

**City  
of  
Milwaukee**

*INTERDEPARTMENTAL CORRESPONDENCE  
LEGISLATIVE REFERENCE BUREAU*

---

## **M E M O**

**To:** Ald. Joe Dudzik  
**From:** Barry Zalben, Manager, Legislative Reference Bureau  
**Re:** Retirement benefits for elected officials  
**Date:** March 8, 2005

Attached is a history of the 2 most recent files relating to the calculation of pension benefits for elected officials.

1) File #950766-City Attorney issues opinion on calculation of pension benefits for elected officials, based on Internal Revenue Code regulations. City Attorney also issues a draft of a charter ordinance adjusting calculation of benefits-the current 2.6% per year of service will be adjusted to 2.0% per year of service effective January 1, 1999. (see attached opinion)

\*9/27/95-Common Council votes on SUBSTITUTE #2 (a replacement to the City Attorney's draft), benefits for all elected officials to be calculated at 2.5% per year of service instead of 2.6%, beginning January 1, 1996.

\*9/27/95-motion to pass file:

Ayes: 11-Pratt, McNamara-McGraw, Schramm, Johnson, Gordon, Frank, Richards, Scherbert, Nardelli, Fay Anderson, Kalwitz

Noes: 5-Henningsen, Butler, Witkowiak, Robert Anderson, Murphy

Excused: 1-Breier

\*9/27/95-motion fails-12 ayes need (2/3)

\*9/27/95-Nardelli receives unanimous consent to change his vote from aye to noe  
(Nardelli now on prevailing side)

\*9/27/95-Nardelli moves to reconsider and enter in the Journal of Proceedings:  
Ayes: 13-Pratt, Kalwitz, Henningsen, Schramm, Johnson, Gordon, Frank, Richards,  
Scherbert, Witkowiak, Robert Anderson, Nardelli, Fay Anderson

Noes: 3-McNamara-McGraw, Butler, Murphy

Excused: 1-Breier

\*9/27/95-motion to reconsider and enter in the Journal of Proceedings passes (4  
ayes needed)

\*10/17/95-motion to reconsider file-17-0, unanimous

\*10/17/95-motion to pass file

Ayes: 12-Pratt, Kalwitz, McNamara-McGraw, Schramm, Johnson, Gordon, Frank,  
Richards, Scherbert, Breier, Nardelli, Fay Anderson

Noes: 5-Henningsen, Butler, Witkowiak, Robert Anderson, Murphy

\*10/17/95-motion to pass carries-2/3 vote is 12 ayes exactly

\*10/20/95-Mayor returns file unsigned, thereby permitting charter ordinance to take  
effect. Mayor also asks that a new file be introduced to adjust calculation of pension  
benefits for the Mayor to 2.0% per year of service.

\*1/2/96-Charter ordinance is effective

2) File #951082-Pursuant to the Mayor's letter of October 20, 1995, a charter  
ordinance is introduced adjusting the calculation of pension benefits for the Mayor to  
2.0% per year of service beginning January 1, 1996.

\*11/28/95-Common Council votes on the charter ordinance as submitted; the  
ordinance passes 15-0. (Scherbert and Robert Anderson are recorded excused).

\*12/5/95-Mayor signs charter ordinance

\*2/13/95-Charter ordinance is effective

cc/Retirement Benefits

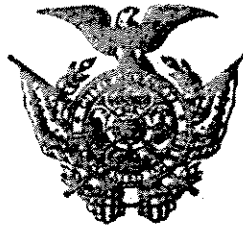
# CITY OF MILWAUKEE

Form CA-48

GRANT F. LANGLEY  
City Attorney

RUDOLPH M. KONRAD  
Deputy City Attorney

THOMAS E. HAYES  
PATRICK B. McDONNELL  
CHARLES R. THEIS  
Special Deputy City Attorneys



OFFICE OF CITY ATTORNEY  
800 CITY HALL  
200 EAST WELLS STREET  
MILWAUKEE, WISCONSIN 53202-3551  
TELEPHONE (414) 286-2601  
TDD 286-2025  
FAX (414) 286-8550

BEVERLY A. TELPLE  
THOMAS O. GARTNER  
LINDA ULSS BRUNKE  
BRUCE D. SCHIMPF  
ROKANE L. CRAWFORD  
THOMAS C. GOELDNER  
SUSAN D. BICKERT  
HAZEL MCKLEY  
HARRY A. STEIN  
STUART B. MUKAMAL  
THOMAS J. BEAMISH  
JOHN J. HEINEN  
MICHAEL G. TOBIN  
M. JOSEPH DONALD  
DAVID J. STANOSZ  
MARY M. KURMBAUENCH  
SUSAN E. LAPPEN  
DAVID R. HALBROOKS  
JAN A. SMOKOWICZ  
PATRICIA A. FRICKER  
HEIDI A. WICK  
VINCENT J. BOBOT  
KURT A. BEHLING  
LARRY A. EDEL  
GREGG C. HAGOPHAN  
ELLEN H. TANGEN  
MELANIE R. SWANK  
TRACY M. JOHNSON

Assistant City Attorneys

July 31, 1995

To the Honorable,  
the Common Council of  
the City of Milwaukee  
Room 205 - City Hall

Dear Council Members:

Section 36-05-1-g of the Milwaukee City Charter provides that the annual service retirement allowance for elected officials elected to office by vote of the people shall equal 2.60% of the member's final average salary for years of service prior to 1996 and 2.0% of member's final average salary for years of service on or after January 1, 1996.

Under current rules, the Internal Revenue Code nondiscrimination regulations apply to plan years beginning on or after January 1, 1996. Notice 92-36 sets forth the remedial amendment period described in sec. 401(b) applicable to governmental plans under Announcement 95-48 published June 5, 1995. The remedial amendment period for governmental plans is extended to the last day of the first plan year beginning on or after January 1, 1999. The announcement states as follows:

"Under current rules, in the case of governmental plans described in s. 414(d), the nondiscrimination regulations apply to plan years beginning on or after the later of January 1, 1996, or 90 days after the opening of the first legislative session beginning on or after January 1, 1996, of the governing body with authority to amend the plan, if that body does not meet continuously. For plan years beginning before that effective date, governmental plans are deemed to satisfy the statutory nondiscrimination requirements."

955/142 10

July 31, 1995

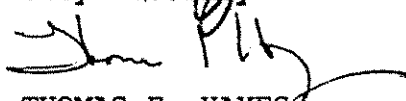
"Under the extension provided by this announcement, in the case of governmental plans, the regulations under ss. 401(a)(4), 401(a)(26), 410(b), and 414(s) apply only to plan years beginning on or after the later of January 1, 1999, or 90 days after the opening of the first legislative session beginning on or after January 1, 1999, of the governing body with authority to amend the plan, if that body does not meet continuously. For plan years beginning before this extended effective date, governmental plans are deemed to satisfy those statutory requirements."

In accordance with the announcement aforementioned, we are forwarding herewith an amendment to sec. 36-05-1-g extending the effective date for which elected officials will be entitled to credit at the rate of 2.60% of the member's final average salary.

Very truly yours,



GRANT F. LAVELLEY  
City Attorney



THOMAS E. HAYES  
Special Deputy City Attorney

TEH:dms

Enc.

Elected

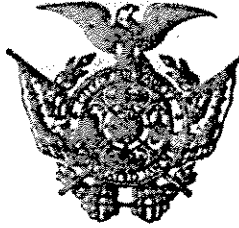
# CITY OF MILWAUKEE

Form CA-43

GRANT F. LANGLEY  
City Attorney

RUDOLPH M. KONRAD  
Deputy City Attorney

THOMAS E. HAYES  
PATRICK B. McDONNELL  
CHARLES R. THEIS  
Special Deputy City Attorneys



## OFFICE OF CITY ATTORNEY

800 CITY HALL  
200 EAST WELLS STREET  
MILWAUKEE, WISCONSIN 53202-3551  
TELEPHONE (414) 278-2601  
FAX (414) 228-8550

WILLIAM J. LUKACEVICH  
JOSEPH M. JACKSON  
BEVERLY A. TEMPLE  
THOMAS O. GARTNER  
LINDA ULISS BURKE  
BRUCE D. SCHIFFRIP  
FOXANE L. CRAWFORD  
SUSAN D. BICKERT  
HAZEL MOSLEY  
HARRY A. STEIN  
SCOTT G. THOMAS  
STUART S. MUKAMAL  
THOMAS J. BEANISH  
MARGITA HOLREIN  
JOHN J. HEINEN  
MICHAEL G. TOBIN  
M. JOSEPH DONALD  
DAVID J. STANOSZ  
MARRY M. KLIMBIENICH  
KATHRYN M. WEST  
SUSAN E. LAPPEN  
DAVID R. HALBROOKS  
KENNETH MILNSON  
HILTON GARY EMILVERSON  
JAM A. SMOKOWICZ  
KIM M. KLICK  
MONICA RIMAN

Assistant City Attorneys

September 26, 1995


To The Honorable,  
the Common Council of  
the City of Milwaukee  
Room 205 - City Hall

Dear Council Members:

We are returning herewith Common Council File No. 950766 approved as to legality and enforceability. There is one caveat. The current immunization from application of the non-discrimination rules will run out in 1999. If the non-discrimination rules are applied to the Employees Retirement System at that time, we will review the 2.5% benefit formula to determine whether it can be continued consistent with the IRS requirements.

Very truly yours,

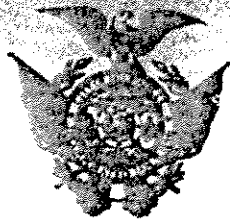
  
GRANT E. LANGLEY  
City Attorney

  
THOMAS E. HAYES  
Special Deputy City Attorney

TEH.KAN.COMMONCL.LTR

Enclosure

JOHN O. NORQUIST  
MAYOR



OFFICE OF THE MAYOR  
MILWAUKEE, WISCONSIN

October 20, 1995

To the Honorable, the Common Council  
of the City of Milwaukee

Honorable Members of the Common Council:

I am returning unsigned, Common Council file 950766, a charter ordinance relative to service retirement allowance for elected officials.

I agree with many of the arguments supporters of this legislation make. Aldermen do have important jobs with significant duties. They receive and respond to many requests for service and often work nights and weekends. However, this is also true of many city employees and taxpaying citizens.

Aldermen often act in the taxpayers' interests. The council has in recent years reduced spending and made sound policy decisions that improve the lives of Milwaukee citizens.

Some have questioned this proposal because it eliminates previous legislation that would have dropped the pension level from the current 2.6% to 2.0%. While some city employees also receive 2.5%, others do not. And most city taxpayers receive lower pensions or none at all.

The council showed strong support for the measure by its 12-5 vote. With this two-thirds majority, a veto would likely be overridden.

I feel strongly that any person who serves as Milwaukee Mayor should not have a larger pension denominator than the 2.0% level of most city employees. I therefore request that legislation be prepared and adopted by the Council reducing the accrual rate for the Mayor to 2.0% per year for years of service on or after January 1, 1996.

I also request that in the near future the Council again revisit this issue and consider amending the law to reduce all city elected officials to the level of general city employees at 2.0% per year. After further reflection, you may concur with me that uniformity of this pension escalator is reasonable and preferable.

Sincerely,

  
John O. Norquist  
MAYOR

955-143-15

September 18, 1995

ITEM 9, FILE 950766

**FINANCE & PERSONNEL COMMITTEE**

Mark P. Nicolini

File 950766 contains a charter ordinance relative to service retirement allowance for elected officials.

**Background**

1. The Internal Revenue Service (IRS) has established various "non-discrimination" provisions which retirement plans must follow in order to maintain "qualified" (i.e., tax exempt) status. As a result of these provisions, current law establishes that the "multiplier" used in the formula to calculate retirement benefits for elected officials be the same as that used for other general employes, beginning with service on January 1, 1996. Currently, elected officials are credited with a 2.6% multiplier for each year of service prior to 1996, compared to 2.0% for other general employes.
2. This legislation would delay the change in elected officials' multiplier to 1999, consistent with a recent IRS permissive notice.

**Discussion**

1. If enacted, continuation of the 2.6% multiplier for three additional years would have the following estimated impact on the annual pensions of City elected officials.

<u>Mayor</u>	<u>City Attny</u>	<u>Comptroller</u>	<u>Treasurer</u>	<u>Judges</u>	<u>Aldermen</u>
\$2,037	\$2,017	\$2,012	\$2,012	\$1,908	\$982

**Note:** Calculations are based on current pay plan for elected officials and assumption of 3% annual management pay plan increases. (Elected officials other than the Mayor and Aldermen are eligible for annual cost-of-living increases, and a 3.1% annual step increase. The Mayor and Aldermen receive only the step increase during their terms of office. The precise impacts on City Attorney, Comptroller, and Treasurer depend on the exact "cap" which is applied to keep their salary below the Mayor's.)

2. A higher multiplier for elected officials has been relatively common in governmental retirement plans. The ERS first established this distinction in 1969. This is associated with the level of uncertainty posed by being subject to re-election at regular intervals, and a presumed shorter career than other general employes.

The Mayor and Aldermen have not experienced systematic inflationary adjustments equal to those received by management employes. Pay adjustments affect final average salary and therefore have an ultimate impact on pensions.

On the other hand, establishing a 2.0% multiplier for elected service would promote consistency of benefit design among all general employes, a principle the Council has supported.

**Fiscal Impact**

1. The fiscal impact of this legislation is marginal. Based on current actuarial projections, the additional cost would not generate a tax levy contribution in the foreseeable future.



---

cc: W. Martin Morics  
Stephen Agostini  
Robert Nehls  
Thomas Hayes

M-950766.FP