



## Legislation Text

File #: 22521, Version: 1

### Fiscal Note

Adoption of this resolution would allow any employee paid portion of Wisconsin Retirement Fund contributions to be treated on a pre-tax basis. While there is no cost or other budgetary impact to the City, pre-tax treatment of employee paid contributions would provide a substantial advantage to employees. Without adoption of this resolution, employees who are required to pay a portion of the WRS pension contribution will be subject to state and federal income tax on the wages used to make that payment. After adoption of this resolution, those same wages would not be subject to federal and state income tax. Thus, the reduction in net take home pay will be significantly smaller if and when employees are required to pay any portion of their WRS retirement contribution.

### Title

Resolution of the Common Council Implementing City Pick-up of Employee Contributions Pursuant to sec. 414(h)(2) of the Internal Revenue Code.

### Body

WHEREAS, under current law, the City of Madison, through agreements and ordinances, pays the City employees' share of contributions to the Wisconsin Retirement System (WRS), which constitutes a pick-up of those contributions; and

WHEREAS, under provisions of 2011 Wisconsin Act 10, not yet effective, the City would be prohibited from continuing to make such payments and would be required to deduct those payments from many employees' salaries; and

WHEREAS, one effect of such a change would be to make those amounts subject to income and FICA taxation under the Internal Revenue Code (IRC); and

WHEREAS, the City Attorney has determined that the City may adopt a resolution in accord with IRC sec. 414(h)(2) for the City to "pick-up" these contributions, which should allow them to be made pre-tax for the employees, and thus not subject to income tax, although the amounts would be subject to FICA tax; and

WHEREAS, under Rev. Rul. 2006-43, the Internal Revenue Service stated that for such a pick-up to be effective, the employer must adopt a formal resolution providing that the employee contributions will be picked up by the employer and must not allow any employee to elect to have any option to receive the amount of such contributions in cash or any other election with regard to the contributions, and further stated that such pick-up is allowed whether the source of the funds is a reduction in the employee's salary or some other source; and

WHEREAS, the City of Madison desires to implement the provisions of IRC sec. 414(h)(2), and finds that implementing this section will not increase the City's cost of funding the benefits payable to the WRS.

NOW THEREFORE, IT IS HEREBY RESOLVED:

1. The City of Madison hereby elects to implement the pick-up of employee contributions pursuant to IRC sec. 414(h)(2) for all contributions to the WRS that are designated as employee contributions.
2. Pursuant to this resolution, all contributions designated as employee contributions will be paid directly by the City on behalf of covered employees in accordance with IRC sec. 414(h)(2). These contributions will be paid from funds currently designated by the City under existing agreements and ordinances until such time as 2011 Wisconsin Act 10, or any similar legislation, requires that the source of these funds for any given employee must be from the employee's wages. At that time, the contributions will be paid by the City as a Pick-up under IRC sec. 414(h)(2) from funds designated as the employee's wages for any employees required to make such contributions from their wages.
3. No individual employee shall have any discretion or option to have some other amount withheld for the

WRS contributions, or to have no amount withheld, or to elect to receive the amount as cash or through a deferred election.

4. This resolution is effective immediately.