the teachers' retirement act or a participating employee under the provisions of the Wisconsin retirement system; or who are elected to office by vote of the people unless such elected person shall request the board in writing to be included within the provisions of this fund; or who are school crossing guards >>; or who are hired by the city or city agency after December 31, 2023, and who were not in active service of the city or a city agency on that date, with respect to the position to which the person is hired after that date, irrespective of whether the person was previously an employee of the city or a city agency, unless such person is being restored to active service following termination of a

duty disability retirement allowance.<< In the event of a question arising as to the right of any person in the service of the city to be classified as an employee under this act, the decision of the board shall be final.

Part 3. Section 36-02-17.5 of the charter is repealed and recreated to read:

17.5. LEVEL DOLLAR AMORTIZATION shall mean amortization payments on the unfunded liability, if any, expressed as an equal dollar amount over the remaining amortization period as of the actuarial valuation date.

Part 4. Section 36-03-6-k and 7 of the charter is created to read:

36-03. Membership.

6. WHO NOT TO BECOME MEMBERS.

k. Persons who are hired by the city or a city agency after December 31, 2023. This paragraph shall not apply to members restored to active service following termination of a duty disability retirement allowance.

7. PROHIBITION ON FURTHER ACCRUAL AFTER SEPARATION: Notwithstanding any other provision of law, any person who is hired by the city or a city agency after December 31, 2023, and who was not in active service of the city or a city agency on that date, with respect to the position to which the person is hired after that date, irrespective of whether the person was previously an employee of the city or a city agency, shall not be eligible for active membership in the retirement system and may not accrue any further service credit under this chapter. Such persons shall instead be enrolled in the Wisconsin Retirement System, subject to the eligibility requirements of ch. 40, Wis. Stats. This paragraph shall not apply to members restored to active service following termination of a duty disability retirement allowance.

Part 5. Section 36-08-6-h-2 of the charter is amended to read:

36-08. Method of Financing.

6. CITY CONTRIBUTIONS.

h-2. Commencing with the contribution due on January 31, 2019, the actuary shall reset the actuarial contribution rate every 5 years in conjunction with a 5-year experience review of the employees' retirement system. The actuary shall, consistent with standards of actuarial practice, base the reset rate on the current interest, mortality, separation, morbidity and retirement tables as adopted by the board. >>Notwithstanding the foregoing, the 5-year reset rate described herein is repealed effective January 1, 2024 and shall not apply to any contribution due after January 31, 2024.<<

Part 6. Section 36-08-6-h-3 of the charter is renumbered 36-08-6-h-4.

Part 7. Section 36-08-6-h-3 of the charter is created to read:

h-3. Beginning with the contribution due on December 31, 2025, on account of members, retired members, survivors and beneficiaries who are participants in the combined fund, the city and city agencies shall pay annually into the combined fund for the preceding year the actuarial contribution rate determined by the actuary pursuant to ss. 36-15-15 and 62.625, Wis. Stats. The actuarial contribution shall be based on separately calculated rates for policemen, firemen, and general city employees. Unless otherwise required by s. 62.625, Wis. Stats., the actuary shall, consistent with actuarial standards of practice, set the actuarial contribution rate at a percentage sufficient to fund the entire amount of the employers' share of the normal cost, to amortize any unfunded past service liability and to maintain the solvency of the combined fund to meet benefit obligations for retired lives.

Part 8. Section 36-13-2-i of the charter is created to read:

36-13. Contractual Benefits; Miscellaneous Provisions.

2. CONTRACTS TO ASSURE BENEFITS.

i. Notwithstanding any other provision of this chapter, sub. 5 shall only apply to transfers completed on or before December 31, 2023. Any person who is a member of the county or city of Milwaukee retirement system who transfers from employment in either the county or city, as the case may be, after December 31, 2023, shall not be entitled to enrollment in either the county or city of Milwaukee retirement system, but shall instead be enrolled in the Wisconsin Retirement System, subject to the eligibility requirements of ch. 40 Wis. Stats.

Part 9. Section 36-14 of the charter is repealed and recreated to read:

36-14. Home Rule. For the purpose of giving to cities of the first class the largest measure of self-government with respect to pension, annuity, and retirement systems compatible with the constitution and general law, it is hereby declared to be the legislative policy that all future amendments and alterations to this act are matters of local affair and government and shall not be construed as an enactment of statewide concern. Cities of the first class are hereby empowered to amend or alter the provisions of this act in the manner prescribed by s. 66.0101, Wis. Stats., provided that no such amendment or alteration shall modify 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. In a city of the first class in a county with a population of at least 750,000 that has established a retirement system pursuant to 2023 Wisconsin Act 12, the city and board shall continue to amend, create, and repeal ordinances and rules, administer benefits, discharge their duties with respect to the retirement system, and take any other actions necessary to administer the system and maintain the qualified tax status of the system under the federal Internal Revenue Code until the plan is terminated

under section 16A of this act. The city and board may not make any of the following changes to the retirement system for employees who remain in the retirement system:

- a. Except as required for compliance with federal law, increase or enhance the retirement benefit.
- b. For policemen, any changes to the system that are contrary to the agreement between the City of Milwaukee and the Milwaukee Police Association, Local #21, I.U.P.A., AFL-CIO effective January 1, 2020 through December 31, 2022.
- c. For policemen who are supervisors, any changes to the system that are contrary to the agreement between the City of Milwaukee and the Milwaukee Police Supervisors' Organization effective January 1, 2022 through December 31, 2022.
- d. For firemen, any changes to the system that are contrary to the agreement between the City of Milwaukee and the Milwaukee Professional Fire Fighters' Association Local #215 IAFF, AFL-CIO effective January 1, 2021 through December 31, 2022.
- e. Any changes to the system that are contrary to any benefits or payments as defined in Chapters 34 and 36 of the City of Milwaukee City Charter.

Part 10. Section 36-15-15 of the charter is repealed and recreated to read:

36-15. Administration.

15. ANNUAL VALUATION. a. On the basis of such tables as the board shall adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds of the retirement system. This annual valuation shall, unless otherwise required by s. 62.625, Wis. Stats., comply with Actuarial Standards of Practice and shall contain a certification from the board's actuary to that effect. For the purposes of the annual valuation, the actuary shall employ the individual entry-age normal actuarial cost method.

b. Beginning with the valuation that determines employer contributions due and payable January 31, 2011, the actuary shall employ a 5-year asset smoothing period. The actuary shall calculate amortization of unfunded liability based on a level dollar amortization. Notwithstanding any other provision of this chapter, the outstanding balance of the unfunded actuarial accrued liability as of January 1, 2024, shall be amortized over a closed 30-year period using an annual investment return assumption that is the same as or less than the annual investment return assumption used by the Wisconsin Retirement System for participating employees, as defined in s. 40.02(46), Wis. Stats. At each subsequent valuation date, any changes to the unfunded actuarial accrued liability shall be amortized using a closed layered amortization method. Any such changes resulting in an increase of the liability shall be amortized over a fixed period not to exceed 10 years. Any such changes resulting in a decrease of the liability shall be amortized over either a fixed 10-year period or the remainder of the 30-year period beginning on January 1, 2024, whichever is longer. Beginning with the valuation

that determines employer contributions due and payable January 31, 2011, the board shall provide a copy of the final annual valuation, as certified by the board, to the mayor and the common council no later than August 15. Unless otherwise required by s. 62.625, Wis. Stats., no changes shall be made to this paragraph without an affirmative vote of the board of at least 5 of its members, and written certification from the board's actuary that such changes comply with Actuarial Standards of Practice.

..LRB

APPROVED AS TO FORM

K. Broadnax

Legislative Reference Bureau

Date: September 8, 2023

..Attorney

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

..Requestor

..Drafter

Kathleen Brengosz

9/7/2023

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