



Legislation Text

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ORIGINAL

THE CHAIR

Resolution authorizing the issuance and sale of general obligation short-term promissory notes under sec. 67.12(12), Stats., a current municipal expense, to wit: partial satisfaction of a judgment against the City of Milwaukee. (Comptroller)

On January 28, 1997, a judgment was entered in the case of Milwaukee Police Supervisors' Organization v. City of Milwaukee and the Employees' Retirement System/Annuity and Pension Board, Circuit Court Case No. 95-CV-011251. As part of the judgment the court enjoined the merger of the Special Disability Fund with the Retirement Fund and required the City to make contributions required by the actuary to the separate funds. On appeal the judgment was modified to uphold the combined fund for employees hired after January 31, 1996. On January 12, 1998, judgment was entered in Milwaukee Employees' Retirement System/Annuity and Pension Board v. City of Milwaukee, Case No. 97-CV-000685, deciding that the City was obligated to pay performance fees incurred by the Employees' Retirement system in 1997. This resolution authorizes the City to borrow up to \$10,100,000 to pay uncontested special disability contributions for 1996 and 1997, the combined fund contribution for 1997 and performance fees for 1997 together with statutory interest.

Whereas, The 1999 budget of the City of Milwaukee authorizes contingent borrowing in the form of general obligation bonds or notes, for any purposes not contemplated at the time the budget was adopted in the sum of \$10,100,000; and

Whereas, The Common Council is desirous of issuing and selling promissory notes for a current municipal expense, to wit: partial satisfaction of a judgment against the City of Milwaukee; and

Whereas, Rule 15c2-12 promulgated by the United States Securities and Exchange Commission under the Securities and Exchange Act of 1934, as amended, does not permit an underwriter to purchase, after July 3, 1995, securities such as notes unless such underwriter has reasonably determined that the issuer of such securities has undertaken in a written agreement or contract for the benefit of holders of such securities to provide certain financial information or operating data on a continuing basis; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee that it hereby and herewith authorizes and declares its purpose to issue general obligation short-term promissory notes in an amount not to exceed \$10,100,000 for a current municipal expense, to wit: partial satisfaction of a judgment against the City of Milwaukee; and, be it

Further Resolved, That said promissory notes be sold by the Commissioners of the Public Debt at a private sale; or public competitive sale; or to the Public Debt Amortization Fund for the purpose of investment; or to the Public Debt Amortization Fund for immediate cancellation; and, be it

Further Resolved, That in the event the Commissioners of the Public Debt advise the Common Council that said notes have been sold at a private sale or public competitive sale or to the Public Debt Amortization Fund as an investment, the Common Council hereby declares that it will levy an irrevocable tax sufficient to pay each installment of principal and interest as it becomes due and payable; and, be it

Further Resolved, That said promissory notes shall be payable periodically as determined by the Commissioners of the Public Debt within a period not to exceed ten years from the date of the issuance of said notes; and, be it

Further Resolved, That the general obligation short-term promissory notes herein authorized shall be sold by the Commissioners of the Public Debt at such times as the Commissioners shall determine to be prudent and appropriate; and, be it

Further Resolved, That the Commissioners of the Public Debt are authorized to prepare the forms and establish the procedures required in the issuance and sale of general obligation short-term promissory notes herein authorized in accordance with the provisions of Ch. 67, Stats., and the provisions of the City of Milwaukee ordinances, such notes to be in a form approved by the City Attorney and to be executed by those officers of the City whose signatures are required by law; and, be it

Further Resolved, That the general obligation short-term promissory notes herein authorized shall be sold at a price of not less par and accrued interest thereon; and, be it

Further Resolved That such general obligation short-term promissory notes shall be dated as of the first or fifteenth day of the month in which they are issued, bear interest, payable semi-annually, at coupon rates as determined by the Commissioners of the Public Debt, not to exceed 9.25%; with an issue True Interest Cost Rate not to exceed 7.25%; that the Commissioners of the Public Debt shall specify the due dates for, and the amounts of, the payment of principal of said notes, not to exceed 10 years, and interest thereon, and that such payment schedule shall be entered upon the permanent record of the Commissioners of the Public Debt and formally communicated to the City Clerk; and, be it

Further Resolved, That a direct annual irrevocable tax shall be levied in each year that such notes are outstanding, in an amount sufficient to pay and for the express purpose of paying the interest on said notes, as it falls due, and also to pay and discharge the principal thereof at

maturity, and shall be extended upon the tax roll of the City of Milwaukee and shall be collected by the officers of the City in the same manner and at the same time as taxes for general City purposes for such years are extended and collected, and when so collected, the proceeds of said taxes shall be used solely for paying the principal and interest on such notes so long as any notes of said issue remain outstanding; and, be it

Further Resolved, That interest on or principal of the notes falling due at any time when there shall be on hand insufficient funds from proceeds of the tax levy for the payment of such interest or principal shall be paid promptly when due from other funds of the City, which funds shall be reimbursed thereof out of the proceeds of the taxes above levied when such taxes shall have been collected; and, be it

Further Resolved, That a global certificate shall be issued for each stated maturity date and registered only in the name of Cede & Company as nominee of the Depository Trust Company, New York, New York, for delivery and immobilization by the Depository Trust Company following the closing. The Depository Trust Company will act as securities depository of the notes. The City will make payment of principal, redemption, premium if any, and interest on the notes on the due dates to the Depository Trust Company, or its nominee, as registered owner of the notes, in next-day funds. Notices, if any, given by the City to the registered owner of the notes will be given to the Depository Trust Company. In the event that the securities depository relationship with the Depository Trust Company for the notes is terminated and the City does not appoint a successor securities depository, the City will prepare, authenticate and deliver at its expense fully-registered certificated notes in the denominations of \$5,000 or in the integral multiple thereof in the aggregate principal amount by maturity then outstanding to the beneficial owners of the notes; and, be it

Further Resolved, That the City covenants with the holders from time to time of said notes that (i) throughout the term of said notes and (ii) through the date that the final rebate, if any, must be made to the United States in accordance with Section 148 of the Internal Revenue Code of 1986, as amended (the "Code") it will comply with the provisions of Sections 103 and 141 through 150 of the Code, and the applicable regulations of the Internal Revenue Service adopted thereunder, that must be satisfied in order that interest on said notes shall be and continue to be excluded from gross income for federal income tax purposes under said Section 103; and, be it

Further Resolved, That a Continuing Disclosure Certificate, in substantially the form customarily executed by the Comptroller to be dated the date of initial delivery of the Notes, is authorized to be executed and delivered by the Comptroller; and, be it

Further Resolved, That the obligation of the City of Milwaukee under the aforementioned disclosure certificate under the terms therein specified is determined to be contractual for the benefit of the note-holders from time to time; and, be it

Further Resolved, That the City of Milwaukee authorizes and directs the appropriate officers and employees of the City to take all action necessary or appropriate to comply with and carry out all of the provisions of the Continuing Disclosure Certificate as amended from time to time. Notwithstanding any other provision of the resolution, failure of the City to perform in accordance with the Continuing Disclosure Certificate shall not constitute a default under the resolution and the Continuing Disclosure Certificate may be enforced only as provided therein; and, be it

Further Resolved, That the City covenants with the holders from time to time of said notes that (i) throughout the term of said notes and (ii) through the date that the final rebate, if any, must be made to the United States in accordance with Section 148 of the Internal Revenue Code of 1986, as amended (the "Code") it will comply with the provisions of Sections 103 and 141 through 150 of the Code, and the applicable regulations of the Internal Revenue Service adopted thereunder, that must be satisfied in order that interest on said notes shall be and continue to be excluded from gross income for federal income tax purposes under said Section 103; and, be it

Further Resolved, That the cost of issuing the notes and marketing same shall be paid from the proceeds of the note sale, or deducted from same, and the project account or accounts credited with the net proceeds of the sale or sales.

City Attorney
#24508
Date: 9/15/99