



Legislation Text

File #: 980465, Version: 1

SUBSTITUTE #1

THE CHAIR

Substitute resolution authorizing a Contingent Fund appropriation from the Common Council Contingent Fund to the Outside Counsel - Expert Witness Fund for the purpose of retaining outside legal counsel.

- Analysis -

This resolution authorizes the transfer of \$120,000.00 from the Common Council Contingent Fund to the Outside Counsel - Expert Witness Fund for the purpose of retaining outside legal counsel for various on-going cases.

WHEREAS, The Outside Counsel - Expert Witness Fund is to be used by the City Attorney's Office to retain the services of expert witnesses and outside legal counsel; and

WHEREAS, Any appropriation of funds from this Fund requires approval by the Common Council via resolution; and

WHEREAS, A sufficient sum of money is not presently available in the Outside Counsel - Expert Witness Fund, but is available from funds which may be transferred from the Contingent Fund; and

Whereas, Common Council File Number 971183, adopted on November 25, 1997, authorized the City Attorney to enter into an agreement with the law firm of Reinhart, Boerner, Van Deuren, Norris & Rieselbach, S.C. ("Firm") to provide the City representation in the case of MPA, et al. v. City of Milwaukee, et al., Case Number 97-CV-007996, and appropriated \$10,000, and Common Council File Number 971609, adopted on February 10, 1998, appropriated \$50,000, and Common Council File Number 961946, adopted on June 16, 1998 appropriated \$100,000 from the Contingent Fund and Common Council File Number 981209, adopted on December 18, 1999 appropriated \$75,000 from the Contingent Fund, and Common Council File Number 990231, adopted on June 2, 1999, appropriated \$20,000 from the Outside Counsel Expert Witness Fund; and

Whereas, A total of \$255,000 has been appropriated to date and billings from Reinhart, Boerner, Van Deuren, Norris & Rieselbach, S.C., through July of 1999 total \$250,714.07 and there is a balance of \$4,285.93 and additional funding in the amount of \$10,000 is needed for the remainder of the year; and

Whereas, Common Council File Number 971781, adopted on April 14, 1998, appropriated \$39,000 and authorized the City Attorney to expand the scope of the Firm's engagement to include acting as a consultant in the establishment of a new retirement system for city employees; and as that as part of such amendment the Firm was authorized to sub-contract for the services of a Disadvantaged Business Enterprise contractor in the purchase of professional services; and Common Council File Number 961946, adopted on June 16, 1998, appropriated \$10,000 from the Contingent Fund, and Common Council File Number 980718, adopted on September 23, 1998 appropriated an additional \$30,000 from the Contingent Fund; and Common Council File Number 981209 adopted on 12/18/98 appropriated an additional \$75,000 from the Contingent Fund; and Common Council File Number 990231, adopted on June 2, 1999 appropriated \$50,000; and

Whereas, A total of \$204,000 has been appropriated to date and billings from the Firm, and their contractor, through July of 1999 total \$219,312.81 and there is a negative balance of \$15,312.81 and additional funding in the amount of \$90,000 is needed for the remainder of the year; and

Whereas, Common Council File Number 961465, adopted on January 17, 1997 appropriated \$15,000 for outside counsel Whyte, Hirschboeck, Dudek, S.C. to represent the Employees' Retirement System/Annuity and Pension Board in Milwaukee Employees' Retirement System, et al. v. City of Milwaukee, Case No. 97-CV-000685 (Performance Fee Case); and Common Council File Number 980720, adopted on September 23, 1998 appropriated an additional \$15,000; and Common Council File Number 981209, adopted on December 18, 1998 appropriated \$40,000 from the Contingent Fund; and

Whereas, Billings by Whyte, Hirschboeck, Dudek, S.C. through July of 1999 total \$68,109.09, and there is a balance of \$1,890.91 and additional funding in the amount of \$5,000 is necessary for the remainder of the year; and

Whereas, The Employees' Retirement System/Annuity and Pension Board, are the plaintiffs in Milwaukee Employees' Retirement System, et al. v. City of Milwaukee, Case No. 97-CV-007996; and Whyte, Hirschboeck, Dudek, S.C. were retained to represent the Employees' Retirement System; and

Whereas, Common Council File Number 970723, adopted on November 11, 1997 transferred \$15,000; and FN980719, adopted on September

23, 1998 appropriated \$10,000, for a total of \$25,000, and the requested carryover was not carried-over, and billings through July of 1999 total \$135, and funding in the amount of \$10,000 is needed for the remainder of the year; and

Whereas, Common Council File Number 950698 adopted on September 9, 1995 appropriated \$30,000 from the Outside Counsel - Expert Witness Fund to retain an expert witness to assist in the defense of Marino Construction Co., Inc. v. City of Milwaukee, et al. Case No. 95-002781; and File Number 970119 adopted on October 7, 1997 appropriated an additional \$4,000; and

Whereas, A total of \$34,000 has been appropriated to date and there is a balance of \$3,107 and additional funding in the amount of \$5,000 is needed for the remainder of the year; now, therefore, be it

Resolved, By the Common Council that \$120,000.00 be transferred from the Common Council Contingent Fund No. 0001 9990 C001 1999 006300 to the Outside Counsel - Expert Witness Fund, No. 0001 1490 0001 9990 634001 and the expenditure of \$120,000.00 from the Outside Counsel - Expert Witness Fund is hereby authorized for the purpose of retaining an expert witness as directed herein; and, be it

Further Resolved, That the Office of the City Attorney is hereby authorized and directed to engage outside counsel and pay legal fees incurred by outside counsel or expert witnesses upon receipt of an itemized bill, approved to be reasonable and necessary by the Office of the City Attorney; and, be it

Further Resolved, That the City Comptroller is authorized and directed to appropriate the sum of \$120,000.00 to the City Attorney's Office budget for the stated project; and that application of the funds directed herein to a case other than that specifically referred to herein shall be subject to the further direction of the Common Council.

City Attorney
GFL:bw:24500
9/14/99