



## Legislation Text

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**File #: 081085, Version: 0**

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081085  
ORIGINAL

### ALD. HAMILTON

An ordinance clarifying and revising provisions of the city's code of ethics and providing penalties for failure to timely file a statement of economic interests.

303-7-2 rc

303-11-1-d rc

303-11-2 rc

303-11-4 cr

This ordinance clarifies provisions of the city code of ethics relating to requests to the ethics board for advisory opinions. The ordinance further clarifies that statements of economic interests filed by candidates for city office with the city election commission need not be filed with the ethics board.

The ordinance repeals language requiring the withholding of salary from an official or employee for failure to file a required statement of economic interests. The current provision has been determined by the city attorney to be in violation of federal wage and hour laws if applied to certain officials and employees required to file a report under the ordinance, but not exempt from the protections of the federal Fair Labor Standards Act (FLSA).

New late filing fees are created for failure to timely file a statement of economic interests in the amount of \$25 if filed 11 days or more after the due date, and an additional \$5 per day for each day the report is not filed after 30 days has expired from the date due.

The ordinance also provides that, after 45 days, an affidavit of late filing may be provided to the city attorney by the ethics board. Ordinance violation charges may then be filed with the municipal court. Conviction is punishable by a forfeiture of not less than \$250 nor more than \$1,000, and failure to pay may result in imprisonment of not less than 10 nor more than 40 days.

The election commission is required to remove a candidate from the ballot for failure to file a statement of economic interests as currently required. New penalties are provided, however, for filing of a false statement of economic interests. These penalties include a forfeiture of not less than \$250 nor more than \$1,000, and failure to pay may result in imprisonment of not less than 10 nor more than 40 days.

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

Part 1. Section 303-7-2 of the code is repealed and recreated to read:

303-7. Conflict of Interest Prohibited; Exception.

2. ADVISORY OPINIONS. a. Any individual, including former officials and other city employees, either personally, or on behalf of an organization or governmental body, may make a written request of the board for an advisory opinion relating to the propriety of any matter or matters to which the person, organization or governmental body is or may become a party.

b. Any appointing officer, with the consent of a prospective appointee, may make a written request of the board for an advisory opinion regarding the propriety of any matter to which the prospective appointee is or may become a party.

c. The board shall review a written request for an advisory opinion and may advise the person making the request.

Advisory opinions shall be in writing. The board's deliberations and actions upon requests shall be in meetings not open to the public.

d. If the material facts contained in a written request for an advisory opinion are correct, then it is prima facie evidence of intent to comply with this chapter when an individual making the request abides by the board's advisory opinion.

e. No member of the board or its staff may make public the identity of an individual requesting an advisory opinion or of individuals or organizations mentioned in the opinion.

f. Requests for confidential advisory opinions, records obtained or filed in connection with requests for confidential advisory opinions and confidential advisory opinions rendered shall be closed in whole to public inspection. This shall not be interpreted to preclude the board from compiling or publishing summaries of opinions rendered under this subsection if identification is not made, either directly or indirectly, of the requestor or of any organization identified in the opinion.

Part 2. Section 303-11-1-d and 2 of the code is repealed and recreated to read:

303-11. Financial Disclosure.

1. REQUIRED.

d. The ethics board shall provide consultation and advice upon request of the election commission relating to the financial disclosure requirements in sub 4.

2. FAILURE TO FILE. a. Late Filing. Any individual failing to file a statement of economic interests with the ethics board within the time limits required by sub. 1 shall, upon subsequently filing a completed statement 11 or more days after the date required for filing, pay a late filing fee of \$25. An additional late filing fee of \$5 per day shall be assessed for each day that expires after 30 days from the date due until a completed statement is filed, the total sum of these daily fees not to exceed \$100. Any statement of economic interests that is filed late shall not be considered a completed statement without payment of the appropriate fee for late filing.

b. Notice to Appointing Authority. The ethics board shall notify any appropriate appointing authority of the failure of an official or employee to file a required report within 15 days of the date on which the report was required to be filed.

c. Notice of Delinquent Filing. The ethics board shall cause a letter to be mailed first class, postage prepaid and addressed to the last known address of any individual who has not filed the required report within 30 days of the date on which the report was to be filed notifying the individual of the filing requirements, the assessment of late filing fees as provided in par. a, and that the matter of the delinquent filing may be referred to the city attorney for prosecution as provided in par. d.

d. Violation and Penalty. If after 45 days from the date required for filing of a statement of economic interests, a public official or employee subject to filing requirements under this section has failed to file a complete statement, the chair of the ethics board or designated staff member may cause an affidavit to be prepared and delivered to the city attorney stating upon knowledge and belief that an individual is in violation of the reporting requirements of this section, identifying the individual by name and position, declaring that the notice to be provided the individual in accord with par. c. was sent, and identifying the date the notice was sent and the address to which it was mailed. Upon receipt of the affidavit, the city attorney may file charges with the municipal court for violation of this section. Any person convicted of a violation of this section for failure to file a required and complete statement of economic interests within 45 days of the required date, shall be subject to a forfeiture of not less than \$250 nor more than \$1,000, and shall upon failure to pay the forfeiture be imprisoned in the county jail or house of correction for not less than 10 days nor more than 40 days.

Part 3. Section 303-11-4 of the code is created to read:

4. FINANCIAL DISCLOSURE BY CANDIDATES FOR ELECTED OFFICE. a. Any candidate for city public office shall file a statement of economic interests with the city election commission no later than 4:30 p.m. on the 3rd day following the deadline for filing nomination papers for the office which the candidate seeks at the time of filing of nomination papers. The information on the statement shall be current as of December 31 of the year preceding the filing deadline.

b. To assure consistency with the disclosures required of city officials and employees, the election commission shall consult with the ethics board relating to the content and requirements of the statement of economic interests to be filed by candidates for elected city office.

c. If a candidate for city office fails to file a statement of economic interests under this chapter within the required time, the candidate's name shall be omitted from the election ballot.

d. Any candidate for city office who files a false statement of economic interests under this subsection shall upon conviction be subject to a forfeiture of not less than \$250 nor more than \$1,000, and shall upon failure to pay the forfeiture be imprisoned in the county jail or house of correction for a period of not less than 10 days nor more than 40 days.

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: \_\_\_\_\_

Ethics Board  
LRB08435-4  
RLW  
11/19/2008