

MEMO

TO: Members, Public Safety Committee

FROM: Jim Owczarski, Legislative Fiscal Analyst

DATE: June 10, 2003

RE: Research materials relating to the composition of the Board of Fire and Police Commissioners and the hiring and firing of the chiefs of the fire and police departments.

As you are aware, before you at your meeting scheduled for June 12, 2003, will be the following files:

1. Common Council File Number 021212, being a substitute resolution directing the Intergovernmental Relations Division – Department of Administration to seek introduction and passage of state legislation relating to Mayoral appointment of fire and police chiefs in first class cities.
2. Common Council File Number 021518, being a substitute resolution directing the Intergovernmental Relations Division – Department of Administration to seek introduction and passage of state legislation relating to the Boards of Fire and Police Commissioners in cities of the First Class.

Given this, the Legislative Reference Bureau is providing the attached research recently conducted on these issues.

..Number
021212

..Version
SUBSTITUTE 3

..Reference

..Sponsor
ALD. MURPHY AND BOHL

..Title
Substitute resolution directing the Intergovernmental Relations Division-Department of Administration to seek introduction and passage of state legislation relating to Mayoral appointment of fire and police chiefs in first class cities.

..Analysis
This resolution directs the Intergovernmental Relations Division-Department of Administration to seek introduction and passage of state legislation which grants to cities of the First Class the option of enacting a system under which the chiefs of their fire and police departments would be appointed by the Mayor, subject to Common Council confirmation. The chiefs would then only be removed for cause as recommended by the Mayor and confirmed by the Common Council.

..Body
Whereas, Since its establishment in 1885, the Fire and Police Commission has been responsible for appointing the fire and police chiefs of the City of Milwaukee; and

Whereas, The Mayor, as Chief Executive of the City, should have the power to appoint and the fire and police chiefs, similar to the authority the Mayor has for appointing other City department heads; and

Whereas, In most major cities, authority to appoint police and fire chiefs is vested in the Mayor; and

Whereas, There is a long tradition in the State of Wisconsin and the City of Milwaukee of establishing checks and balances among even the agencies of local government to prevent abuses and insure the widest range of participation in vital decisions; and

Whereas, There is no agency more important to a City than its Fire and Police Departments and the Common Council has a proper role in the hiring and dismissal of the heads of these departments; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that the Intergovernmental Relations Division-Department of Administration is directed to seek introduction and passage of state legislation which grants to cities of the First Class the option of

enacting a system under which the chiefs of the fire and police departments would be appointed by the Mayor, subject to Common Council confirmation; and, be it

Further Resolved, That chiefs thus appointed shall only be removed from office for cause as determined by the Common Council upon the recommendation of the Mayor.

..Requestor

..Drafter
LRB02615-4
jro
01/09/03

..Number

021518

..Version

SUBSTITUTE 1

..Reference

..Sponsor

ALD. DONOVAN, HINES, BREIER, BOHL, D'AMATO, DUDZIK, PAWLINSKI AND SANCHEZ

..Title

Resolution directing the Intergovernmental Relations Division-Department of Administration to seek introduction and passage of state legislation relating to the Boards of Fire and Police Commissioners in cities of the First Class.

..Analysis

This resolution directs the Intergovernmental Relations Division-Department of Administration to seek introduction and passage of state legislation to accomplish the following:

1. The establishment of a Board of Fire and Police Commissioners composed of 5 members, 3 appointed by the Mayor and 2 appointed by the President of the Common Council. Of those members appointed by the Mayor, one shall have a background in law enforcement, criminal justice or police administration, and another shall have a background in fire-fighting, fire prevention or fire suppression planning. The members of the Board shall serve staggered 3-year terms.

2. The creation of a system under which the chiefs of both the police and fire departments are selected by the Board of Fire and Police Commissioners, subject to Common Council approval. Chiefs selected under this system shall receive 4-year contracts. Chiefs may be dismissed from office by the Board of Fire and Police Commissioners with the consent of the Common Council. This vote of the Common Council shall be subject to mayoral veto and the veto shall, in turn, be subject to Common Council override. Further, the Common Council may recommend dismissal of a chief to the Board of Fire and Police Commissioners. The board shall have 60 days to act on this recommendation.

..Body

Whereas, Created in 1885, the Board of Fire and Police Commissioners was created in an attempt to insulate fire and police departments from political corruption; and

Whereas, This Board and its relationship to the departments it supervises, unique in American cities the size of Milwaukee, have served an important role in insuring an appropriate level of civilian supervision over the City's police and fire departments for over a century; and

Whereas, Despite this proud tradition, from time-to-time throughout its history the City has seen fit to request certain changes to this system in the interest of making the entire structure both more responsive and more efficient; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that the Intergovernmental Relations Division-Department of Administration is directed to seek introduction and passage of state legislation to accomplish the following:

1.The establishment of a Board of Fire and Police Commissioners composed of 5 members, 3 appointed by the Mayor and 2 appointed by the President of the Common Council. Of those members appointed by the Mayor, one shall have a background in law enforcement, criminal justice or police administration, and another shall have a background in fire-fighting, fire suppression or fire prevention planning. All 5 members shall be subject to confirmation by the Common Council. The members of the Board shall serve staggered 3-year terms.

2.The creation of a system under which the chiefs of both the police and fire departments are selected by the Board of Fire and Police Commissioners, subject to Common Council approval. Chiefs selected under this system shall receive 4-year contracts. Chiefs may be dismissed from office by the Board of Fire and Police Commissioners with the consent of the Common Council. Such a vote of the Common Council shall be subject to mayoral veto and this veto shall, in turn, be subject to Common Council override. Further, the Common Council may recommend the dismissal of a chief to the Board of Fire and Police Commissioners. The Board shall have 60 days to act on this recommendation.

..Requestor
..Drafter
LRB03020-2
jro
01/28/03

MEMO

TO: Ald. Michael J. Murphy
FROM: Jim Owczarski, Legislative Research Analyst
DATE: December 6, 2002
RE: Statutory organization of certain police departments in the State of Wisconsin

The following is in response to your request for information concerning certain aspects of the organization of police departments in the communities surrounding the City of Milwaukee. As you are aware, the vast majority of the communities in southeastern Wisconsin – and all of those in Milwaukee County – are incorporated as either cities or villages. Attached, please find a copy of both ss. 61.65 and 62.13, Wis. Stats. The former regulates the organization of police departments in villages, the latter in cities other than those of the First Class. Before proceeding to a more detailed analysis of their provisions, ss. 61.65(5) and 62.13(12), bear special mention. In both sections, the statutes declare the organization of police departments a matter of statewide concern, subject to the regulation of the statutes. As a result, all communities meeting certain nominal size requirements must conform in these matters to the provisions considered below.

Section 62.13, Wis Stats., regulates the organization of police departments other than those of the First Class. It provides:

- ◆ Whether a city operates its own police department or enters into an arrangement with another community to establish a joint department, the city (or, potentially, cities) must create a board of police and fire commissioners. The board thus created has the “hire/fire” authority over the Chief of Police vested in Milwaukee’s own Board of Fire and Police Commissioners. Per s. 62.13(3): “The board shall appoint the chief of police and the chief of the fire department, who shall hold their offices during good behavior, subject to suspension or removal by the board for cause.” It is also authorized to establish rules for the hiring and firing of police officers and to hear appeals of disciplinary decisions made by the Chief of Police. It is not, however, necessarily granted more general rulemaking authority over the department.
- ◆ Section 62.13(6) provides for the so-called “optional powers” that can be vested in the board of fire and police commissioners. If approved by a municipal referendum, these powers significantly decrease the authority of the Chief of Police by granting

the board rulemaking authority over the “control and management” of the department. They further grant the board authority to act as the primary purchasing agent for its department’s moveable property and to audit all “bills, claims and expenses” prior to their payment by the City Treasurer. Locally, the City of West Allis has an “optional powers” board.

Section 61.65, Wis. Stats., regulates police and fire departments in villages. Villages with a population of 5,000 or more may:

- ◆ Create a single or joint board of fire and police commissioners. The board is treated in all respects (and has all the authority) as that created by s. 62.13. This includes the possibility of creating an “optional powers” board – again, however, subject to local referendum.
- ◆ If the village does not create a board of fire and police commissioners, it may not discipline or remove any member of the police force (including the chief) unless it does one of the following:
 1. Appoints a committee of not less than 3 persons (none of whom may be an elected or appointed official or an employee of the village), which will act as a board of fire and police commissioners **solely** to hear disciplinary matters involving department employees.
 2. Appoints an individual (again, who may not be an elected or appointed official or an employee of the village) who will act as a board of fire and police commissioners **solely** to hear disciplinary matters involving department employees.

Please note that these options are **not** available to those villages with over 5,500 population that create their own police departments. They must, pursuant to s. 61.65(1)(b)(2), create their own board of fire and police commissioners.

Should you have further questions, please feel free to contact me at your convenience. I am at extension x2299.

MEMO

TO: Ald. Willie L. Hines, Jr.
FROM: Jim Owczarski, Legislative Research Analyst
DATE: December 11, 2002
RE: Required qualifications for service on a Board of Police Commissioners

The following is in response to your request for information about whether or not other communities require certain qualifications of those who serve as police commissioners. Milwaukee's Board of Fire and Police Commissioners as created by s. 62.50, Wis. Stats., is, based on my research of civilian agencies responsible for the regulation of police departments, highly unusual outside the states of Wisconsin and Illinois. This is due to its several, diverse functions, all of which are vested in it by a state statute, and that of some antiquity. There are many bodies throughout the country that are called "police commission" or "board of police commissioners" that do not have the full range of authority now given to the City of Milwaukee's board. Consider what the Milwaukee Board possesses:

- The ability to hire, fire and discipline the Chief of Police – without Common Council review.
- The ability to set rules for the hiring, firing and disciplining of police officers, as well as serving as an appeals board for officers who believe they have been inappropriately disciplined.
- Limited rulemaking authority over the day-to-day operations of the police department combined with the ability to issue directives to the Chief of Police, the latter, of course, subject to mayoral review.
- The responsibility for hearing citizen complaints against police officers alleging misconduct or some other offense, and the ability to discipline officers found guilty of such misconduct.

All of these functions are vital ones for the operation of a police department, but it is unusual to see all of them vested in a single body. The City of Philadelphia, for example, has a civilian Police Advisory Commission charged with hearing citizen complaints against officers (information about this body is attached). The City of Austin has a Police Civil Service Commission that is solely responsible for managing the civil

service/employee relations aspect of the department. The City of San Antonio has a similar Firemen's and Policemen's Civil Service Commission. Information about both is attached.

Even in the 2 large cities that have commissions somewhat similar to Milwaukee's – Detroit and Los Angeles – there are important differences. In Detroit, for example, the Board of Police Commissioners does not appoint the Chief of Police; that responsibility rests with the Mayor. In Los Angeles, while the 5-member Police Commission does hire the Chief of Police, its decisions are subject to review by the full City Council, as the recent circumstances surrounding the hiring (or failure to hire) Chief Willie Williams made clear.

All this said, I could find no Police Commission, of any type similar to Milwaukee's, that had specific requirements for membership other than citizenship, residency and a generalized interest in "law enforcement matters". The mission statements of several commissions also referred to a desire to pursue diversity among its membership, but none had established policies to achieve this goal.

Should you have further questions, please feel free to contact me at your convenience. I am at extension x2299.

MEMO

TO: Ald. Marvin G. Pratt, Common Council President
FROM: Jim Owczarski, Legislative Fiscal Analyst
DATE: April 30, 2003
RE: Hiring, firing and terms for police chiefs in various communities

The following is in response to your request for information about the hiring, firing and terms served by police chiefs in various communities. I contacted officials with – or consulted the Code of Ordinances of – 15 communities and report the following:

- As I indicated in an earlier memorandum to your office, **the majority of police chiefs serve at the pleasure of an executive officer, be it a mayor or a city manager**, although the former is more common. As is the case with cabinet members in the City of Milwaukee, officials appointed and serving “at pleasure” are frequently subject to confirmation by a legislative body. Also, please note that this report takes no notice of the political realities of individual communities that, depending entirely on local circumstances, may make a particular mayor stronger or weaker or give a legislative body a larger or smaller role in the administration of a department head like a chief of police.
- Very few communities, at least among those with which I am familiar as the result of my research, still permit their police chiefs to serve “terms”, if by “term” one means a definite period of time short of which a chief may not be removed without significant cause. In fact, even in a community like Columbus, OH, which has enacted a 5-year “term” for its police chief, my conversations with City officials made clear that Columbus’ chief has none of the protections presently afforded to the Chief of Police in the City of Milwaukee.

The circumstances in individual communities may be summarized as follows:

Austin: The police chief is appointed by and serves at the pleasure of the **city manager** and has no term of office.

Baltimore: The police chief is appointed by the **mayor and that appointment must be confirmed by the city council**. Further, the chief may only be disciplined or removed from office by an action of the mayor which also must be confirmed by the city council. The chief serves no term of office.

Boston: Boston's police commissioner is appointed by the **mayor** and serves a 5-year term. There is no limit to the number of terms a commissioner may serve.

Charlotte: The chief of police is appointed by and serves at the pleasure of the **city manager** and has no term of office.

Columbus: The chief of police (technically the "chief of the division of police") is appointed by the **director of public safety** and serves a 5-year term. He or she is eligible for a single, 5-year extension at the discretion of the director of public safety.

Denver: The police chief is appointed by and serves at the pleasure of the **mayor** and has no term of office.

Detroit: The police chief is appointed by and serves at the pleasure of the **mayor** and has no term of office.

El Paso: The police chief is appointed by and serves at the pleasure of the **mayor** and has no term of office.

Indianapolis: The police chief is appointed by and serves at the pleasure of the **mayor** and has no term of office.

Jacksonville: The chief law enforcement official for this city is the sheriff of Duval County who is **chosen by election** every 4 years.

Los Angeles: The hiring and firing of Los Angeles' police chief became national news recently. Under its system, the police chief is appointed by the **mayor** and serves a 5-year term. The chief is eligible for a single, 5-year extension if that extension is approved by the City's civilian Board of Police Commissioners.

Memphis: Memphis titles its police chief a "director" and, as typical of a department head, the director is appointed by and serves at the pleasure of the **mayor** and has no term of office.

San Francisco: The police chief is appointed by and serves at the pleasure of the **mayor** and has no term of office. **Either** the mayor or an appointed civilian police commission may remove the chief from office.

San Jose: The police chief is appointed by and serves at the pleasure of the **city manager** and has no term of office.

Seattle: The police chief is appointed by and serves at the pleasure of the **mayor** and has no term of office.

Should you have further questions, please feel free to contact me at your convenience. I am at extension x2299.

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M E M O

TO: Ald. Michael J. Murphy

FROM: Jim Owczarski, Legislative Research Analyst

DATE: December 3, 2002

RE: Terms of office for police chiefs in other communities

The following is in response to your request for information regarding the term of office for police chiefs in other communities. I contacted the police departments in the 15 cities with populations nearest that of the City of Milwaukee. Fourteen responded in a timely fashion.¹ Further, I was able to verify, through Internet research, the status of police chiefs in the cities of Chicago, Detroit and Philadelphia. My findings are as follows:

- ◆ Only 4 of the 17 cities surveyed currently have a fixed term of office for their chiefs of police or equivalent.
- ◆ Of the 13 cities where the chiefs of police have no fixed term, 9 serve at the pleasure of the mayor, 3 serve at the pleasure of a city manager and one (Baltimore) serves at the pleasure of the mayor and Common Council.
- ◆ Among those cities with fixed terms for their chiefs, the terms break down as follows:

City	Term of Office (Years)	Maximum # of Terms
San Francisco	4	2
Jacksonville	4	No Maximum
Boston	5	No Maximum
Columbus	5	2

- ◆ Jacksonville is an unusual case. The head law enforcement officer for the City is actually the sheriff of Duval County who is chosen by election every 4 years.
- ◆ Columbus is currently in transition with respect to this issue. As of this writing, the chief of police is serving out a **lifetime** appointment to the office. On July 19, 1999, however, the City Council enacted an ordinance ending this lifetime appointment and

¹ San Jose, Indianapolis, San Francisco, Jacksonville, Columbus, Austin, Baltimore, Memphis, Boston, Nashville-Davidson, El Paso, Seattle, Charlotte and Denver

instead authorizing a 5-year appointment, with an option for a single extension, at the discretion at the Director of Public Safety.

Should you have further questions, please feel free to contact me at your convenience. I am at extension x2299.

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