



Legislation Details (With Text)

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Title: A substitute ordinance relating to implementation of mandatory furloughs.

Sponsors: THE CHAIR

Indexes: BUDGET

Attachments: 1. 5-12-09 City Attorney's opinion on furloughs, 2. 10-28-08 City Attorney's opinion on proposed budget amendment, 3. Cover from Dept of Employee Relations, 4. Fiscal note, 5. Exhibit B Furlough Operational Details, 6. Dept of Employee Relations Mandatory Furlough Policy and Administrative Guidelines, 7. Letters from Mayor and Dept. of Employee Relations to Unions, 8. Letter from Dept of Employee Relations to all 19 unions, 9. 6-2-09 Assoc of Law Enforcement Allied Services Personnel letter, 10. 6-4-09 letter from Dept of Employee Relations to ALEASP in response to June 2 letter, 11. 6-8-09 Letter from Assoc. of Law Enforcement Allied Services Personnel, 12. Hearing Notice List, 13. Early Sign Letter, 14. Notice Published on 6-26-09

Date	Ver.	Action By	Action	Result	Tally
5/15/2009	0	COMMON COUNCIL	ASSIGNED TO		
6/8/2009	0	FINANCE & PERSONNEL COMMITTEE	HEARING NOTICES SENT		
6/8/2009	0	FINANCE & PERSONNEL COMMITTEE	HEARING NOTICES SENT		
6/11/2009	1	CITY CLERK	DRAFT SUBMITTED		
6/15/2009	1	FINANCE & PERSONNEL COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	5:0
6/16/2009	0	COMMON COUNCIL	PASSED	Pass	12:1
6/18/2009	1	MAYOR	SIGNED		
6/26/2009	0	CITY CLERK	PUBLISHED		

090102
SUBSTITUTE 1

THE CHAIR

A substitute ordinance relating to implementation of mandatory furloughs.

350-25-3-c cr
350-35-3-a am
350-35-3.5 am
350-35-5-a am
350-35-5-c-3 am
350-36-2-a-6 am
350-36-3 am
350-36-4 am

350-37-0 am
350-37-5 am
350-37-8-a-1 am
350-37-12-b-2 am
350-37-12-c-3-a am
350-37-12-d-2 am
350-37-13-b-2 am
350-40-1-a am
350-90-5 am
350-100 rn
350-100-2 cr
350-116 cr
350-132-5-c am
350-133-3-b-2 am
350-145-5-a am
350-150-3-b am
350-151-3-a am
350-152-3-a am
350-181-11 cr

This ordinance authorizes the common council to impose mandatory furlough time for city officials and employees by common council resolution. The department of employee relations shall issue furlough policy guidelines for city departments as necessary to administer the implementation of mandatory furlough programs.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 350-25-3-c of the code is created to read:

325-25. Group Life Insurance.

3. Eligibility.

c. For determining group life insurance eligibility, mandatory furlough time shall be considered as time of active service on the payroll.

Part 2. Section 350-35-3-a of the code is amended to read:

350-35. Leave of Absence Policies.

3. TIME OFF FOR JURY DUTY.

a. City Employees; Nonrepresented and Management. Employees except those employees covered by pars. b and c shall be granted time off with pay for reporting for jury duty or jury service upon presentation of satisfactory evidence relating to this duty or service. Employees shall retain all compensation received for jury duty service, but shall have deducted from their city pay an amount equal to the compensation received by them for jury duty, exclusive of travel pay and pay for jury duty performed on off-duty days. No greater amount of time shall be granted than necessary, and in any

case, where an employee is called for jury duty and reports therefore without receiving a jury assignment for that day, or in any case where such employee is engaged in jury duty or service for a part of a day, he or she shall if his city work is available to him or her report for the performance of city duties for the remainder of the day. >>If such jury duty coincides with any mandatory furlough dates, the employee shall not be paid salary from the city on those dates, but shall be allowed to retain jury duty compensation.<<

Part 3. Section 350-35-3.5 of the code is amended to read:

350-35. Leave of Absence Policies.

3.5. TIME OFF FOR COURT SUBPOENAS. Nonmanagement nonrepresented employees shall be granted time off with pay, upon presentation of satisfactory evidence relating to this duty, under a subpoena to appear in court during working hours with respect to any incident which occurred while the employees were at work. Compensation received (exclusive of travel pay) for this duty shall be immediately paid over to the city treasurer and shall be credited to the general fund; provided, however, that payment for the duty may be retained by employees for appearances made on off-duty hours. >>If such court subpoena appearances coincide with any mandatory furlough dates, the employee shall not be paid salary from the city on those dates, but shall be allowed to retain court subpoena appearance compensation.<<

Part 4. Section 350-35-5-a of the code is amended to read:

350-35. Leave of Absence Policies.

5. FUNERAL LEAVE. a. Immediate Family. Except for those positions listed in par. c, funeral leave shall cover necessary absence from duty of general city employees because of death in the immediate family of the employee. "Immediate family" is defined as husband or wife, child, stepchild, brother, sister, parent, stepparents, mother-in-law, father-in-law, brother-in-law, sister-in-law, or grand-child of the employee. Also effective January 2, 2005 for management, and nonmanagement, nonrepresented employees, "brother-in-law" and "sister-in-law" includes a spouse's sibling's spouse. For management and nonmanagement, nonrepresented employees, "immediate family" also includes stepparents and stepchildren by virtue of the employee's current spouse. Furthermore, eligibility to use stepparent funeral leave benefits shall be limited to one stepmother and one stepfather regardless of the number of stepparents. Effective January 1, 2002, for management and nonmanagement, nonrepresented employees, "immediate family" shall include an employee's domestic partner, if the domestic partnership is registered with the city clerk as provided in s. 111-3. In the case of a death in the immediate family, an employee may be granted a leave of absence not to exceed 3 work days with pay. These work days shall be limited to work days falling within the 10 consecutive calendar day period that begins on the day of death. One day with pay may be used to attend the funeral of grandparents of the employee. >>If funeral leave coincides with any mandatory furlough dates, the mandatory furlough time shall be rescheduled as approved by the department head.<< The provisions of this subsection do not govern fire and police department positions, employees holding positions represented by a certified bargaining unit, except those positions included in s. 350-237.

Part 5. Section 350-35-5-c-3 of the code is amended to read:

5. FUNERAL LEAVE.

c. Funeral Leave for Certain Unrepresented Noncivilian Fire Department Management Employees.

c-3. Benefits. An eligible employee covered by this paragraph shall be granted funeral leave with pay because of death in his or her immediate family for the time period beginning with the time of death and including the day of the funeral. The maximum amount of funeral leave with pay for each instance of death in the immediate family shall be 2 work days for an employee whose normal hours of work exceed 40 hours per week, and 3 work days for an employee whose normal hours of work average 40 hours per week. >>If funeral leave coincides with any mandatory furlough dates, the mandatory furlough time shall be rescheduled as approved by the fire chief.<<

Part 6. Section 350-36-2-a-6 of the code is amended to read:

350-36. Military Leave.

2. LEAVES FOR MILITARY TRAINING AND CIVIL DISTURBANCES.

a. Leaves of Absence.

a-6. Compensation for said leave or leaves shall be in accordance with the provisions of par. b. >>If such leave or leaves coincide with any mandatory furlough dates, the mandatory furlough time shall be rescheduled as approved by the department head.<<

Part 7. Section 350-36-3 of the code is amended to read:

3. LEAVES FOR MILITARY FUNERALS. Officers and employees of the city of Milwaukee shall be allowed to attend military funerals of veterans without loss of pay when a request for leave is made by a proper veterans organization that the services of such officer or employee is desired for the proper conduct of a military funeral. >>If such leave for a military funeral coincides with any mandatory unpaid furlough dates, the mandatory furlough time shall be rescheduled as approved by the department head.<<

Part 8. Section 350-36-4 of the code is amended to read:

4. PAY DURING TIME OFF FOR INDUCTION EXAMINATION. All officers and employees of the city of Milwaukee shall be paid for time lost while taking physical or mental examination for the purpose of determining eligibility for induction or service in the armed forces of the United States. >>If such time off coincides with any mandatory furlough dates, the mandatory furlough time shall be rescheduled as approved by the department head.<<

Part 9. Section 350-37-0 of the code is amended to read:

350-37. Sick and Disability Leave. Sick and disability leave shall cover necessary absence from duty of an employee because of personal illness or pregnancy related disability, bodily injury or exclusion from employment because of exposure to contagious disease of the employee. In addition, an employee may request the substitution of sick leave for family leave under the state family and medical leave act, s. 103.10, Wis. Stats. >>Employees may not use sick and disability leave for furlough days. Employees may accrue time for sick and disability leave purposes while serving mandatory furlough time.<<

Part 10. Section 350-37-5 of the code is amended to read:

5. CITY CONTRACT EMPLOYER. Service for an employer holding a city contract shall not be recognized as qualifying for sick and disability leave or as adding to a sick and disability leave accumulation even though the person so serving may have his name included on a city payroll. Any length of time during which an employee is on layoff, suspension, >>mandatory furlough<< or leave of absence, and any length of time not recognized by the annuity and pension board as accumulative of pension credit when the employee in question is a member of the annuity and pension system shall not be recognized as qualifying for sick and disability leave or as adding to a sick and disability leave accumulation.

Part 11. Section 350-37-8-a-1 of the code is amended to read:

8. INJURY PAY. a-1. When an employee sustains an injury while within the scope of employment, as provided by ch. 102, Wis. Stats., the employee, except for a management employee or an employee in a collective bargaining unit represented by Local 75, Journeymen Plumbers' and Gasfitters' Union, AFL-CIO, shall receive 80% of full salary described herein as injury pay in lieu of worker's compensation for the period of time the employee may be temporarily, totally or temporarily partially disabled because of said injury, not to exceed a total of one calendar year. Under the same conditions as stated in this subsection, a management employee or an employee in a collective bargaining unit represented by Local 75, Journeymen Plumbers' and Gasfitters' Union, AFL-CIO shall receive 70% of full salary. In no case shall an employee receive injury pay for more than one year (250 working days) during his or her period of employment with the city of Milwaukee regardless of the number of compensable injuries involved. >>If such time off coincides with any mandatory furlough dates, the mandatory furlough time shall be rescheduled upon return to service, as approved by the department head.<<

Part 12. Section 350-37-12-b-2 of the code is amended to read:

12. POLICE DEPARTMENT SICK AND DISABILITY PAY.

b. Sick Leave.

b-2. Eligibility for sick leave with pay shall begin as soon after regular appointment as any sick leave credit has been earned. >>Employees may accrue time for sick and disability leave purposes while serving mandatory furlough time.<<

Part 13. Section 350-37-12-c-3-a of the code is amended to read:

c. Attendance Incentive Program for Nonrepresented, Noncivilian Police Department Management Employees.

c-3-a. During the full term of the trimester, the employee did not use any paid sick leave, was not on an unpaid leave of absence, was not absent without leave, was not tardy, was not suspended from duty for disciplinary reasons and did not take any unpaid time off the payroll >>exclusive of any mandatory furlough time<<.

Part 14. Section 350-37-12-d-2 of the code is amended to read:

d. Funeral Leave.

d-2. Employees shall be granted leave of absence not to exceed 3 days with pay, in case of death of a wife, husband, child, father, mother, sister or brother, and not more than one day with pay in case of death of mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, grandchild or employee's grandparents. Employees entitled to the death-in-family benefits shall be allowed up to one day with pay of travel time if the site of the funeral is outside of the "no travel time zone" described on the map attached to common council File #83-993. In order to become eligible for travel time, employees must submit satisfactory evidence to the police department administration indicating that they attended the funeral and that the site of the funeral was outside of the "no travel time zone." An employee eligible for the leave with pay provided under this subdivision may only use that leave during the 10 consecutive calendar day period immediately following the date of the death that occasioned the employee's request for the leave. >>If such time off coincides with any mandatory furlough dates, the mandatory furlough time shall be rescheduled as approved by the police department administration.<<

Part 15. Section 350-37-13-b-2 of the code is amended to read:

13. FIRE DEPARTMENT EMPLOYEES.

b. Sick Leave.

b-2. Eligibility for sick leave with pay for employees newly appointed to city employment on or after March 1, 1985, shall begin after completion of 6 months' active service in the fire department, but sick leave credit shall be earned from date of appointment. For employees appointed to city employment prior to that date, eligibility for sick leave shall begin as soon after regular appointment as any sick leave credit has been earned. >>Employees may not use sick leave for mandatory furlough time, regardless of whether the benefits-eligible employee was on sick leave the day before the mandatory furlough day, the day after the mandatory furlough day, or on both sides of the mandatory furlough day. Employees may accrue time for sick and disability leave purposes while serving mandatory furlough time.<<

Part 16. Section 350-40-1-a of the code is amended to read:

350-40. Vacations.

1. DEFINITIONS. a. Active service means the time spent as an employee on the city of Milwaukee payroll in a position qualifying for fringe benefits. In order for this time spent to count as active service for vacation purposes, such time, together with any authorized unpaid leaves of absence >>and mandatory furlough time<<, must be continuous from the date of appointment. Active service shall also include the time an employee taking a military leave would have spent on the city of Milwaukee payroll in a position qualifying for fringe benefits if he or she had not taken a military leave.

Part 17. Section 350-90-5 of the code is amended to read:

350-90. Uniform and Clothing Allowance: General Provisions.

5. MINIMUM DAYS' SERVICE. No payment shall be made for service in a uniformed status for any calendar month in which the employee is on the payroll for less than 14 days >>, exclusive of any mandatory furlough time<<. One full month's allowance shall be granted for service in a uniformed status in any calendar month during which the employee is on the payroll for 14 days or more. In the event of death of an employee of uniformed status, uniform allowance shall be paid for time accrued, if this amounts to 14 days or more for the calendar month.

Part 18. Section 350-100 of the code is renumbered 350-100-1.

Part 19. Section 350-100-2 of the code is created to read:

350-100. Salaries of Mayor and Members of the Common Council.

2. The mayor and common council members shall be subject to mandatory furloughs as may be imposed by common council resolution under s. 350-116.

Part 20. Section 350-116 of the code is created to read:

350-116. Mandatory Unpaid Furloughs.

1. APPROVAL BY COMMON COUNCIL RESOLUTION. The common council may by resolution impose mandatory furlough time for city officials and employees.

2. POSITIONS AFFECTED. a. Mandatory furloughs shall apply to all city employee positions, regardless of funding source, pursuant to sub. 3.

b. The city attorney, city comptroller, city treasurer and municipal court judges shall be subject to mandatory furloughs.

3. FURLOUGH GUIDELINES. The department of employee relations shall issue furlough policy guidelines for city departments as necessary to administer the implementation of mandatory furlough programs

4. To the extent any provision in the city salary ordinance, the city charter or Milwaukee code of ordinances, including but not limited to sections 36-04-1; 350-25-c-3; 350-35-3-a, 5-a and c-3; 350-36-2-a-6, 3 and 4; 350-37-0, 8-a-1, 12-b-2 and d-2, and 13-b-2; 350-40-1-a; 350-90-5-c; 350-132-5-c; 350-133-3-b-2; 350-145-5-a; 350-150-3-b; 350-151-3-a; 350-152-3-a; and 350-181-11, should address or specify the impact of unpaid furloughs upon the wages, hours, or conditions of employment of represented employees, any such provision, insofar as it shall apply to represented employees, shall be subject to, and its application and effects may be modified or nullified through, impact bargaining with the duly authorized representatives of such employees in accordance with the requirements of the Wisconsin Municipal Employment Relations Act. Approval of the common council is required for any substantive term resulting from furlough-related impact bargaining on behalf of any group of represented employees if the term is inconsistent with and more beneficial than a corresponding furlough-related term specified for the particular group in a provision of the charter or code, and for any substantive term resulting from furlough-related impact bargaining on behalf of any group of represented employees that addresses a new issue involving the impact of furloughs upon wages, hours, or conditions of employment that is not addressed in any manner for the particular group in a provision of the charter or code; however, common council approval is not

required for any substantive term resulting from furlough-related impact bargaining on behalf of any group of represented employees if the substantive term is identical or less beneficial to the affected represented employees than corresponding terms that have been approved by the common council for the majority of the city's nonrepresented employees.

Part 21. Section 350-132-5-c of the code is amended to read:

350-132. Certification Pay.

5-c. For purposes of prorating certification pay benefits, an employee on the police department payroll for at least 14 days in a calendar month shall be deemed as having been on the payroll for the full calendar month; in the event the employee is on the payroll less than 14 days in a calendar month, >> exclusive of any mandatory furlough time, << then the employee shall be deemed as not having been on the payroll at all during the calendar month.

Part 22. Section 350-133-3-b-2 of the code is amended to read:

350-133. Variable Shift Assignment Pay.

3. ADMINISTRATION.

b-2. If the employee is covered by this section and in active service for less than 14 days in a calendar month, >> exclusive of any mandatory furlough time, << the employee shall be deemed as not having been covered by this section and in active service at all during the calendar month.

Part 23. Section 350-145-5-a of the code is amended to read:

350-145. Fire Department Holiday Compensation.

5. ADMINISTRATION. a. Earning of Holiday Compensation. All time off that fire department employees are eligible to receive under subs. 2 to 4 shall be taken in the calendar year in which it was earned. Time off shall be earned at a rate of 1/12 of the time off per calendar year for each calendar month during the calendar year the employee was on the fire department payroll. For purposes of interpretation of this provision, an employee on the fire department payroll for at least 14 days in a calendar month shall be deemed as having been on the fire department payroll for the full calendar month. If the employee is on the fire department payroll for less than 14 days in a calendar month, >> exclusive of any mandatory furlough time, << then the employee shall be deemed as not having been on the payroll at all during such calendar month.

Part 24. Section 350-150-3-b of the code is amended to read:

350-150. Recall Allowance.

3. ADMINISTRATION.

b. An employee who separates from active service during a calendar year on account of voluntary resignation or normal service retirement shall receive recall pay prorated on the basis of active service during such calendar year, computed to the nearest month. For the purpose of prorating, an employee in active service at least 14 days in a calendar month shall be considered to have been in

active service for the entire month. An employee in active service less than 14 days in a calendar month >>exclusive of any mandatory furlough time,<< shall be considered not to have been in active service at all for such calendar month.

Part 25. Section 350-151-3-a of the code is amended to read:

350-151. Fire Department: Special Unit Pay.

3. ADMINISTRATION. a. Payments made under this section shall be paid as soon as practicable after December 31 of the year in which they were earned. Prorata adjustment to the nearest calendar month on the basis of service on the hazardous material response team will be made for an employee who was assigned to the team for less than a full calendar year. For purposes of prorating, an employee assigned to the hazardous material response team for at least 14 days in a calendar month shall be deemed as having been assigned to the team for the full calendar month; in the event the employee is assigned to the team for less than 14 days in a calendar month, >>exclusive of any mandatory furlough time,<< the employee shall be deemed as not having been assigned to the team at all during the calendar month.

Part 26. Section 350-152-3-a of the code is amended to read:

350-152. Fire Department: Special Emergency Medical Technician Pay.

3. ADMINISTRATION. a. Payments made under sub. 2 shall be paid as soon as administratively practicable after December 31 of the year in which they were earned. Prorata adjustment to the nearest calendar month on the basis of time served in emergency medical technician-1 status shall be made for those employees who have held emergency medical technician-1 status for less than 1 calendar year. For purposes of prorating, an employee who has held emergency medical technician-1 status for at least 14 days in a calendar month shall be deemed as having held emergency medical technician-1 status for the full calendar month; in the event an employee has held emergency medical technician-1 status less than 14 days in a calendar month, >>exclusive of any mandatory furlough time,<< the employee shall be deemed as not having held emergency medical technician-1 status at all during the calendar month.

Part 27. Section 350-181-11 of the code is created to read:

350-181. Authorized Travel Regulations and Procedures.

11. TRAVEL AND TRAINING DURING UNPAID FURLOUGHS. If the authorized, paid travel or training for any city official or employee coincides with any mandatory furlough dates, the mandatory furlough time shall be rescheduled as approved by the department head.

APPROVED AS TO FORM

Legislative Reference Bureau
Date: _____

IT IS OUR OPINION THAT THE ORDINANCE

IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

Dept. of Employee Relations

mcw.lrb

LRB09237-1

06/10/2009