

EVAN C. GOYKE
City Attorney

MARY L. SCHANNING
ROBIN A. PEDERSON
NAOMI E. SANDERS
JULIE P. WILSON
Deputy City Attorneys



Milwaukee City Hall Suite 800 • 200 East Wells Street • Milwaukee, Wisconsin 53202-3551
Telephone: 414.286.2601 • TDD: 414.286.2025 • Fax: 414.286.8550

KATHRYN Z. BLOCK
THOMAS D. MILLER
PETER J. BLOCK
PATRICK J. MCCLAIN
ANDREA J. FOWLER
JOANNA FRACZEK
HANNAH R. JAHN
MEIGHAN M. ANGER
ALEXANDER R. CARSON
GREGORY P. KRUSE
ALEX T. MUELLER
ALEXANDER D. COSSI
KATHERINE A. HEADLEY
SHEILA THOBANI
STACY J. MILLER
JORDAN M. SCHETTLE
THERESA A. MONTAG
ALEXANDER E. FOUNDOS
TRAVIS J. GRESHAM
KYLE W. BAILEY
JOSEPH M. DOBBS
WILLIAM K. HOTCHKISS
CLINT B. MUCHE
TYLER M. HELSEL
ZACHARY A. HATFIELD
MEGHAN C. MCCABE
CYNTHIA HARRIS ORTEGA
OLUWASEUN CHRIS IBITOYE
KEVIN P. TODT
NATHANIEL E. ADAMSON
MATTEO REGINATO
JOSHUA B. CRONIN
ROBERT W. SANDERS
ELIZABETH K. MILES
Assistant City Attorneys

November 20, 2025

Mr. Jim Owczarski, City Clerk
City of Milwaukee
200 East Wells Street, Room 205

RE: 2026 Budget Mayoral Vetoes

Dear Mr. Owczarski:

By email dated November 18, 2025, you asked whether multiple mayoral vetoes and proposed substitutes submitted on that date comply with the budget law. You state that the “proposed substitutes seem to overturn decades of understanding as to whether or not the Mayor may ‘veto in’ items onto lines struck from the budget by Common Council action.” We interpret your request to refer to the following vetoes submitted by the Mayor:¹

- Disapproval of budget lines affected by Amendment 1J, which eliminated funding, position authority, and FTE authority for the Innovation Policy Analyst within the Department of Administration.
- Disapproval of budget lines affected by Amendment 4, which added funding, position authority, and FTEs for the Department of Equity and Inclusion and eliminated funding, position authority, and FTEs for the Office of Equity and Inclusion in the Department of Administration.
- Disapproval of budget lines affected by Amendment 11B, which added funding, position authority, and FTEs for the Department of Community Wellness and Safety and eliminated funding, position authority, and

¹ See Ex. A, Mayor’s Veto Message and Attachments, Nov. 18, 2025.



FTEs for the Office of Community Wellness and Safety in the Department of Administration.

- Disapproval of budget lines affected by Amendment 95, which eliminated \$4,000,000 in new borrowing for DPW-Infrastructure Division Municipal Services Building - New Construction.

It is our opinion that the Mayor's vetoes comply with the budget law and are not out of order. We find no support in the text of the budget law, this office's opinions, or even City practice, for the premise that the Common Council's amendments "struck" or deleted the lines from the budget such that they escape the Mayor's disapproval authority.

As explained in greater detail below, in each case here, the Common Council changed the purpose or amounts consistent with Wis. Stat. § 65.05(1) and City Charter § 18-05-1. Through his vetoes, the Mayor has disapproved those items, but the Mayor's disapproval of the items does not restore them to the amounts in the proposed executive budget. The Mayor only *recommends* a substitute. The amount is restored as recommended by the Mayor only if the Common Council sustains the disapproval and adopts a corresponding substitute by a majority vote. Alternatively, the Common Council may override the Mayor's disapproval or sustain the disapproval and adopt an alternative substitute.

I. Budget Adoption Process

In analyzing your question under the budget law, we direct your attention to not only chapter 18 of the City Charter, most specifically § 18-05, but also chapter 65 of the Wisconsin Statutes, most specifically § 65.05, the governing statute. For ease of reference, we principally refer to chapter 18 of the City Charter, which implements chapter 65 of the Wisconsin Statutes. Indeed, chapter 18 is essentially a word-for-word adoption of the state statutes, and for good reason, municipal budgetary practices and procedures are of state-wide concern, thus the City's ability to vary its practices from those provided in state law is greatly limited. That is not to say that the City has absolutely no discretion to decide for itself its practices in executing the budgeting process under the law – we explicate on these points below.

The Mayor's proposed executive budget must set forth in detail the amounts proposed to be spent by each department and the various purposes therefor. Charter § 18-04-2. The Common Council, by a majority of all the alderpersons, may make such changes in the proposed executive budget either as to purposes or amounts for which money

may be expended. Charter § 18-05-1. The Common Council's changes are accomplished through amendments to the proposed executive budget.

On or before November 14 of each year, the Common Council shall adopt the proposed budget by a majority vote of all the members of the Common Council either as submitted or as changed by the Common Council. Charter § 18-05-4. The proposed executive budget, as changed by the Common Council within the time provided, shall constitute the budget for the following year. Charter § 18-05-5. "Within 5 days, either after its formal adoption by the council or by operation of law, it shall be certified by the city clerk to the mayor for his approval." *Id.*

"If the mayor approves the budget, he shall sign it." Charter § 18-05-6. The Mayor has "power only to disapprove of any item or items therein" *Id.* If the Mayor disapproves any items, "he shall return the budget to the city clerk with his objections to such items in writing and his reasons therefor." *Id.* Items are lines in the budget, as amended by the Common Council, consisting of a purpose and an amount. City Att'y Op., Nov. 26, 1996.

The City Clerk shall submit the objections of the Mayor to the Common Council "no later than their next regular meeting thereafter." Charter § 4-23; City Att'y Op., Dec. 1, 1978. "The common council shall vote on each item disapproved by the mayor separately." Charter § 18-05-7. The Common Council may override the Mayor's disapproval with a 2/3 majority of the members at the time of the vote. Charter § 4-23. If the Common Council overrides the Mayor's disapproval, the budget item, as amended by the Common Council, becomes law. City Att'y Op., Feb. 23, 1982.

"[I]f the mayor's disapproval is sustained [i.e., the override fails], it shall affect only the items disapproved and sustained." Charter § 18-06-7. Thus, only the items disapproved and sustained are rejected. "All items not disapproved by the mayor and sustained by the common council shall constitute the budget and be in full force." *Id.*

If the Common Council sustains the Mayor's disapproval of an item, it may adopt, by a majority of the alderpersons, a substitute for the item rejected. *Id.* The substitute may, or may not, be the substitute recommended by the Mayor. The adopted substitute shall be separately submitted to the Mayor for his or her approval. *Id.* We have opined that the process ends if the Common Council sustains the Mayor's disapproval of the substitute due to the statutory deadlines on the levy and collection of taxes. City Att'y Op., Dec. 1, 1978; City Att'y Op., Feb. 23, 1982.

We emphasize that the effect of the Mayor's disapproval of an item is to eliminate the item (purpose and amount) in its entirety. City Att'y Op., Feb. 23, 1982. The Mayor's disapproval, if sustained by the Common Council, does not restore the changed item;

i.e., the item does not revert to the amount proposed in the executive budget. *Id.* Rather, the Mayor may *recommend* a substitute action that would restore the amounts proposed by the Mayor. If the Common Council were to decline to offer a substitute after sustaining a disapproval, the item would remain eliminated from the final adopted budget.

II. Application to the 2026 Mayoral Vetoes

Applying the rules of statutory construction, the stated premise that the Common Council “struck from the budget” the relevant items such that they are outside of the Mayor’s disapproval authority conflicts with the text of the budget law. Charter § 18-05-1 grants the Common Council the authority to “make such changes . . . either as to purposes or amounts,” it does not provide the authority to *strike* such items from the Mayor’s review. *See also* Wis. Stat. § 65.05(1).

Such an interpretation would also lead to absurd results, in which the Mayor would have authority to disapprove of a small change, but not a large change. For example, if the Common Council were to reduce the position authority for a particular job title from ten down to nine, the Mayor could disapprove the reduction; however, if the Common Council were to reduce the position authority from ten to zero, the Mayor could not disapprove the reduction.

Moreover, there are multiple recent examples where the Mayor disapproved the transfer of positions to other departments. *See, e.g.,* veto of 2008 budget items (Amend. 4) transferring DOA-Intergovernmental Relations positions to the Common Council-City Clerk (CCFN 070856); veto of 2016 budget items (Amend. 9) transferring Small Business Development Programs to Common Council-City Clerk (CCFN 150001); veto of 2017 budget items (Amend. 1A) transferring Emergency Communications and Policy Director to Fire and Police Commission (CCFN 160001). In some cases, the disapprovals were overridden by the Common Council, effecting the transfer; and in at least one case the Mayor’s disapproval was sustained and the position authority in DOA was restored by Common Council substitute. *See* CCFN 150001.

In all of these examples, the Common Council executed the transfer by reducing to zero the affected position authority and the corresponding dollar amounts just as the Common Council did here with Amendments 4 (OEI) and 11B (OCWS). Moreover, for purposes of the Mayor’s disapproval power, we see no difference between the elimination of position authority to effect transfers and the elimination of the Innovation Policy Analyst position to effect a layoff. The changes to the purposes and amounts are functionally equivalent.

Amendment 1J changed the position authority to zero (amount) and the appropriation to \$0 (amount) for the Innovation Policy Analyst position (purpose). Zero is an amount—as a general principle, and as used by the Budget Office in the Budget Book. Furthermore, zeroing notwithstanding, Amendment 1J also changed other lines as a direct result of the elimination of the Innovation Policy Analyst position authority. Thus, the amendment reduced the O&M FTE line (BMD-2 110.5-24); reduced the Estimated Employee Fringe Benefits line (BMD-2 110.7-4); and reduced the Fringe Benefit Offset line (BMD-2 390.1-2). These items are all subject to the Mayor’s disapproval power.

That said, the Mayor’s disapproval does not restore the purposes or amounts. That is why the Mayor only recommends a substitute. The amount is restored as recommended by the Mayor only if the Common Council sustains the disapproval and adopts, by majority vote, a corresponding substitute. *See, e.g.,* Amendment 4A to the 2016 budget (CCFN 150001).

III. Certification Requirement

During our review of the Mayor’s veto authority, questions have arisen as to whether the manner in which the City Clerk certifies the adopted budget for the Mayor’s approval impacts our analysis of the scope of the Mayor’s veto authority. We conclude that it does not. For decades the City Clerk has complied with the certification requirement by submitting for the Mayor’s approval an adopted budget consisting of the Common Council’s legislative file for the budget, principally the proposed executive budget and the Common Council’s adopted amendments.² This is a long-standing, reasonable interpretation of the budget law and reflects the fact that the budget law places control of the preparation of the proposed executive budget and the amendments in the hands of the Division of Budget and Management Analysis (“Budget Office”), which, “shall be responsible to the mayor.” *See* Wis. Stat. § 65.20(2)(a); *see also* Charter § 18-10-6-b (“At the request of the individual council members, the [Budget Office] shall prepare amendments to the budget.”).

In turn, since at least 1983 (the earliest mayoral veto we found in the City’s Municipal Research Library), the Mayor has exercised the disapproval power by disapproving budget line items (consisting of a purpose and an amount) as affected by the Common Council’s adopted amendments. Under this long-established, reasonable interpretation, it is the items in the amendments that are before the mayor for consideration of

² The certification requirement pre-dates the City’s election under Wis. Stat. § 65.20(1), in 1978, to permanently adopt an executive budget system.

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disapproval. In other words, "the item or items therein," in Charter § 18-05-6, in practice, refers to the line(s) in the budget as changed by the adopted amendment.

For the reasons explained above, even if the City Clerk certified a single adopted budget document for the Mayor's approval, the budget law would not permit the Common Council to delete or *strike* any items from the budget such that they would not be subject to the Mayor's disapproval power.

Very truly yours,



EVAN C. GOYKE
City Attorney



ROBIN A. PEDERSON
Deputy City Attorney



THOMAS D. MILLER
Assistant City Attorney

ECG/RAP/TDM/cdr