



Legislation Text

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230359

SUBSTITUTE 1

220724

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Substitute resolution expressing the City's opposition to various provisions in 2023 Wisconsin Act 12 and directing City representatives to work for their repeal.

This resolution expresses opposition to the following provisions in 2023 Wisconsin Act 12:

1. The prohibition of advisory referenda.
2. The prohibition of tax-levy-funded equity and inclusion activities.
3. The prohibition on preferences in hiring or contracting.
4. The requirement to perform an outside audit of the Office of Violence Prevention.
5. The prohibition on using the tax levy to fund streetcar operations.
6. The prohibition on using tax increment district financing to develop or construct streetcar lines.
7. The imposition of maintenance-of-effort requirements relating to the Police Department.
8. The imposition of maintenance-of-effort requirements relating to the Fire Department.
9. The requirement to place police officers in Milwaukee Public Schools.
10. The provision allowing the Milwaukee Police Association to choose a member of the Fire and Police Commission.
11. The provision allowing the Milwaukee Professional Firefighters Association Local 215 to choose a member of the Fire and Police Commission.
12. The removal of Police Department and Fire Department policy oversight authority from the Fire and Police Commission.
13. The imposition of a limit on the City's cultural expenditures and partnerships with non-profit organizations.
14. The requirement of a 2/3 majority vote of the Common Council for any new program expenditures or new position authority.
15. The requirement that the City identify unused City-owned buildings and prepare a formal plan for their sale or use.
16. The imposition of limitations on the authority of the Health Department Commissioner to close businesses to control an outbreak or epidemic of a communicable disease.
17. The imposition of limitations on the authority of the Common Council to close businesses to control an outbreak or epidemic of a communicable disease.

This resolution also adds the repealing of these provisions to the City's 2023-2024 State Legislative Package and directs the Department of Administration - Intergovernmental Relations Division to work for the repeal of these provisions.

Whereas, 2023 Wisconsin Act 12 (Act 12) was passed by the Wisconsin State Assembly and Senate on June 14, 2023, and signed by Governor Tony Evers on June 20, 2023; and

Whereas, Act 12 contains a provision which prohibits the City from holding advisory referenda to

gauge the wishes of its constituents on matters of local importance; and

Whereas, Advisory referenda are an invaluable tool for the democratic function of representative government; and

Whereas, Act 12 contains a provision that prohibits the City from using the tax levy to fund any local government positions whose principal duties consist of promoting individuals or groups on the basis of their race, color, ancestry, national origin, or sexual orientation; and

Whereas, This provision will impede the City's efforts to address and reduce historical disparities and improve the lives of people living in disadvantaged communities; and

Whereas, Act 12 contains a provision that prohibits preferences in hiring and contracting on the basis of race, color, ancestry, national origin, or sexual orientation; and

Whereas, This provision could disrupt the City's administration of programs designed to support businesses with diverse ownership, build capacity and create more jobs; and

Whereas, Act 12 contains a provision that requires an outside audit of the City's Office of Violence Prevention; and

Whereas, The City's Office of Violence Prevention takes a public health approach to investigate, understand and address violence in the City; and

Whereas, The City, through its Health Department and its Board of Health, is well positioned to make informed decisions about how to meet the needs of residents without unnecessary interference; and

Whereas, Act 12 contains a provision that prohibits the City from using the tax levy to fund the development, operation, or maintenance of the Milwaukee streetcar; and

Whereas, Failure to properly fund the operation of the streetcar could cause the City to be out of compliance with the federal grants that were used to develop and construct the streetcar; and

Whereas, Non-compliance could expose the City to repayment demands from the grantor that could approach \$60 million dollars; and

Whereas, A breach of the terms of the streetcar grants could also jeopardize future grant awards for other types of City infrastructure, costing the City hundreds of millions of dollars in state or federal aid; and

Whereas, Act 12 contains a provision that prohibits the City from using tax incremental district funds to develop or construct Milwaukee streetcar lines; and

Whereas, The expansion of the streetcar into additional neighborhoods could create opportunities for residents to access jobs, education and shopping, as well as help reduce climate impacts; and

Whereas, Electrifying transportation is one of the "Ten Big Ideas" detailed in the City's recently adopted Climate and Equity Plan; and

Whereas, Act 12 contains maintenance-of-effort provisions which require the hiring and retention of additional police officers and firefighters; and

Whereas, The number of new police officers and firefighters is not linked to actual sales tax revenue; and

Whereas, Because the City faces significant financial penalties if it is unable to satisfy the maintenance-of-effort requirements, other City services may have to be eliminated if sales tax revenue is insufficient to fund the additional positions; and

Whereas, These maintenance-of-effort requirements supersede local priorities; and

Whereas, Act 12 contains a provision that requires the City to ensure that school resource officers are present in Milwaukee Public Schools during normal school hours; and

Whereas, Officers must also be available during before- and after-school care, during extracurricular activities and at sporting events; and

Whereas, Research suggests that the presence of police in schools can result in more negative than positive outcomes for students; and

Whereas, The Milwaukee Board of School Directors voted unanimously to end the contracts with the Police Department in 2020 because of the harmful effects that armed officers in schools can have on students; and

Whereas, The decision to employ school resource officers should be a school district decision not a state mandate; and

Whereas, Act 12 contains a provision which allows the Milwaukee Police Association (MPA) and the Milwaukee Professional Firefighters Association Local 215 identify candidates for the Fire and Police Commission (FPC) and requires the Mayor to appoint two candidates identified by the MPA and Local 215; and

Whereas, The purpose of the Fire and Police Commission is to provide oversight and ensure that the Police and Fire Departments respond to the needs and concerns of the community; and

Whereas, The purpose of the MPA and Local 215 is to lobby, advocate and negotiate for policies and practices that are favorable to its membership; and

Whereas, The commissioners selected from lists prepared by the MPA and Local 215 will participate in disciplinary matters relative to law enforcement officers and firefighters who are members of the MPA Local 215; and

Whereas, The forced confirmation of handpicked commissioners undermines the appearance of integrity and impartiality of the Fire and Police Commission; and

Whereas, Act 12 contains a provision which removes the authority of the Fire and Police Commission

to oversee the policies of the Fire and Police Departments; and

Whereas, The FPC is one of the oldest agencies providing citizen oversight of police and fire departments in the country; and

Whereas, The Commission was created to remove police and fire service from the influence of politics; and

Whereas, Community advocacy has resulted in the FPC revising many policies and practices that had previously led to direct harm to the community; and

Whereas, Removing the FPC's oversight authority will delay the on-going process of reforming the culture at both departments and diminish community trust; and

Whereas, Act 12 contains an ambiguous provision which limits the City's cultural expenditures and partnerships with non-profit organizations; and

Whereas, This provision could have far-reaching, unforeseen and unintended consequences for the City and its residents and visitors; and

Whereas, The City has long used partnerships to leverage its investment in a myriad of ways; and

Whereas, Limiting the City's participation in partnerships with non-profits could cost the City additional money or require the City to forego services and activities which provide many benefits; and

Whereas, Milwaukee is home to a thriving arts and entertainment community, providing positive experiences and benefits which reach beyond the borders of the city; and

Whereas, Students who are exposed to the arts are more likely to finish high school, less likely to be involved in criminal activity; and

Whereas, Act 12 contains a provision which requires a 2/3 majority vote of the Common Council to enact or adopt net new program spending and new position authorization; and

Whereas, Requiring a super-majority vote dilutes the voices of historically underrepresented groups and other people who live in the City; and

Whereas, Act 12 contains a provision which requires the City to identify all unused, City-owned buildings and requires the City to prepare a plan for the use or sale of those buildings; and

Whereas, The City is well positioned to make informed decisions about how to best manage its buildings and infrastructure to meet the needs of its residents without unnecessary political interference and micromanagement by the Legislature; and

Whereas, Act 12 contains a provision which limits the ability of the Milwaukee Health Commissioner to close businesses in an effort to control an outbreak or epidemic of a communicable disease; and

Whereas, The City has a robust public health department and is best situated to make decisions regarding the health and safety of Milwaukee residents; and

Whereas, Act 12 contains a provision which limits the ability of the Common Council to close businesses in an effort to control an outbreak or epidemic of a communicable disease; and

Whereas, The City's elected leaders, with input from the Health Commissioner and the City's Board of Health are best situated to make decisions regarding the health and safety of Milwaukee residents; and

Whereas, Article XI, Section 3 of the Constitution of the State of Wisconsin states, "Cities and villages organized pursuant to state law may determine their local affairs and government, subject only to this constitution and to such enactment of the legislature of statewide concern as with uniformity shall affect every city or every village"; and

Whereas, All of the above-listed provisions of Act 12 are unacceptable violations of the home rule principles established in the Constitution of the State of Wisconsin; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that the City of Milwaukee opposes the following provisions in 2023 Wisconsin Act 12:

1. The prohibition of advisory referenda.
2. The prohibition of tax-levy-funded equity and inclusion activities.
3. The prohibition on preferences in hiring or contracting.
4. The requirement to perform an outside audit of the Office of Violence Prevention.
5. The prohibition on using the tax levy to fund streetcar operations.
6. The prohibition on using tax increment district financing to develop or construct streetcar lines.
7. The imposition of maintenance-of-effort requirements relating to the Police Department.
8. The imposition of maintenance-of-effort requirements relating to the Fire Department.
9. The requirement to place police officers in Milwaukee Public Schools.
10. The provision allowing the Milwaukee Police Association input into the choice of a member of the Fire and Police Commission.
11. The provision allowing the Milwaukee Professional Firefighters Association Local 215 input into the choice of a member of the Fire and Police Commission.
12. The removal of Police Department and Fire Department policy oversight authority from the Fire and Police Commission.
13. The imposition of a limit on the City's cultural expenditures and partnerships with non-profit organizations.
14. The requirement of a 2/3 majority vote of the Common Council for any new program expenditures or new position authority.
15. The requirement that the City identify unused City-owned buildings and prepare a formal plan for their sale or use.
16. The imposition of limitations on the authority of the Health Commissioner to close businesses to control an outbreak or epidemic of a communicable disease.
17. The imposition of limitations on the authority of the Common Council to close businesses to control an outbreak or epidemic of a communicable disease.

; and, be it

Further Resolved, That the Department of Administration-Intergovernmental Relations Division is directed to work for the repeal of the above-listed provisions; and, be it

Further Resolved, That Resolution File Number 220724 is amended by inserting the following items in the document attached to the file and identified as "Amended State Legislative Package"

Local Control & Flexibility	Common Council	Seek the repeal of Wis. Stats. 66.0144 which prohibits advisory referendums.
Racial, Social & Economic Equity	DOA- Office of Equity and Inclusion	Seek the repeal of Wis. Stats. 62.90(4) (b) which prohibits the use of tax levy funding for any position whose principal duties consist of promoting individuals on the basis of their race, color, ancestry, national origin or sexual orientation.
Local Control & Flexibility Racial, Social & Economic Equity	Dept. of Employee Relations / DPW	Seek the repeal of Wis. Stats. 66.0145 (2) which prohibits preferences in hiring or contracting.
Public Health and Safety	DOA - Office of Violence Prevention	Seek the repeal of Wis. Stats. 62.90(6) which requires an outside audit of the Department of Administration - Office of Violence Prevention.
Environment, Mobility, Infrastructure	DPW - Operations	Seek the repeal of Wis. Stats. 62.90(4) (a) which prohibits the use of tax levy funding for the development, operation or maintenance of the Milwaukee streetcar.
Environment, Mobility, Infrastructure	DPW - Infrastructure Services/City Development	Seek the repeal of Wis. Stats. 66.1105(2) (f) which prohibits the use of tax incremental district funding for the development or construction of Milwaukee streetcar lines.
Fiscal Efficiency/Stability	Police Department	Seek the repeal of Wis. Stats. 77.701(2) (c) which imposes maintenance-of-effort requirements on the Milwaukee Police Department.

Fiscal Efficiency/Stability	Fire Department	Seek the repeal of Wis. Stats. 77.701(2)(c) which imposes maintenance-of-effort requirements on the Milwaukee Fire Department.
Racial, Social & Economic Equity	Police Department	Seek the repeal of Wis. Stats. 62.90(8) which requires the placement of school resource officers in Milwaukee Public Schools.
Local Control and Flexibility	Fire & Police Commission	Seek the repeal of Wis. Stats. 62.50(1h) which requires the Mayor to appoint one member of the Fire and Police Commission from a list provided by the Milwaukee Police Association.
Local Control and Flexibility	Fire & Police Commission	Seek the repeal of Wis. Stats. 62.50(1h) which requires the Mayor to appoint one member of the Fire and Police Commission from a list provided by Local 215.
Local Control and Flexibility	Fire & Police Commission	Seek the repeal of Wis. Stats. 62.50(1h) which prohibits the Fire and Police Commission from prescribing general policies and standards for the Fire and Police Departments.
Racial, Social & Economic Equity	Department of Administration	Seek the repeal of Wis. Stats. 62.90(1) which limits total cultural spending to 5% of the total City budget.
Local Control and Flexibility	Common Council	Seek the repeal of Wis. Stats. 62.90(2) which requires a 2/3 majority vote of the Common Council to enact or adopt net new program spending and position authorization.
Local Control and Flexibility	DPW - Infrastructure Services/City Development	Seek the repeal of Wis. Stats. 62.90(7) which requires the identification of all unused City-owned buildings and the preparation of a plan for the use or sale of those buildings.

Public Health and Safety	Health Department	Seek the repeal of Wis. Stats. 252.03(2j) which limits the authority of local health officers to close businesses to control an outbreak or epidemic of a communicable disease.
Public Health and Safety	Common Council	Seek the repeal of Wis. Stats. 252.03(2j) which limits the authority of the Common Council to close businesses to control an outbreak or epidemic of a communicable disease.

; and, be it

Further Resolved, That the City Clerk shall forward a copy of this resolution to Governor Tony Evers and the Wisconsin Congressional delegation.

Kathleen Brengosz
6/21/23
LRB 178228-2