



Department of Employee Relations

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October 23, 2015
(Revised)

To the Honorable Members of the
Finance and Personnel Committee
Common Council
City of Milwaukee

Re: Common Council File #150824 – *A substitute ordinance relating to overtime provisions*
Common Council File #150950 – *A communication from DER amending the Salary Ordinance relative to overtime provisions.*

Dear Committee Members:

This report recommends changes in overtime policies to help address business needs of the Department of Public Works (DPW). The Department of Employee Relations plans to continue identifying other areas within City departments where changes in overtime policies need to be contemplated.

The enactment of Act 10 in 2011 resulted in the migration of overtime pay practices and provisions from collective bargaining agreements to the Milwaukee Code of Ordinances and the Salary Ordinance. Since 2012, overtime policies for eligible employees (those covered by the overtime provisions of the Fair Labor Standards Act) have required employees to work forty (40) hours in one week before they are eligible for overtime in cash or compensatory time at time and one-half the rate at which it was earned.

There are two exceptions to this requirement. Under 350-3-5, all hours worked on a holiday by an eligible, Fair Labor Standards Act (FLSA) non-exempt employee are considered overtime; and under section 350-3-6 of the Milwaukee Code, employees who are provided with less than 48 hours notice of a change in shift are eligible for overtime for all hours worked during the subsequent 48-hour period.

Based upon business need, the Department of Public Works (DPW) has requested a change to several overtime provisions to improve the response to emergency snow and ice work by members of the A, B, and C Teams (described below) and to emergency repairs performed by Water Distribution personnel. The request also emphasized the need to reduce the use of private contractors for emergency snow and ice work and main repairs as they tend to be more expensive when compared to “in house costs” and may not always be available to respond to emergencies on short notice. A summary of how these functions are currently staffed and an overview of the recommended changes are presented below.

DPW Emergency Snow and Ice Operations

Snow and Ice operations in DPW are primarily handled by employees from the A, B, and C Teams. The A-Team consists of 90 employees from Fleets and Sanitation (75 Operations Driver Workers) and Forestry (15 Urban Forestry Specialists) who pick the assignments based on DPW seniority. The B-Team consists of an additional 90 employees with about 80 of the 90 assignments filled by Forestry personnel. These assignments are picked by seniority within the Forestry Division. Once Forestry driver resources are identified and depleted, C-Team personnel are used. The C-Team

is comprised of 20 volunteers from Infrastructure (Street Maintenance, Sewers, and Electrical Services). During the season a C-Team member may pick a B-Team job and become a B-Team driver for the entire snow season. All other C-Team drivers are utilized as replacements for any absent drivers from the A and B Teams during each operation.

In essence snow and ice operations rely on a large pool of drivers broken down into separate groups for scheduling purposes. Every morning Forestry and Infrastructure submit the daily availability of drivers to DPW's Dispatch. The call out list with A-Team and B-Team drivers is generated from that information and C-Team drivers are used to fill in vacancies.

Under current provisions, members of DPW's snow and ice teams are eligible for overtime pay for work performed in response to such emergencies only when they have reached 40 hours worked within the week. This means that any work performed outside of their regular work schedule is only considered overtime if they have 40 hours of straight time during the week.

Over the last several years, this requirement to work 40 hours before overtime eligibility kicks in has impacted DPW's ability to recruit enough volunteers for the C-Team and appropriately staff snow and ice operations. This has resulted in greater dependency on private contractors to respond to snow and ice operations at a significantly higher hourly cost of \$125 per hour compared to \$59.08 per hour for city staff (including vehicle costs).

Given the business need to ensure appropriate levels of staffing to respond to snow and ice emergencies, this report recommends amending the appropriate sections of the Milwaukee Code and the Salary Ordinance to provide that hours worked by an eligible DPW employee in response to a management emergency call-out for snow and ice operations outside of that employee's regular work schedule will be considered overtime and compensated at time and one half the rate at which it is earned. For purposes of this provision, eligible employees only include members of the A, B, and C Teams and activities included under "snow and ice operations" are determined by DPW.

In addition, to create a reasonable incentive for employees of Infrastructure and Sewers to volunteer to be part of the C-Team and to ensure their commitment to respond when there is a need for replacement workers, this report recommends amending the Salary Ordinance to require such employees to be part of a mandatory on-call rotation schedule. As such, these employees would be eligible for \$15 per 24-hour regularly scheduled workday and \$36 for regularly scheduled off days or holidays. This existing provision also allows for the amount to be pro-rated when employees are required to be on-call for a period of less than 24 hours.

Milwaukee Water Works (MWW) Distribution Section – Emergency Work

The Distribution Section of the MWW repairs and maintains nearly 2000 miles of water mains, 19,870 hydrants, 49,838 valves and 162,405 service laterals. Distribution employees, in addition to day to day assigned repairs and routine maintenance, are called upon to respond to calls outside of scheduled hours for emergency leak repairs such as main breaks. The primary employees responding to such emergencies include Water Chief Repair Workers (12 positions) and Water Repair Workers (36 positions). A typical main break repair is conducted by one Water Chief Repair Person (a crew leader) and two Water Repair Workers. In addition there are eight positions of Water Distribution Repair Worker I and eleven positions of Water Distribution Laborer who are called for emergency leak repairs on an as needed basis.

Timely leak repairs are critical to public safety to prevent flooding, property damage, lower water pressures, and winter icing conditions. The number of main breaks and corresponding call-out events since 2013 are presented below:

<u>Year</u>	<u># of Main Breaks</u>	<u># of Call-Out Events</u>
2013	616	151
2014	930	172
2015 (YTD 8/31/15)	357	107

Under current provisions of the Milwaukee Code of Ordinances and the Salary Ordinance, these employees are eligible for overtime for work performed in response to such emergencies only when they have reached 40 hours worked within

the week. Over the last several years the MWW has struggled with a decrease in call out responses to cover emergencies that resulted in delayed leak repairs and the hiring of contractors at an added expense. While contractors have always been a necessity for periods of extreme work load, reliance on their services does not provide the best value. On average the cost of a small main repair by a contractor is approximately \$7,000. That is more than double the cost of a small main repair by City staff.

Under the proposed language when employees of the Water Distribution Section respond to emergency calls outside of scheduled hours, their hours worked will be considered overtime hours and compensated accordingly. To be eligible for this proposed overtime provision, employees must be eligible for "call-out" assignments (outside of scheduled hours) as determined by MWW. It is important to note that this provision does not apply to employees on the Department's daily "Do Not Call" list. Employees on the "Do Not Call" list include those who are not available due to funeral leave, leave under the Family Medical Leave Act or unpaid medical leave, sick leave, injury pay, restricted (transitional) duty, or other reasons as designated by management. These employees are not eligible for call-out during these designated periods and would not be eligible for the overtime rate in the same week or weeks in which they have been on the "Do Not Call" list, unless they accumulate 40 hours of work in a week. This provision does not apply to hours worked as an extension of the normal work day or work scheduled in advance by MWW.

Recommendations

In order to implement the aforementioned provisions, Chapter 350-3 will need to be amended per the attached substitute ordinance. In addition Part II, Administration, Section 9, Supplemental Pay Practices, of the Salary Ordinance needs to be amended as follows:

C. On-Call Pay: Employees holding positions designated as non-exempt from FLSA required by the department to be on a mandatory on-call rotation to respond to emergencies shall be paid \$15 per 24-hour regularly scheduled workday and \$36 for regularly scheduled off days, holiday or furlough days. If employees are required to be on-call for a period of less than 24 hours, the amounts shall be prorated. This benefit shall **not** apply to employees in the Department of Public Works performing snow and ice operations **who are designated by the department as members of the C-Team.**

An employee who is on a mandatory on-call assignment must be available to work and be able to report to work within a short timeframe as established by the department. An eligible employee on an authorized on-call assignment who is called into work shall be compensated at straight time or over-time in accordance with applicable overtime policies.

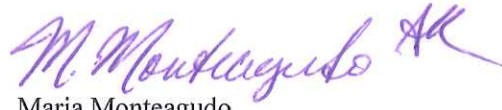
Insert New Section I

I. Hours worked by Department of Public Works eligible employees in response to a call out by management for snow and ice operations will be considered overtime hours and compensated in accordance with applicable provisions of the Milwaukee Code of Ordinances Chapter 350-3. To be eligible for such overtime provision, employees must perform snow and ice related duties outside of regular work schedules in response to an emergency call out. For purposes of this provision, eligible employees only include members of the A, B, and C Teams and activities included under "snow and ice operations" are to be determined at the discretion of the Commissioner of Public Works.

Insert New Section J

J. Hours worked by Milwaukee Water Works Distribution Section eligible employees in response to emergency call out will be considered overtime hours and compensated in accordance with applicable provisions of the Milwaukee Code of Ordinances Chapter 350-3. To be eligible for such overtime provision, employees must be eligible for "call out" assignments (outside of scheduled hours) as determined by Milwaukee Water Works. This provision does not apply to hours worked as an extension of the normal work day or work scheduled in advance by Milwaukee Water Works.

Respectfully submitted,



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MM/fcw

C: Ghassan Korban, Preston Cole, Dan Thomas, Carrie Lewis, Laura Daniels, Patrick Hartmann, and Chuck Schumacher