

LRB-FISCAL REVIEW SECTION ANALYSIS

FINANCE AND PERSONNEL COMMITTEE

**ITEMS 22 & 23,
FILES # 021039 & 010851**

DECEMBER 18, 2002

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Files # 021039 and 010851 are a resolution and an ordinance relating to maintenance of an unrestricted fund balance in the Tax Stabilization Fund.

Background

1. These two files before the Finance Committee establish a policy, commencing with the 2004 city budget, relating to maintenance of an unrestricted fund balance in the Tax Stabilization Fund (TSF) so as to maintain an unrestricted fund balance between 5 to 10% of the city's previous 3-year average with respect to general budget fund expenditures:
 - If the fund falls below 5%, the annual draw would be limited to 95% of the previous year's fund regeneration.
 - If the fund falls between 5% and 7.5%, the annual draw would be limited to previous year's fund regeneration.
 - If the fund falls between 7.5% and 10%, the annual draw may exceed previous year's regeneration as long as the projected year-end balance does not fall below the 5% guideline.
 - If the fund exceeds 10%. A draw must be made to maintain the balance at 10%. However, the use of fund proceeds (above the 10% level) must be used to increase cash financing of city capital projects, or other one-time initiatives designed to strengthen city finances (i.e. prepay debt).
2. File 010851(ordinance) in addition repeals current provisions relating to use of the TSF (to keep tax rate increases under 3%; to use no more than 50% of the fund balance) for purposes of implementing the policy described under Item # 1.
3. The TSF is the portion of unrestricted general fund balance not designated for a specific purpose.
4. Withdrawal from the TSF serves as a revenue item in the budget, and offsets the amount of property tax levy that would otherwise be required.
5. State law permits cities of the first class to establish a TSF. The City of Milwaukee, in establishing a TSF, set forth the following purposes and objectives for the fund in section 304-29 of the Milwaukee Code.
 - To assist in stabilizing the city's tax rate "within reasonable limits" from year to year.

- To protect the city and its citizens from fluctuations in the City property tax rate which can result from erratic variations in non-property tax revenues.
- To improve the city's financial planning ability.
- To better enable the city to comply with state levy limits.

Discussion

1. The Government Finance Officers Association (GFOA) has recommended that local governments establish policies regarding the ongoing level and utilization of unrestricted fund balances. The GFOA recommends that general purpose governments maintain an unreserved fund balance of no less than 5 to 15% of regular general fund operating revenues.
2. A draft TSF policy was initially proposed with the 2002 budget. This proposed formal policy required a minimum TSF balance that is equal to 5% of the last three-year average general fund experience.
3. Although the city has maintained a balance of 5% on an informal basis that was consistent with recommended practices, no formal policy exists.
4. Over the past 10 years, the average balance available in the TSF has been approximately \$38.4 million. The average withdrawal over the past 10 years has been \$13.6 million.
5. The TSF has been regenerated, on average, as follows:
 - 3 year average - \$10.1 million
 - 5 year average - \$8.7 million
 - 10 year average - \$13.9 million
6. This policy for TSF will assist the city in demonstrating its fiscal responsibility to various bond rating agencies.

Further Information

With respect to the Finance Committee's options for acting on either of these two files, the City Attorney's Office has opined in an opinion dated November 6, 2002 and which is attached to the resolution file, that the resolution conflicts with certain provisions of s. 304-29, the code section dealing with the tax stabilization fund, and as such the resolution would not be legal and enforceable. In the same opinion, the City Attorney's Office states that an ordinance cannot be amended, repealed or superceded by a resolution.

It should also be noted that an ordinance requires the same number of votes (9) to pass as a resolution, and that the procedure for amending a code provision is the same as for

amending a resolution. Furthermore, a sunset provision can be added to the ordinance, thereby affording the Common Council the opportunity to evaluate the policy upon any trail period if it so designates.

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