

## **Supplemental Pay for Activation into Military Service**

- This is a benefit and should be a subject of collective bargaining. The City Attorney and the Labor Negotiator have indicated that providing this benefit via Common Council resolution creates certain issues for the labor negotiating process.
- Federal Government currently provides various forms of relief via the Soldier's and Sailor's Act including low interest rate caps on loans, mortgages and credit cards; protection from eviction; legal services; and release from rental agreements signed prior to being called to duty.
- The Comptroller has stated legal and administrative concerns. Payments are not considered wages because the employee is on active military leave. This creates tax code problems for the employee and the City of Milwaukee. In the attached March 28, 2003 memo the Comptroller states this program would need approval/direction from the Internal Revenue Service via a Private letter ruling (including payment of costs required by IRS for responses).
- There is the potential for significant fiscal impact. Please see attached analysis from the Budget & Management Division.



Office of the Comptroller  
March 28, 2003

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Ref: Pay Admin

Alderman James A. Bohl Jr.  
City Hall Room 205  
Milwaukee, WI 53233

Dear Alderman Bohl:

**Re: Military Leave City Pay/Loan Ordinance**

We have reviewed your March 19th email, March 18 substitute 1 ordinance and letter to the City Attorney on the legality and enforcement of the above ordinance. Many of our concerns were addressed in the City Attorney's reply and draft substitute 1 ordinance. Still there are many issues both administrative and more importantly governed by IRS Code that is not addressed in any of the correspondence.

Preliminary discussions with IRS representatives indicate that we cannot pay personnel continued wages and consider it an interest free loan. The payment is either continuation of wages or a loan not both. As such:

If processed as an interest free loan, an imputed interest value must be calculated and reported on form 1099 for the fair market value of the forgone interest. There is no such thing as an interest free loan for tax purposes.

If processed as wage continuation, the amounts received are not wages for tax withholding purposes (not reported on a W2) but considered income to the employe to be reported on form 1099. In this case the employe would have no tax withholdings on the payment but would owe income taxes payments. Employes would have to file and pay tax estimates in order to cover themselves for tax reporting purposes. These payments are not subject to Social Security and Medicare withholdings and are not considered wages as such.

A complete clarification of this program with approval/direction of IRS requires a private letter ruling. This requires a written communiqué along with the payment of costs as required by IRS for their reply. Additionally, other legislation known as USERRA (The Uniformed Services Employment and Reemployment Rights Act of 1994) provides for the protection of veteran's reemployment rights, touching on pension and health benefits.

## Potential Fiscal Impact of Supplementary Pay for Employees on Military Duty

SCENARIO	Eligible Employees	Average Annual Salary	Estimated Annual Military Pay per Soldier*	Estimated Supplement Annual per Soldier	3 Month			6 Month			12 Month			Point Estimate
					Benefit	Benefit	Benefit	Benefit	Benefit	Benefit	Benefit	Benefit	Benefit	
General City	2	\$ 42,000	\$ 35,515	\$ 6,485	\$ 3,243	\$ 6,485	\$ 12,970	\$ 900						
Fire/Police	24	\$ 52,000	\$ 35,515	\$ 16,485	\$ 98,910	\$ 197,820	\$ 395,640	\$ 135,568						
<b>Cost for Current Actives</b>	<b>26</b>	<b>\$ 50,645</b>	<b>\$ 35,515</b>	<b>\$ 15,716</b>	<b>\$ 102,153</b>	<b>\$ 204,305</b>	<b>\$ 408,610</b>	<b>\$ 136,468</b>						
General City	20	\$ 42,000	\$ 35,515	\$ 6,485	\$ 32,425	\$ 64,850	\$ 129,700							
Fire/Police	72	\$ 52,000	\$ 35,515	\$ 16,485	\$ 296,730	\$ 593,460	\$ 1,186,920							
<b>Cost for Half Eligible</b>	<b>92</b>	<b>\$ 49,468</b>	<b>\$ 35,515</b>	<b>\$ 14,311</b>	<b>\$ 329,155</b>	<b>\$ 658,310</b>	<b>\$ 1,316,620</b>							
General City	40	\$ 42,000	\$ 35,515	\$ 6,485	\$ 64,850	\$ 129,700	\$ 259,400							
Fire/Police	144	\$ 52,000	\$ 35,515	\$ 16,485	\$ 593,460	\$ 1,186,920	\$ 2,373,840							
<b>Cost for All Eligible</b>	<b>184</b>	<b>\$ 49,468</b>	<b>\$ 35,515</b>	<b>\$ 14,311</b>	<b>\$ 658,310</b>	<b>\$ 1,316,620</b>	<b>\$ 2,633,240</b>							

**Assumptions:**

- City Pay does not include any negotiated benefits or overtime

\*Source: <http://www.military.com/Resources/ResourceContent/0,13964,31100--0,00.html>