



## Legislation Text

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**File #:** 090427, **Version:** 1

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090427  
SUBSTITUTE 1

### THE CHAIR

A substitute charter ordinance amending and opting out of provisions relating to the appropriation of surplus earnings from the water works to the city general fund.

14-08-1 am

Section 14-08 of the city charter, enacted by the state legislature in 1905, and applying only to cities of the first class, provides that the common council may appropriate surplus earnings of the water works to the city's general fund if there is a sufficient sum of money in surplus earnings to pay 2 years installment on water works bond principal and interest. In this charter ordinance, the city elects not to be governed by portions of the 1905 provisions, and amends those provisions so that water works surplus earnings may be appropriated to the city's general fund if there is a sufficient sum of money in surplus earnings to pay one year installment of water works bond principal and interest.

Whereas, Sections 14-08-1 and 2 of the city charter were enacted as session laws by the Wisconsin legislature in 1905 (§§ 1 and 2, Ch. 469, L. 1905); and

Whereas, Wis. Stat. § 66.0811(2) provides that the surplus income of a municipal public utility may be paid into a city's general fund after all payments have been made for "operation, maintenance, depreciation, interest, and debt service fund requirements, local and school tax equivalents, additions and improvements, and other necessary disbursements and indebtedness[;]" and

Whereas, Wis. Stat. § 66.0811(2) does not contain the additional limitations on the City's ability to appropriate surplus earnings contained in section 14-08-1 of the city charter; and

Whereas, Wis. Stat. § 66.0811(2) applies with uniformity to all municipal public utilities, including the Water Works; and

Whereas, The issue of the retention of additional limitations on the City of Milwaukee's ability to appropriate surplus earnings from its municipal public utility, is a matter primarily of local affairs and therefore subject to the city's constitutional home rule power; and

Whereas, Section 14-08-2 of the city charter also concerns a matter primarily of local affairs and is therefore subject to the city's constitutional home rule power; now, therefore

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

Part 1. The City of Milwaukee elects not to be governed by portions of the provisions of chapter 469, Laws of Wisconsin, 1905.

Part 2. Section 14-08-1 of the city charter is amended to read:

**14-08. Surplus Earnings.** 1. The common council ~~[[of any city of the first class, whether operating under a general or special charter, owning and operating a water plant or system]]~~ may by resolution duly passed appropriate the surplus earnings of water works, plant or systems to the general fund, provided, however, that in case there is a bonded indebtedness against said water works, plant or system, then and in that case not any of such surplus earnings shall be appropriated and used ~~[[as above stated]]~~, unless there is on hand a sufficient sum of money to pay ~~[[two years]]~~ >>one year's<< installment on principal and interest. ~~[[Provided, that the amount of surplus earnings of such waterworks so apportioned, shall not exceed the amount such city shall have raised by general taxation and expended in the construction of such waterworks system, or in payment of bonds issued for the construction thereof, with interest thereon from the time such money was so expended or paid at the then current rates of interest or at the rate of interest such bonds shall have borne]].~~

Part 3. This is a charter ordinance and shall take effect 60 days after its passage and publication, unless within such 60 days a referendum petition is filed as provided in s. 66.0101(5), Wis. Stats., in which event this ordinance shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon.

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: \_\_\_\_\_

LRB09340-1

BJZ:lp

9/9/09

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