



Legislation Text

File #: 041042, **Version:** 1

041042 SUBSTITUTE 1

ALD. MURPHY

A substitute ordinance relating to implementation of a fair share payment in lieu of taxes program.
307-7 cr

This ordinance creates a fair share payment in lieu of taxes ("PILOT") program in which the city seeks voluntary payments from owners of tax-exempt properties in recognition of the services those properties receive from the city. The commissioner of assessments, who is assigned responsibility for administering this program, is directed to contact a property owner regarding the possibility of making such payments whenever the commissioner receives an application for property tax exemption from the owner or whenever the department of city development notifies the commissioner that the owner has demonstrated its intent to expand, improve, replace or acquire a facility. As part of this communication, the commissioner shall provide the owner with a "new PILOT project profile form" on which the owner is asked to provide a variety of information relating to the tax-exempt institution and the proposed construction project or facility use.

Once the owner submits the new PILOT project profile form and the project master plan, the commissioner shall discuss the formulation of a PILOT agreement and the amount of the annual payment with the owner. Generally speaking, the amount of the PILOT shall be the amount of taxes the owner would pay to the city if the property were taxable.

If the owner agrees in principle to make a payment in lieu of taxes, the commissioner shall proceed to draft the PILOT agreement. The ordinance specifies several provisions that may be included in a PILOT agreement. Common council approval shall be required for any PILOT agreement in which the initial annual payment is at least \$100,000; otherwise, the agreement can be executed administratively by the city officers specified in the ordinance.

This ordinance also gives commissioner of assessments the duty to develop, implement and continuously maintain a campaign to create awareness of the fair share payment in lieu of taxes program among both property owners requesting exemption from property taxes and current owners of tax-exempt properties.

Payments received as a result of the fair share PILOT program shall be treated as general fund revenues.

Whereas, The City of Milwaukee's ability to provide basic municipal services to property taxpayers at a reasonable cost is being adversely affected by declining state shared revenues, rising employee health care costs, pressure to maintain or lower the tax rate and the rising share of the tax burden borne by residential property owners; and

Whereas, The City's ability to provide services is further limited by the fact that approximately one-third of its land area consists of tax-exempt properties; and

Whereas, While owners of tax-exempt properties pay no property taxes, their properties use City services, often at higher rates or levels than taxable properties, thereby leading to subsidies of tax-exempt properties by owners of taxable properties; and

Whereas, Non-governmental tax-exempt properties comprise about 22% of the City's total property valuation and could contribute an additional \$45.0 million in 2004 tax revenues to the City if they were taxable; and

Whereas, Between 2000 and 2004, the value of non-governmental tax-exempt property in Milwaukee grew by 270%, from \$1.8 billion to \$4.9 billion; and

Whereas, The City of Milwaukee needs to diversify its revenue sources so that it can continue to provide the essential public services desired by its residents, businesses and visitors; and

Whereas, One way the City can diversify and increase its revenues is to create voluntary partnerships with non-profit property owners in which those owners make a "fair share" payment in lieu of taxes in recognition of the services they receive from the City and their mission to "give back to the community"; and

Whereas, Fair share contributions would strengthen the City's financial ability to provide the municipal services from which tax-exempt institutions benefit; and

Whereas, The Common Council finds that creation of a fair share payment in lieu of taxes program would be beneficial to the City and its residents, businesses, visitors and property taxpayers, and that the parameters of this program should be established by ordinance; now, therefore

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

Part 1. Section 307-7 of the code is created to read:

307-7. Fair Share Payment in Lieu of Taxes Program. 1. PURPOSE. There is created a fair share payment in lieu of taxes program in which the city seeks voluntary payments from owners of tax-exempt properties in recognition of the services those properties receive from the city. Payments received through this program are intended to diversify the city's revenue sources, compensate the city for lost revenues resulting from the large and growing portion of the city's land area that is tax-exempt, and reduce the subsidy of service provision to tax-exempt properties by owners of taxable properties. By creating this program, the city seeks to generate the additional revenues needed to maintain the high level of services it provides to residents, businesses and visitors, even during times of limited financial resources and challenging city budgets.

2. DEFINITIONS. In this section:

- a. "Commissioner" means the commissioner of assessments.
- b. "Owner" means a tax-exempt organization or institution that owns or intends to acquire real property in the city of Milwaukee.

c. "PILOT" means a fair share payment in lieu of taxes.

3. ADMINISTRATIVE AUTHORITY. The commissioner of assessments is authorized and directed to carry out the program established in this section, with assistance to be provided by other city departments as noted.

4. PROCEDURE. a. Initiation. The procedure described in this subsection shall be initiated by the commissioner whenever the commissioner receives a new application for property tax exemption or whenever the department of city development notifies the commissioner that an owner has demonstrated its intent to expand, improve, replace or acquire a facility, as evidenced by an application for a building permit, certificate of occupancy, zoning change, special use permit or variance.

b. Communication With Tax-Exempt Owner. The commissioner shall contact the owner regarding the possibility of a voluntary agreement to make payments in lieu of taxes to the city. As part of this communication, the commissioner shall provide the owner with a "new PILOT project profile form" on which the owner is asked to provide the information about the tax-exempt institution and its existing and proposed facilities that is necessary for development of a PILOT.

c. Submission Requirements. The commissioner shall ask the owner to submit both the new PILOT project profile form and the master plan for the project.

d. Discussion Between City and Owner Representatives. Once the owner submits the new PILOT project profile form and a project master plan showing both existing and proposed facilities, the commissioner shall discuss the formulation of a PILOT agreement and the amount of the annual payment with the owner.

e. Guidelines for Establishing PILOT Amount. The PILOT amount shall be based on the value of the entire tax-exempt property, including both existing facilities and new construction, and the amount of tax revenue the city forgoes because of the tax-exempt status of the property. In establishing the PILOT amount, the commissioner shall employ the following guidelines, while recognizing that each institution and property has unique characteristics that may make adjustments necessary:

e-1. Value. The commissioner shall estimate the value of the entire tax-exempt property, including both existing facilities and new construction, using standard appraisal methodologies that the commissioner deems most appropriate.

e-2. Calculation of PILOT Amount. The suggested PILOT amount shall be calculated by multiplying the value of the owner's property by the city's current tax rate and dividing by 1,000. The tax rates of other local taxing jurisdictions, including but not limited to Milwaukee county, Milwaukee public schools, Milwaukee area technical college and Milwaukee metropolitan sewerage district, shall not be included when performing this calculation.

f. PILOT Agreement. Once the owner has agreed in principle to make a PILOT, the commissioner shall draft a PILOT agreement between the city and the owner. If the owner's tax-exempt property contains multiple buildings or facilities and the owner anticipates multiple alterations to these buildings or facilities, the agreement may take the form of a comprehensive agreement that applies to all buildings and facilities on the property. The provisions of a PILOT agreement may include, but

shall not be limited to, the following:

f-1. The parties agree that the city will provide the owner's property with public services typically funded by the property tax, such as fire and police protection, street maintenance and street lighting.

f-2. The owner of the tax-exempt property understands that it may still be subject to special assessments, special charges, special taxes or fees charged by the city pursuant to the city's statutory authority.

f-3. The owner agrees to pay an annual PILOT for the tax-exempt property. The method of calculating the PILOT shall be specified, as shall the technique for annually adjusting the PILOT for inflation.

f-4. The owner shall pay the entire PILOT on or before January 31 of the year following the tax year for which the PILOT was calculated. Alternatively, the owner may pay one-tenth of the PILOT on or before January 31, with another one-tenth being paid in each of the following 9 months.

f-5. The city may use the PILOT revenues for whatever purposes it deems appropriate.

f-6. The owner shall make a good-faith effort to satisfy its PILOT obligations. In the event of non-payment or partial payment, the city shall not place a tax lien on the property. Nor shall the tax-exempt status of the owner's property be affected by the owner's non-payment or partial payment of the PILOT.

f-7. The city reserves the right to grant or deny the owner's application for tax-exempt status, pursuant to s. 70.11, Wis. Stats. If the city grants tax-exempt status, the city may review, reconsider and, if necessary, alter that tax-exempt status each January. If part or all of the property does not qualify for tax-exempt status, the impact on the PILOT shall be specified.

f-8. The agreement shall be for a period of 5 years. It shall be automatically terminated upon the loss of tax-exempt status by the owner's property. The agreement may also be terminated if either party gives the other party 30 days written notice of termination. Upon termination, the owner shall remain liable for any outstanding PILOT payments due and payable under the agreement.

f-9. The owner shall agree to allow the city to inspect its property upon reasonable written request and to allow the city to inspect documents that are relevant to exemption and valuation determinations.

f-10. The agreement shall be considered void from the date of its execution if the owner does not become the holder of legal title to the property by December 31 of the first tax year to which the PILOT would apply or if the commissioner determines that the property is not tax-exempt.

f-11. If the agreement is not terminated prior to the date that is 5 years after the date of execution of the agreement, the agreement is automatically renewed for another 5-year period, with the same terms and conditions as the original agreement unless either party notifies the other of a request to change those terms and conditions.

g. Execution of Agreement. The PILOT agreement shall be executed when the owner of the tax-

exempt property, the commissioner, the comptroller, the mayor, the city clerk and the city attorney have signed the document that has been drafted pursuant to par. f. In addition, common council approval shall be required for any PILOT agreement in which the initial annual payment is at least \$100,000.

5. FAIR SHARE PROGRAM AWARENESS CAMPAIGN. The commissioner shall develop, implement and continuously maintain a campaign to create awareness of the fair share payment in lieu of taxes program among both property owners requesting exemption from property taxes and current owners of tax-exempt properties.

6. IMPACT OF PROGRAM PARTICIPATION ON TAX-EXEMPT STATUS. The decision of the owner of a tax-exempt property to participate or not participate in the fair share payment in lieu of taxes program shall have no effect on the property's tax-exempt status.

7. PAYMENTS RECEIVED. The comptroller shall treat all PILOT payments received by the city as general fund revenues.

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: _____

Department of Administration - Budget and Management Division

LRB04478-2

JDO

12/09/04