



2015 Pension Contribution Proposal **Employee FAQ**

Department of Employee Relations
September 25, 2014

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This FAQ document has been created to answer employee questions and concerns regarding employee pension contribution changes as a result of the recent Wisconsin Supreme Court decision on Act 10 and the proposals that will be deliberated by the Common Council in conjunction with the 2015 City Budget.

The 2015 Budget and the City Charter changes required as a result of the Wisconsin Supreme Court decision were approved by the Common Council on November 7, 2014. The Salary Ordinance amendments needed to implement the salary adjustments for eligible employees funded and approved in the 2015 Budget are included with Common Council File #140856 scheduled to be heard by the Finance and Personnel Committee on Monday, December 15, 2014.

BACKGROUND

On July 31, 2014, the Wisconsin Supreme Court issued a decision in a lawsuit brought by two labor unions that challenged legislation known as Wisconsin Act 10, also known as the Wisconsin Budget Repair Bill proposed by Governor Walker and passed by the Wisconsin Legislature in 2011. Although the City was not a party to that litigation, included in the litigation was a challenge to the Act 10 provision that prohibits the City of Milwaukee from paying a general city employee's share of their retirement contributions to the Employees' Retirement System (ERS).

The Court upheld Act 10 in all respects. Specifically, the Court held that the State legislature's action to prohibit the City from paying the member contribution does not violate the Wisconsin Constitution's provision regarding home rule, nor does it violate any contractual rights of employees.

1. Does the Supreme Court decision regarding Act 10 require the City to do anything?

Yes, the decision mandates that the City require all general city employees, including those hired prior to January of 2010, to pay the member contribution for funding their pension benefit. This will require an amendment to the City's Charter.

The amendment to the City Charter was approved by Council on 11/7/14, see Common Council File# 110740. The effective date of the amendment is 1/26/2015. The 5.5% employee pension contribution will be taken from the Pay Period 4, 2015 payroll, (Paycheck of 2/26/15).

2 How does the Supreme Court decision impact City of Milwaukee employees?

As a result, the City is now obligated to comply with the following statutory requirement created under ACT 10 that prohibits it from paying the employee share of the pension contribution for any of its general city employees:

Wis. Statute 62.623 Payment of contributions in an employee retirement system of a 1st class city

(1) Beginning on July 1, 2011, in any employee retirement system of a 1st class city, except as otherwise provided in a collective bargaining agreement entered into under subch. IV of

ch. 111 and except as provided in sub. (2), employees shall pay all employee required contributions for funding benefits under the retirement system. The employer may not pay on behalf of an employee any of the employee's share of the required contributions.

The Supreme Court held, first, that the State legislature's action to prohibit the City from paying the member contribution did not violate the Wisconsin Constitution's provision regarding home rule. As a result, the City is obligated to make a change to the City Charter requiring all general city employees, including those hired prior to January of 2010, to pay the member contribution for funding their pension benefit.

The Supreme Court also found that the City's payment of a general city employee's share of ERS contributions did not qualify as a vested benefit and that consequently the provision of Act 10 that requires employees to pay the employee contribution did not violate the State Constitution's provision prohibiting legislative actions that impair contract rights.

3 Are there employees who have been already paying their members contributions?

Yes, in accordance with Chapter 36 of the Milwaukee City Charter, three groups of general city employees currently contribute some portion of their pensionable earning toward their pension. General city employees hired on or after January 1, 2010, but before January 1, 2014, are required to pay 5.5% of their pensionable earnings as their employee pension contribution. In addition, general city employees hired on or after January 1, 2014 are required to pay 4% of their pensionable earnings as their employee pension contribution. Finally, employees who became members of the ERS after December 31, 1999 but before January 1, 2010 are required to contribute 1.6% of their pensionable earnings during the first eight years of ERS enrollment.

4 What exactly will the employee pension contribution be for general city employees?

All general city employees hired prior to January 1, 2010, will begin paying 5.5% of their pensionable earnings as their employee pension contribution. This contribution will be deducted on a pre-tax basis and is identical to the amount currently being paid by general city employees hired on or after January 1, 2010, but before January 1, 2014.

5 When will the new contributions commence?

Changes to the City Charter are being proposed in conjunction with the 2015 City Budget. Once adopted by the Common Council, the changes will become effective 60 days after passage and publication. The new contributions are anticipated to be implemented early in 2015.

According to the specific language in the City Charter, the employee contribution is to start with the first pay period following the effective date of the charter change. That is Pay period 4 of 2015, or February 1, 2015.

6 Who is considered a general city employee for purposes of the proposal?

All employees of the City, other than sworn employees. For purposes of this proposal, Civilian employees of the Fire and Police departments are considered "general city employees". However, employees of HACM, RACM, MEDC, NIDC and MPS are not considered general city employees. The issue of pension contributions and/or salary adjustments with respect to sworn employees will be handled through either the collective bargaining process for represented employees or applicable WI state statutes for non represented sworn employees.

7 How will this contribution impact employee income and payroll taxes (social security and Medicare)?

The pension contribution will be a pre-tax deduction, which will reduce the gross wages that are subject to income ~~and other payroll~~ taxes. The pre-tax pension contribution does not reduce an employee's payroll tax liability.

8 Given the wage freezes, furlough days, increased premium contributions, and increased deductibles that general city employees have taken on during the last few years, is the City going to do anything to mitigate the impact of this Court decision?

The Mayor's 2015 Proposed Budget seeks Common Council approval to authorize salary adjustments for employees who, as a result of the Supreme Court decision, will now be required to make the member contribution. The proposed salary adjustment for employees who will now be required to make the 5.5% pension contribution is 3.9%. The recommended effective date of the salary adjustments is Pay Period 4, 2015 (paid on 2/26/2015).

In addition, the Mayor is proposing the elimination of mandatory furlough days for all general city employees in 2015.

9 How will employees who already contribute 5.5% or 4% toward their pension be impacted by the state mandated provision?

Employees who were already making their member contributions prior to the Supreme Court decision will not be impacted by the proposed changes. They are therefore not eligible for the salary adjustment.

10 How are Elected Officials impacted by the Supreme Court decision?

Elected Officials who are currently not making the employee contribution will be required to comply with City Charter requirements as amended. Elected officials are not eligible for the salary adjustments proposed by the Mayor. Elected officials include the Mayor, Aldermen, City Treasurer, City Attorney, Comptroller, and Municipal Judges.

- 11 What will happen with the employees who are currently paying 1.6% towards their pension? Will they be eligible for the 3.9% salary adjustment?

Those employees will be required to contribute 5.5% of their pensionable earnings toward their pension instead of the 1.6%. Unlike the 1.6% contribution, the 5.5% contribution will be a pre-tax deduction. Although these employees will be eligible for a salary adjustment, the amount of that adjustment is yet to be determined.

Effective Pay Period 4 of 2015, the amount of the salary adjustment for individuals who have been contributing 1.6% of their earnable compensation toward their pension during their first eight years of ERS enrollment will initially be 1.45%. Effective the Pay Period following the date the 1.6% contributions would have ended, employees covered by this provision shall receive a salary adjustment equivalent to 2.45% of the hourly base rate (for hourly employees) or the biweekly base salary (for salaried employees) that was in effect immediately prior to application by the City of the 1.45% adjustment.

The difference between the amounts and the timing of the adjustments stems from the difference between 3.9% and the 1.6% adjusted for the duration of any remaining 1.6% payments an employee would have.

The implementation of a different salary adjustment for a period of time equivalent to when the 1.6% contributions were to be made (first 8 years of ERS enrollment) is needed to ensure that the impact of the 5.5% pre-tax pension contribution and the salary adjustment on an employee's take home pay is comparable for both groups of employees.

- 12 Are the salary adjustments considered across-the-board adjustments?

No. Individual salaries of eligible employees will be adjusted but the pay ranges will not be. However, the salary adjustment, if approved, will be a base-building, pensionable adjustment. Pay range minimums and maximums will not change as a result of the adjustments.

- 13 Are employees who are close to the maximum or at the maximum of their pay ranges eligible for the salary adjustment if they otherwise meet the eligibility criteria?

Yes. The salary adjustments will only be capped by the Mayor's salary, not the pay range maximums. The salary adjustment shall apply to employees near or at the max of their pay ranges and employees with footnoted rates if they are otherwise eligible.

- 14 How will the salary adjustment impact the member's benefit at time of retirement?

The salary adjustment will be a pensionable adjustment. The ERS monthly service retirement allowance formula is based on years of creditable service, the percentage multiplier, and the member's final average salary. The final average salary is generally the sum of the member's three highest years of pensionable

earnings, divided by three. This salary adjustment may increase your final average salary at the time of retirement.

15 Why doesn't the salary adjustment match the 5.5% contribution?

The intent of the salary adjustment is to reduce the impact of the newly required contributions on employee's take home pay, not to make employees whole. Additionally, the City is responsible for the employer's portion of the social security tax for wages earned by employees in the amount of 6.2% and the employer's portion of the Medicare tax for wages earned by employees in the amount of 1.45%. Consequently a salary adjustment of a full 5.5% would result in an additional unfunded payroll tax liability for the City.

16 If I am able to retire by the end of 2014, will this increase affect me in any way?

No. If you retire this year, there is nothing about this change that will affect you because the changes, if approved, will be effective next year.

QUESTIONS? Send an e-mail to emprel@milwaukee.gov.

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