



Legislation Details (With Text)

File #: 200884 **Version:** 1
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Title: Substitute resolution approving the retention of outside counsel to pursue potential vaping litigation.
Sponsors: ALD. MURPHY
Indexes: SMOKING
Attachments: 1. Letter to Common Council, 2. Comptroller Approved

Date	Ver.	Action By	Action	Result	Tally
10/13/2020	0	COMMON COUNCIL	ASSIGNED TO		
10/26/2020	0	JUDICIARY & LEGISLATION COMMITTEE	RECOMMENDED FOR ADOPTION	Pass	3:0
11/4/2020	1	COMMON COUNCIL	ADOPTED	Pass	15:0
11/13/2020	1	MAYOR	SIGNED		

200884
SUBSTITUTE 1
ALD. MURPHY

Substitute resolution approving the retention of outside counsel to pursue potential vaping litigation. This resolution authorizes the City Attorney to enter into a contingent fee agreement with outside counsel to pursue potential litigation against JUUL and other responsible defendants regarding e-cigarettes and other vaping products.

...Body

Whereas, Over the past nearly two decades since cigarette smoking was established as a public health hazard the use of tobacco use and nicotine addiction for youths plummeted from 28% in 2000 to 7.6% in 2017;

Whereas, Between 2017 and 2018, e-cigarette use increased 78% among high school students nationwide, from 11.7% of high school students in 2017 to 20.8% of high schoolers in 201; e-cigarette use among middle school students increased 48% between 2017 and 2018, and the increase in youth nicotine vaping from 2017 to 2018 was the largest for any substance tracked by the national Monitoring the Future surveys over the past forty-four years; and

Whereas, Youth vaping rates continued to climb from 2018 to 2019, such that vaping prevalence more than doubled among each grade level surveyed-eighth, tenth, and twelfth graders-in the past two years. In 2019, more than five million middle and high school students reported current use of e-cigarettes, including more than one in every four high schoolers; and

Whereas, The Wisconsin Department of Health Services reports that e-cigarette use among high school students increased 154 percent between 2014 and 2018 and the e-cigarette use by Wisconsin high school increased from

just under 8% in 2014 to 20% in 2018;

Whereas, In 2018, in response to the public health crisis created by e-cigarettes and vaping, the Common Council, in file no. 180187 created MCO 160-30.2 prohibiting the sale of electronic smoking devices to persons under 18, and in file no. 180354, amended MCO 105-48 and created MCO 105-49 prohibiting the use of an electronic smoking device on City Property; and

Whereas, JUUL and Altria are the primary manufacturers and marketers of these products, and the U.S. Surgeon General, the Director of the Centers for Disease Control and Prevention, the former Food & Drug Administration Commissioner, and the Health and Human Services Secretary have all squarely pointed to JUUL as a primary cause of the epidemic of youth e-cigarettes and vaping product addiction; and,

WHEREAS, Over 1,000 lawsuits have already been filed against JUUL and Altria and many of these lawsuits have been aggregated into a single proceeding *-In re JUUL Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation* (the "JUUL MDL"), in the federal district court in San Francisco before the Honorable William H. Orrick; and

WHEREAS, the law firm of Keller Rohrback, L.L.P. currently represents multiple governmental entities across the United States in the JUUL MDL and has been named as Co-Lead Counsel appointed by the Court to help direct the JUUL MDL, and the MWH Law Group, L.L.P, a Milwaukee based minority owned law firm, is working with Keller Rohrback; and

WHEREAS, The City Attorney recommends the two firms for this matter based upon their expertise and experience with this particular subject matter; and

WHEREAS, The firms have offered to engage in the representation of the City of Milwaukee on a contingent fee basis so that the MBSD will pay no attorney fees or costs if there is no recovery by settlement or litigation; NOW THEREFORE, be it

RESOLVED, By the Common Council of the City of Milwaukee,
that the City Attorney is hereby authorized to enter into a contingent attorney fee agreement with the firm of Keller Rohrback, L.L.P. and the MWH Law Group, L.L.P. and is authorized to pursue all legal recourse the City of Milwaukee may have with respect to claims against JUUL and Altria along with any other responsible potential defendants.

City Attorney

MRH

October 22, 2020

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