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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2011-12

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Labor, Public Safety, and Urban Affairs (SC-LPSUA)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
 - (**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
 - (**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**



Fire and Police Commission

Michael G. Tobin
Executive Director

Richard C. Cox
Chair

Carolina M. Stark
Vice-Chair

Kathryn A. Hein
Paoi X. Lor
Sarah W. Morgan
Michael M. O'Hear
Commissioners

March 24, 2011

Senator Van Wanggaard, Chair
Committee on Labor, Public Safety, and Urban Affairs
Wisconsin State Senate

RE: Senate Bill 30

Dear Senator Wanggaard:

Thank you for the opportunity to testify before the Committee on Labor, Public Safety, and Urban Affairs concerning Senate Bill 30 held on March 22, 2011. This correspondence is a supplement to the record of my testimony.

Appended to this correspondence is Section 5.02 of the City of Milwaukee City Charter, Rule XIV of the City of Milwaukee Fire and Police Commission rules, and a City of Milwaukee Policy letter. Each of these documents describes the residency requirement for City of Milwaukee police officers and firefighters. It is important to realize that there is no black letter definition of residency, but rather each circumstance is reviewed on a case-by-case basis using the appended rules and policies. When an employee has a question concerning the requirement as it relates to their current living arrangements our rule directs them to contact their supervisor for clarification.

With respect to entrance examination failure rates for police and fire applicants we offer the following information from our most recent recruitments.

Milwaukee Police Department

- 3,569 applicants
- 32% failed to appear for the written examination
- 10% failed the written examination
- Of the 300 top-rated candidates from the written test, 57% (171) were dropped during the remaining test segments for various reasons, leaving an eligible list of 129 individuals available for hire and 1,017 available to establish future eligible lists.

Milwaukee Fire Department

- 5,710 applicants

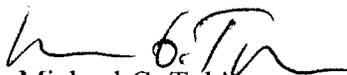
- 32% failed to appear for the written examination
- 11% failed the written examination
- Of the 334 top-rated candidates from the written test 45% (149) were dropped during the remaining test segments for various reasons, leaving an eligible list of 185 individuals available for hire and 2,897 available to establish future eligible lists.

With respect to Milwaukee Police Association representative Mark Buetow's testimony that he attempted to file a complaint on two occasions concerning residency compliance by our current Chief of Police, we have no records of such a request. All staff personnel were interviewed and have no recollection of any such contact from Mr. Buetow or any Milwaukee Police Association representative. We accept all complaints and conduct an investigation of each and every complaint that we receive by mail, email, fax, our website www.city.milwaukee.gov/fpc, telephone, or in person at our office or one of our thirteen community partner sites located throughout Milwaukee. I am personally aware that our Chief of Police is in compliance with the residency requirement.

With respect to Milwaukee Police Association representative Mark Buetow's testimony that previous chiefs were in violation of the residency requirements, we consider such allegations mere speculation and baseless rhetoric propounded in an effort to sway opinion. We are not aware of any evidence in support of these allegations.

We strongly support maintaining the current policy of residency as a matter determined by local governments. I urge you to carefully consider your position on this issue. I remain available to provide any additional information to assist the Committee in its review of this matter.

Sincerely,


Michael G. Tobin
Executive Director

MGT:mk

Att

CHAPTER 5
CITY EMPLOYES AND OFFICERS

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5-01. City Service; Offices Excepted. Officers of the city of Milwaukee who are elected by the people, or who by the statutes are required to be elected by the city council, inspectors and clerks of election, one deputy in each department whose office was created or exists by reason of statute, heads of any principal departments of the city, all members of the fire and police departments and all other employes of the fire and police departments, one private secretary of the mayor and any other officers, clerks or employes in the service of the city whose positions in the judgment of the city service commissioners cannot for the time being be subjected, with advantage to the public service, to the general rules prepared under the civil service law, shall not be affected as to their election, selection or appointment by such rules made by said commissioners.

(HISTORY: Section 5-01, am., Ch. Ord. 310, File #64-4089, April 6, 1965.)

5-02. Residency Requirements. 1. RESIDENCY REQUIRED. All employes of the city of Milwaukee are required to establish and maintain their actual bona fide residences within the boundaries of the city. Any employe who does not reside within the city shall be ineligible to employment by the city and his employment shall be terminated in the manner hereinafter set forth.

2. DEFINITION. The term "residence" employed in this section shall be construed to mean the actual living quarters which must be maintained within the city by an employe.

Neither voting in the city nor the payment of taxes of any kind by itself by an employe shall be deemed adequate to satisfy the requirements of this section, nor shall the provisions of this section be satisfied by the maintaining of a rented room or rooms by an employe solely for the purpose of establishing residence in the city when it appears that his or her residence is outside of the city. Ownership of real property within the city, when not coupled with maintaining of actual living quarters in the city as herein required, shall be deemed insufficient to meet the requirements of this section. The city service commission is authorized to investigate complaints made to it with respect to the residence of employes of the city and may initiate any such investigation on its own motion. Whenever such investigation shall be made, the city service commission shall make a finding with respect to whether or not such an employe is or is not actually a resident of the city in accordance with the requirements set forth herein. No consideration shall be given by the city service commission to the fact that such employe intends to maintain a residence in the city if actually he or she does not maintain such a residence as herein provided for.

3. DUAL RESIDENCE. In cases in which dual or multiple residences are rented, owned or maintained by an employe, it is not sufficient for the employe to claim city residency because of rental, ownership or maintenance of a residence in the city if the employe's actual living quarters are not in the city. The city service commission shall make final determination in dual or multiple residence cases as to which location constitutes an employe's actual living quarters, and it shall be the location which will be considered in establishing whether an employe complies with the intent of this section and city service rules relating to residency. The city service commission shall promulgate and publish a policy statement describing factors which it will consider when making residency determinations. This statement will in no way limit the commission's consideration to any specific set of factors. Decisions involving dual or multiple residency shall be based upon the totality of circumstances present in each case. The decision of the city service commission

5-02-4 City Employes And Officers

shall be final in respect to whether or not such employe's residence satisfies the provisions and requirements of this section.

4. TIME TO MOVE TO CITY, ETC.

a. Any city employe who resides on any property belonging to the city of Milwaukee, although located outside the limits of said city, shall not be affected by the restrictions of this section. Any area which has been by ordinance annexed to or consolidated with the city shall be regarded as being a part of the city unless such ordinance shall be finally declared invalid by a court of competent jurisdiction. In the event of such occurrence, an employe shall be granted a reasonable period of time in which to move into the city. The city service commission shall establish what constitutes a reasonable period of time for that purpose.

b. Any employe of the city residing in an area which is no longer a part of the city shall have a reasonable time within which to move into the city. The city service commission shall establish what constitutes a reasonable period of time for that purpose.

5. ACTION BY DEPARTMENT HEAD.

Whenever a department head finds that an employe is not a resident of the city within the meaning of this section, the department head shall immediately file a written complaint against that employe to effectuate the separation of that employe from the service.

6. EXTENSION. Whenever it shall appear to the city service commission that good cause exists for granting extensions of time to employes of the city to obtain residences within the city, or if it shall appear to the city service commission that a new or prospective employe of the city would require a reasonable period of time in order to acquire a residence in the city so as to qualify for a position in city service, the city service commission may allow such employe a period of not to exceed 6 months in which to satisfy the requirements of this section.

7. HARDSHIP EXCEPTIONS.

a. Whenever it shall appear to the city service commission, considering the standards hereafter enumerated, that an employe should be granted temporary exception from the requirements of this section, the city service commission shall make a finding based upon the standards and shall file a report with the committee on finance and

personnel, listing the name of the employe and the reason or reasons for the exception, such report to be filed within 15 days of such action.

b. In the event that a city employe weds an employe of another jurisdiction which also has a residency requirement, mandating that its employe reside within that jurisdiction's boundaries, and if that employment is in effect at the time of the marriage, the city service commission may grant the city employe an exemption from the city's residency requirements, provided that the following conditions are and remain in effect:

b-1. That the other jurisdiction is willing to enter into an appropriate reciprocity agreement with the commission concerning such transactions.

b-2. That the city employe actually resides with his or her spouse in the spouse's jurisdiction.

b-3. That both employing jurisdictions retain their respective residency policies.

b-4. That the response time required for the exempted employe to arrive at work in emergency situations be reasonable as determined by the commission.

b-5. That the residency requirements of the other jurisdiction would preclude the married couple from living in the city of Milwaukee.

8. REVIEW STANDARDS. a. The following factors may be considered by the city service commission in deciding to grant or not to grant an exception to the residence requirement:

a-1. Availability of persons eligible.

a-2. Requisite technological or professional education.

a-3. Responsibility of the job.

a-4. Quantity of persons eligible.

a-5. Quality of the service to be performed.

a-6. Ability to supervise.

a-7. Need to know conditions within the city.

a-8. Diminution of absenteeism and tardiness.

b. This attempt to establish standards for exceptions of the residency requirement recognizes that such standards need not be specified with exactitude. It further recognizes that mere eligibility and availability does not necessarily offer the range of selection which will contribute to the development of the best service.

c. Exceptions granted to employes previously will be reviewed immediately upon passage and publication of this subsection and all exceptions will be reviewed once every year.

9. FIRE AND POLICE REGULATIONS. The provisions of this section shall be fully applicable to members of the police force and the fire department. However, in the case of a member of the police force or fire department, or any clerical employe thereof, the determination as to residence shall be made by the fire and police commission, and the responsibility for the administration, interpretation and enforcement of this section shall be vested in the fire and police commission.

10. COMPLIANCE. In construing and applying the provisions of this section, the provisions of any section inconsistent herewith shall be deemed amended so as to be in all respects consistent with the provisions of this section.

(HISTORY: Section 5-02 rc. Ch. Ord. 226, File #56-1775-a, Sept. 18, 1956.

5-02-2 am., File #971321, Mar. 20, 1998; eff. June 4, 1998.

5-02-3 am. Ch. Ord. 253, File #59-395-a, June 9, 1959.

5-02-3 rn., File #971321, Mar. 20, 1998; eff. June 4, 1998.

5-02-3 cr., File #971321, Mar. 20, 1998; eff. June 4, 1998.

5-02-4 rc., File #941973, Dec. 17, 1996; eff. Mar. 10, 1997.

5-02-4 rn., File #971321, Mar. 20, 1998; eff. June 4, 1998.

5-02-5 rn., File #971321, Mar. 20, 1998; eff. June 4, 1998.

5-02-6 rc., Ch. Ord. 427, File #73-2118-a, Nov. 11, 1975.

5-02-6 am., File #941973, Dec. 17, 1996; eff. Mar. 10, 1997.

5-02-6 rn., File #971321, Mar. 20, 1998; eff. June 4, 1998.

5-02-7 rc., Ch. Ord. 427, File #73-2118-a, Nov. 11, 1975.

5-02-7 rn., File #971321, Mar. 20, 1998; eff. June 4, 1998.

5-02-8 rn., File #971321, Mar. 20, 1998; eff. June 4, 1998.

5-02-9 rn., File #971321, Mar. 20, 1998; eff. June 4, 1998.)

5-03. Examination Notice. 1. TO BE POSTED. Notice of each examination to be held by the

~~board of city service commissioners of the city of Milwaukee shall be given by posting such notice in or immediately adjacent to the office of the said board at least 10 days prior to the last day announced for receipt of applications, and said posting shall be such as to make the said notice readily accessible to public view. Nothing herein shall prohibit or restrain the said board or its chief examiner from giving such further publicity as it or he may deem to be useful.~~

2. APPLICATION FORM. Every application for examination by the board of city service commissioners, in order to entitle the applicant to be examined, must be on a form prescribed by the said board, and shall include such facts regarding age, residence, citizenship, education, experience and other subjects as are customarily called for in civil service application blanks. Such other information shall be furnished by the applicant as may reasonably be required regarding the applicant's fitness for the public service.

(HISTORY: Section 5-03 am. Ch. Ord. 120, File #74714-a, July 13, 1942.

5-03 am. Ch. Ord. 149, File #48-2837-a, March 28, 1949.)

5-05. Compensation for Services. No officer or employe receiving a salary from any city whether organized under general or special law, shall receive for service of any kind or nature rendered such city any compensation therefor other than the salary fixed and provided for such office, except as provided in the salary ordinance. This section shall apply to all officials now serving or hereafter elected or appointed to public place. Provided, that for the purposes of this section moneys or funds held by any such city as pension funds shall not be considered or construed to be city money or funds, and that the payment to or receipt by any person of any money from any such funds shall not be construed as the payment or receipt of money or compensation from such city. Provided further, that this section shall not apply to nor be construed to prohibit the employment of any such official or employe by any school board of such city for the purpose of supervision, teaching or other duties in any evening or night school, social center, summer school, or other extension activity, and that the payment to or receipt by any such person of any money for such service shall not be

RULE XIV.

RESIDENCY

- Section 1. All employees of the City of Milwaukee, including all members of the Fire Department and Police Department, are bound by City of Milwaukee Charter provisions regarding residency and are required to establish and maintain their actual and bona fide residence within the boundaries of the city throughout the period of employment by the city. It is strongly presumed that adequate housing, transportation, educational opportunities, health care and other amenities exist within the City of Milwaukee so as to permit all employees to establish and maintain a bona fide residence within the boundaries of the city as required. (Rev. 10/3/02)
- Section 2. Unless an extension of time to establish residency or a temporary exemption from the residency requirement has been granted by the Board, failure of any employee of the Milwaukee Fire Department or Milwaukee Police Department to reside within the boundaries of the City of Milwaukee shall render that employee ineligible for continued employment and shall result in termination of that employee. (Rev. 10/3/02)
- Section 3. All new employees of the Fire Department or Police Department who are not already employees of the City of Milwaukee shall be granted a period of time not to exceed six (6) months from the date of hire to establish a residence within the boundaries of the City of Milwaukee. All individuals who are hired as members of the Fire Department or Police Department are expected, upon being hired, to immediately begin taking all steps necessary to meet the residency requirement within six (6) months of the date of hire. Extensions of the six (6) month time period for establishing a bona fide residence within the City of Milwaukee are not favored and will not be granted absent extraordinary circumstances. (Rev. 10/3/02)
- Section 4. Any newly hired member of the Fire Department or Police Department who believes it may be necessary to request an extension of the time period for establishing residency, or any other member who believes it may be necessary to request a temporary exemption from the residency requirement, shall file such request in writing with the Fire and Police Commission, together with copies of all supporting documentation, at least thirty (30) calendar days prior to the date on which the extension or temporary exemption is anticipated to begin. Failure to file the request on a timely basis, absent extraordinary circumstances, shall be grounds for denial. The requestor shall forward a copy of the request to the Chief of the respective department. (Rev. 12/4/08)
- Section 5. Any request for an extension or temporary exemption shall specify, in detail, the reason(s) for the request and shall be accompanied by copies of all documentary

evidence in support thereof including, but not limited to, real estate listing contracts, apartment leases, medical reports, educational reports, etc. Failure to supply appropriate supporting documentation together with the request shall be grounds for denial of the request. The burden of proof regarding whether or not a request for an extension or temporary exemption should be granted shall at all times be on the requestor. There is a strong presumption against the granting of all such requests absent extraordinary circumstances. (Rev. 10/3/02)

- Section 6. Any request for an extension or temporary exemption or supporting documentation which contains medical information shall be treated and maintained as confidential by the Fire and Police Commission, the Fire and Police Departments, and their respective staffs. Such information shall be utilized solely for the purpose of evaluating the request for extension or temporary exemption, and no further release of such information may be made other than to individuals, entities, corporations or health care providers referred to therein for the purpose of verifying and/or clarifying information contained in the request. (Rev. 10/3/02)
- Section 7. Upon receipt of a request and appropriate supporting documentation, the request shall be referred to Fire and Police Commission staff for investigation and preparation of a report to be submitted to the Board. Any employee making a request shall, upon request, immediately provide any and all releases necessary for Commission staff to obtain additional information, including medical information that may have a bearing upon the request. Failure by the employee to immediately supply the necessary releases shall be deemed a failure to cooperate and shall result in denial of the request for extension. (Rev. 12/4/08)
- Section 8. The Board shall not be limited to information supplied by the requestor. Staff may seek and obtain additional information which is relevant to the request. Upon completion of its investigation, staff shall prepare a written report. Copies of any additional information obtained by staff, along with a copy of the report to the Board, shall be supplied to the requestor. (Rev. 12/4/08)
- Section 9. The Board shall review the request, supporting documentation, and the report of staff prior to making its decision at a public meeting with the understanding that the report is conclusive and should be adopted unless good cause to the contrary is shown. The employee requesting the extension or temporary exemption shall be notified of the meeting and invited to address the Board. Board members may pose questions to the employee. A roll call vote will be taken on the request. The decision of the Board may be to grant the request as made, or grant the request with modifications, or deny the request in whole or in part. The decision of the Board will be reduced to writing and a copy forwarded to the employee and the respective Department within ten (10) calendar days of the vote by the Board. (Rev. 12/4/08)

- Section 10. All employees of the Fire Department and Police Department shall complete a "Residency Requirement Compliance Certification" in a form approved by the Board. A new certification shall be completed within 72 hours of a change in residence. Each certification shall be maintained and reviewed by the respective department. (Rev. 9/16/10)
- Section 11. Any employee of the Fire Department or Police Department that uses living quarters outside the corporate limits of the City of Milwaukee on a regular or frequent basis, excluding a vacation property or cottage, shall indicate with particularity such usage when completing the "Residency Requirement Compliance Certification." Any employee with questions as to whether their current living arrangement complies with Section 5.02 of the City Charter shall contact their department supervisor prior to completing the certification form. (Rev. 9/16/10)

City Residency Requirement

As a condition of your employment with the City, you must be a resident of Milwaukee (not a suburb). If you are a new employee and currently reside outside of the City, you must move into the City. Employees residing outside the City should have their department contact the Department of Employee Relations - Administration Division (286-3398) on relocation time allowance.

Only the City Service Commission has the authority to waive, for very special reasons and for short periods of time, the residence requirement. The Commission is also the only body empowered to rule on actual residence. Unless you meet established residence requirements, you are not entitled to receive your pay.

Section 5.02 of the City Charter requires City residency for its employees. Since the Milwaukee City Service Commission has enforcement responsibility for this provision, the Commission has directed that the following points be communicated to all employees:

1. Employees of the City of Milwaukee, whether regularly appointed or exempt, are required to maintain a bona fide residence within the City of Milwaukee and are required to live at the residence.
2. Employees who believe they have a legitimate reason for residing outside of the City for any period of time are required to request and receive permission from the City Service Commission in advance of establishing such a residence.
3. Employees found to be in non-compliance with the residency ordinance may be subject to immediate termination or discharge.
4. Employees with questions about the City residency requirements should contact either their immediate supervisor or the Department of Employee Relations at (286-3398).

Personnel Policy #87/4 (9/16/87):

City of Milwaukee employees are required to maintain their actual bona fide residences within the City boundaries. Pursuant to Charter Ordinance, sec. 5.02, and Civil Service Rule VIII, sec. 11, the City Service Commission is authorized to make determinations relative to cases involving dual residency. The following is the Commission's policy with respect to such cases.

Dual Residency Policy Statement:

In cases in which dual (or multiple) residency is an issue, a determination shall be made as to which location constitutes the actual residence and it shall be that location which will be considered in establishing whether an employee is in conformity with the intent of the Charter Ordinance and Civil Service Rule. Maintaining a rented room or rooms or maintaining living quarters with a friend or relative, when done principally for the purpose of establishing City residency shall not be considered as conforming. Neither ownership of real property in the City with payment of taxes, nor voting in the City shall be deemed adequate, unless the actual living quarters are in the City. The determination of actual residency shall include but not necessarily be limited to an overall consideration of the following factors:

1. At which location does the employee's family reside and attend school?
2. At which location does the employee keep his or her tangible personal property and effects?
3. At which location does the employee receive his or her correspondence?
4. At which location does the employee spend his or her time?
5. Which location does the employee list for official documents?
6. Which location is more suitable in terms of aesthetics, habitability, comparative comfort, convenience and regular access?
7. At which location is habitation fixed without any present intent to move?
8. At which location is there an apparent intent to make a permanent domicile?

In the event that one location is owned and the other is rented, some presumption of residency shall be applied to the owned property.

Decisions involving dual residency require judgment based upon the totality of circumstances present in each case. The aforementioned are among the indicia that will be considered in applying that judgment on a case-by-case basis. This underscores the fact that the intent of the Rule and Ordinance is to ensure that all employees are actual bona fide residents of the City of Milwaukee and that the City Service Commission will not tolerate subterfuge as a means of evading this unequivocal intent.





Date?

Van H. Wanggaard

Wisconsin State Senator

Testimony in Support of Senate Bill 30

Members of the Committee on Labor, Public Safety, and Urban Affairs:

Thank you for the opportunity to testify today in favor of Senate Bill 30, which repeals the requirement that Milwaukee police officers and fire fighters reside in the City of Milwaukee. As a retired police officer from the City of Racine, I am pleased to provide a law enforcement perspective in favor of this proposal.

As some of you may know, the City of Racine had a residency requirement for Racine law enforcement. The requirement stated that sworn officers with the Racine Police Department needed to reside within the Racine Unified School District.

Regrettably, it took a Wisconsin Supreme Court case to overturn this law more than a decade ago. Today, fire and police chiefs in Racine are the only public safety personnel required to reside in the city.

When the residency requirement was removed, there were some individuals within the city that worried about the effect this change would have on the community. Some were concerned that Racine Police Officers, with less of a stake in the community, would be unfair to city residents in their enforcement of the law. However, this has simply not been the case.

I will readily admit the following: When the residency law was repealed, a few officers chose to live outside the Racine Unified School District, but most continued to live in the area of prior residency. In fact, I continue to reside in the same home on the west side of Racine today.

In addition, even after the residency requirement was removed, I continued to work closely with my colleagues on the force and my partners in the community, the citizens of Racine. Simply put, if you are committed to the community you serve, your physical location does not alter that commitment.

Many individuals here today will speak of the "cost" of repealing this requirement. My question to them is simple: What is the cost of keeping it? What is the cost of continuing to require police officers and firefighters to choose between their jobs and what may be best for their family? What is the cost of losing well-trained officers who choose to retire instead of staying on the force for several extra years?

Thank you for your consideration.

Serving Racine County - Senate District 21



9434 West Arch Avenue
Milwaukee, WI 53224
March 27, 2011

Senator Van Wanggaard
Room 319 South
State Capitol
P.O. Box 7882
Madison, WI 53707

SB 30 folder
Date?

Senator Wanggaard,

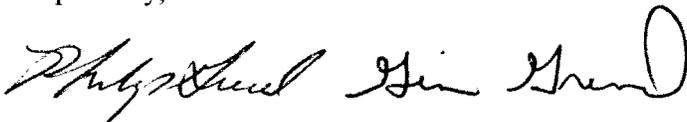
Hi, my wife and I are residents of the City of Milwaukee, and I am a 25+ year General City employee of that municipality. We are concerned about the residency requirement issue and what that would do to us as a single income, middle-class family in Milwaukee.

We know that the climate now in Wisconsin is to create jobs and to keep taxes in check (or lower them) by spreading the burden around to public employees who did not suffer as much as in the private sector these last few years. My wife and I understand that things need to be done to lower the tax burden even though shared revenue is being reduced.

However, we do not understand why there is so much talk about lifting the residency requirement in Milwaukee. Why is the State concerned? Why is this the State's business? The City of Milwaukee is already going to suffer because of the drop in shared revenue and the continued full bargaining rights for Fire & Police. I, as a General City employee, am expecting to lose 20-25% of my take home pay in the next 2-3 years. To now have to worry about my home losing more value and to lose even more income in the future due to lifting the residency requirement is ludicrous – that is like kicking somebody when he is down.

Please vote NO on lifting residency requirements. As a taxpayer this does not reduce the debt in Wisconsin one iota but will hurt Milwaukee tremendously in more ways than you think.

Respectfully,



Philip & Gina Greuel



** Circulated by Brenda Wood - City of Milwaukee **

RESIDENCY REQUIREMENTS SURVEY TABLE

City	Residency Requirement		% Outside City Limits	Comments
Baltimore, MD	NO	Repealed 1995	60%	Preference given to city residents for certain city jobs.
Boston, MA*	YES		N/A	<ul style="list-style-type: none"> • Must be a resident of Boston on the first day of employment. Certain unions exempt through collective bargaining agreements. (police and fire must be residents). • Boston Residency Requirement http://www.cityofboston.gov/ohr/residency.asp
Chicago, IL	YES	Est. 1919	N/A	The ordinance was not strictly enforced until 1976. An employee must be a resident of the City of Chicago at the time of hire. If an employee is coming from out of state, a short grace period is allowed.
Cincinnati, OH**	NO	Repealed 2009	TBD	<ul style="list-style-type: none"> • 3/9/2011 – No Response. • 3/16/2011 – No response – left voice mail, urgent request for information.. • Sworn members of police and fire departments who are deemed emergency responders must reside in adjacent counties to ensure adequate response times to emergencies and disasters. In the case of Cincinnati, these counties are: Hamilton, Butler, Warren or Clermont Counties.
Cleveland, OH**	NO	Repealed 2009	TBD	<ul style="list-style-type: none"> • 3/9/2011 – Cleveland Contact in the process of compiling data. • 3/16/2011 – Left a follow-up voice mail requesting data.
Detroit, MI	NO	Repealed 1999	45%	Preference given to city residents, 15 domicile credit points on city job applications.
Minneapolis, MN	NO	Repealed 1999	70%	You do not have to be a resident to apply for a position with the City of Minneapolis; anyone who meets the requirements for a position can complete an employment application and submit it for consideration. (The only exception is Firefighter, which requires that applicants be residents.)
New Orleans, LA*	YES		N/A	
Philadelphia, PA*	YES	Est. 1953	N/A	<ul style="list-style-type: none"> • Employees must establish residence within 6 months of appointment. U.S. Supreme Court • <i>McCarthy v. Philadelphia Civil Svc. Comm'n</i>, 424 U.S. 645 (1976) No. 75-783; Decided March 22, 1976; 424 U.S. 645 - Syllabus: Philadelphia municipal regulation requiring city employees to be residents of the city held to be constitutional as a bona fide continuing residence requirement and not to violate the right of interstate travel of appellant, whose employment as a city fireman was terminated under the regulation because he moved his residence from Philadelphia to New Jersey. 19 Pa. Commw. 383, 339 A.2d 634, affirmed. http://supreme.justia.com/us/424/645/
Pittsburgh, PA	YES		N/A	<ul style="list-style-type: none"> • Residency Verification http://www.city.pittsburgh.pa.us/personnel/html/residency_verification.html • In addition, State law requires Pittsburgh police to live within Pittsburgh.
St. Louis, MO	YES – Fire & Police Excluded	Est. 1942		<ul style="list-style-type: none"> • Exclusions: Fire & police only. • 75% of fire & police live outside of city.
Toledo, OH**	NO	Repealed 2009	24%	
Washington, D.C.	YES – Excepted & Executive Services only.	Est. 1999	57%	An appointee to Excepted Service and Executive Service employees must reside within the District of Columbia. Excepted Service includes attorneys appointed to SEAS, Mayor, policy/confidential positions. Executive Service employees are subordinate agency heads.

*City and county governments are combined.

**Lima v. State, Slip Opinion No. 2009-Ohio-2597, Ohio Supreme Court ruled 5-2, on June 10, 2009, that a 2006 state law preventing local government residency requirements overrides the home rule powers of municipalities.

(Source: http://www.sconet.state.oh.us/PIO/summaries/2009/0610/080128_080418.asp)



BEFORE THE ARBITRATOR

In the Matter of the Petition of

MILWAUKEE POLICE SUPERVISORS'
ORGANIZATION

To Initiate Arbitration Between
Said Petitioner and

CITY OF MILWAUKEE

SB 30
folder

July 20
2010

Case 546
No. 68813 MIA-2880
Decision No. 32859-A

Appearances:

Rettko Law Offices, S.C., by Mr. William R. Rettko, 15460 West Capitol Drive, Suite 150, Brookfield, Wisconsin 53005-2621, on behalf of the Union.

Office of the Milwaukee City Attorney, Mr. Grant F. Langley, by Mr. Thomas J. Beamish, 800 City Hall, 200 East Wells Street, Milwaukee, Wisconsin 53202-3653, on behalf of the Employer.

ARBITRATION AWARD

Milwaukee Police Supervisors' Organization, hereinafter referred to as the Union, and City of Milwaukee, hereinafter referred to as the City or Employer, met in collective bargaining in an effort to reach an accord on the terms of a new collective bargaining agreement to succeed an agreement, which by its terms was to expire on December 31, 2006 said agreement covered supervisory law enforcement personnel employed by the City of Milwaukee and represented by MPSO. Failing to reach such an accord, the Union on April 17, 2009, filed a petition with the Wisconsin Employment Relations Commission (WERC) requesting the latter agency to initiate arbitration pursuant to Section 111.70(4)(jm) of the Municipal Employment Relations Act, and following an investigation conducted in the matter, the WERC after receiving a list of subjects that the parties had reached impasse on, issued an Order, dated August 25, 2009, wherein it

Here, 90% of all City employees, including 88% represented employees, are already under the same health plan as proposed to MPSO. The Union raises issues with the Wellness Program and EPO, but those are the same issues faced by and accepted by all employees.

MPSO's two main arguments why the City's offer should not be accepted by the Arbitrator is that (1) no quid pro quo is offered and (2) since the term of this agreement, 2007-2009, is already passed, the changes sought by the City should be negotiated in the next, 2010-2011 agreement.

With respect to the quid pro quo argument, MPSO makes a good argument that MPA and Local 215 accepted health insurance changes with their wage package increase. They were not asked to accept the changes with the City wage offer presented to MPSO. This argument, however, is now moot because the Arbitrator has awarded the same wage settlement to MPSO as received by MPA and Local 215, MPSO's comparables.

As for the wait and negotiate next time, the parties may likely find themselves in the same position as now; negotiating and not reaching an agreement until well into the term of the agreement. Meanwhile, no changes are made at a time when 90% of the City's employees are already covered.

Based on all of the above, the Arbitrator selects the City's Health Insurance offer as the more reasonable of the two.

Residency

The Union's final offer requests that its members be allowed to buy out of the City's residence requirement by taking a 2% decrease in their base wages, but still being required to live in a radius which includes: Milwaukee County, Ozaukee County, Washington County,

Waukesha County, and Racine County. This encompasses a 25-mile radius which is consistent with the external comparables and the response time required.

The MPSO argues there is compelling reason for a change allowing police supervisors to opt out of the residency requirement. Police personnel are different than all other City employees including firefighters. They have to arrest dangerous persons, career criminals, and in doing so, create dangerous enemies in the process. No other City employee but police officers have criminals track them down at their homes where their families are put at risk.

Moreover, no other City employee but police personnel were issued Varda alarms with their names placed on roll call boards within the Milwaukee Police Department to notify everyone the name of the officer that has been threatened by a criminal so that everyone within the Milwaukee Police Department knows the officer who has been issued a Varda, and that the Varda alarm has been installed in that officer's home. Yet, Varda alarms when triggered send an immediate response to dispatchers so that the threatened officer gets an immediate response to their home. However, a Varda alarm being installed in their home does not assure safety, it only assures that if the alarm gets tripped, the threatened officer would get an almost immediate response to their home by the Milwaukee Police Department.

Additionally, no other City employee has received a memo from their department head like the memo Chief Flynn issued to Milwaukee Police Department members on September 15, 2009. (1/26/10, Seitz, at 368; 1/17/10, Flynn, 498-99; Union Exhibit 50). Yet, due to a rash of crimes against Milwaukee Police Department officer homes, Chief Flynn was forced to notify all Milwaukee Police Department members in his September 15, 2009 memo that they had to safeguard their homes by removing any overt signs inside their homes that a police officer lived there.

Also, no other City employee has to be called to their neighbor's home in a domestic violence call and arrest their neighbor.

As such, the dangers a Milwaukee Police Department sworn member takes by being forced to live in the City is a danger no other City employee is forced to undertake by the residency rule. For the safety of MPSO members, compelling reason exists for the requested change to the residency article.

Furthermore, MPSO argues that its offer is reasonable.

The externals - Vernon 18, state and suburban - show that few have a complete residency requirement. Those that require a radius, the average radius is 25 miles; the radius from Milwaukee to the counties proposed by the MPSO.

Additionally, in regard to Chief Flynn's concerns about the importance of citizens knowing they are dealing with officers who can relate to their circumstances because they live in the City, the Chief in these proceedings admitted professional officers would be professional no matter where they lived. Further, currently, Milwaukee Police Department does not assign members to work locations based on the neighborhoods they live within.

MPSO contends that its offer is reasonable because it would help the Milwaukee Police Department attract and retain better qualified candidates. Milwaukee Police Department competes with suburban police forces for the same labor pool. Milwaukee Police Department has recently geographically broadened its recruiting search, and in so doing learned that the residence requirement created problems as good candidates did not want to live in the City they policed, and thought Milwaukee was unsafe.

Further, residency is a reason persons leave the Milwaukee Police Department. Several sergeants and ex-MPD officers testified that they left because of quality of life, safety of the

family, and because of the poor public school system in Milwaukee. Their children had to be enrolled in private schools at a considerable expense.

Finally, MPSO argues that it has included an appropriate quid pro quo for opting out of the residency requirement. MPSO's offer that employees must forego 2% in wages for opting out of residency is consistent with West Allis, an external comparable, where law enforcement personnel receive 2% less in wages to live somewhere else.

The City opposes MPSO's offer allowing its members to opt out of the residency requirement.

To begin with, it argues that this is a major policy change which should not be imposed through interest arbitration. This was enunciated by Arbitrator Kessler¹⁵ and by Arbitrator Krinsky who, in the City of St. Francis,¹⁶ found that the residence change sought by the Union should be left to bargaining unless there is compelling reason to order such a change.

Here, the City argues there is no compelling reason to change. The residency requirement has been in effect since 1938, some 70 years. The Union's compelling reasons are primarily financial. If had members testify that City property taxes were high and that the cost of educating their children was high because, due to the quality of education provided by the Milwaukee School system, they had to send their children to private schools. But, the City's residency requirement is no greater or worse for MPSO represented employees than it is for other employees. They have the same options as other City employees including the opportunity

¹⁵ Columbia County (County Home Non-Professionals), Decision No. 28960-A (Kessler, 1997).

¹⁶ City of St. Francis (Police Department), Decision No. 26577-A (Krinsky, 1991).

provided to City employees to be able to apply to up to three suburban public school districts to enroll their children in a school that has available space in the particular grade level sought.

The other main compelling reason offered is that police supervisors arrest people which places them in a position where their safety and their families' is at stake. This can happen because those they have arrested seek them out at their homes or they, by chance, may run into one of them at the grocery store.

The City counters claiming that as police supervisors they seldom make arrests. MPA represented officers are the ones who arrest and they are not exempt from the City's residency requirement. Further, the grocery store scenario is a possibility but the chances are slim.

The same can be said of another reason offered by MPSO. That is, they may be called to a domestic situation with a neighbor and placed in a position where they would have to arrest a next door neighbor. Again, the chances of this are remote and speculative.

With respect to the impact of residency in recruitment and detention, there is no evidence to support the Union's claim that the City is suffering in this area. To the contrary, there are currently more than 4,500 to 5,000 people seeking to join the Milwaukee Police Department. This is 2.6 – 2.8 times the number of applicants the Department received in 2000. It is noted that supervisors are normally promoted from the ranks below.

Lastly, even if there were merit to the Union's position, a sufficient quid pro quo has not been offered. A 2% reduction in base salary of a sergeant at the top step only amounts to approximately \$1,500. This is very little when compared to the approximate \$880 million City employees collectively add to the property base.

As pointed out by both parties, the City's residence requirement was an issue in their last interest arbitration before Arbitrator Greco. Arbitrator Greco did not find that there was a recruitment and retention problem, but even if there were, he found the rule must be retained because MPSO did not offer a quid pro quo and it did not present any compelling reason why some of its members should be exempt from residency. Further, he cited Chief Flynn's testimony that it is good policy for police officers to live in the community they are policing.

Some 70 years ago, the City adopted a policy requiring its employees to "live where you work." It has been in effect continuously since 1938 covering all City employees with no exceptions. Collectively, City employees account for approximately \$800 million in property value.

Needless to say that the internal comparables favor the City's position to retain the residency requirement. All of the 2007-2009 collective bargaining agreements reached by the City with its Unions, including MPA, Local 215 and District Council 48, retain the residency requirement. That being the case, MPSO has the burden of establishing a compelling need for its proposed change to exempt police supervisors from the residency rule.

The Union's compelling reason is primarily two-fold. One, that due to the nature of their job, they and their families are at risk from retribution from criminals that they have arrested. They run the risk of having such criminals track them down at their homes. The other reason is "quality of life." As to the former, there is no question MPSO represented supervisors have a tough and dangerous job. They are at risk by the very nature of their job. But the question in context of this proceeding is whether there is a compelling reason why they should be set apart from all other City employees.

The evidence in this regard is not persuasive. There is no question that the police supervisors have made many arrests as they moved through the ranks. However, as supervisors they do not normally make arrests in the normal course of their work. It is the rank and file police officers and detectives who make arrests on a daily basis. Said officers who number approximately 1,650 and who are far more involved with arrests are not exempted from the residency requirement.

Also, importantly, there is no reason to believe that living outside the City will protect police supervisors and their families from criminals tracking them down to their homes. Criminals can just as easily track someone across City lines as within the City boundaries.

Again, this is not to say this concern is not real because it is, as evidenced by the Chief's memos regarding same. However, the concern does not meet the compelling need test given the frequency that it might occur and the fact that police officers, who face a much greater threat of criminal retribution because they make most of the arrests, are subject to the same residency requirement.

The Union also gave examples of a supervisor being possibly called upon to arrest a neighbor in a domestic violence case and running into a criminal who he/she arrested in a grocery store. Again, situations like this may occur, but infrequently. Most of the unit supervisors may very well go through their career without having to respond to a police call by a neighbor.

The Union's other compelling reason argument for its residency proposal, relates to quality of life. The evidence offered in this regard was primarily that due to the poor public school system in Milwaukee, police supervisors, at considerable expense, must send their children to private schools for a good education. But, this is no different for the police

supervisors than the other City employees. The supervisors' need is no greater than the other 7,000 City employees.

Lastly, there is an important policy reason for maintaining residency which was expounded by Chief Flynn:

I also just get a sense that as we look across the way we conduct law enforcement in this country, I think it's pretty clear that people want to feel on some level they're policed by their own. And I think that's a connection that our officers have with the residents of Milwaukee that's strong, and I think forms some of what I think is some very significant citizen support for the efforts of the Police Department. I think this Police Department is thought well of by its community, and I think the fact they all live here is one reason why people think well of them. They see them in the community. They see them as neighbors. They see them as, you know, fully functioning family people, not just as authority figures.
(Tr. 496).

Based on the above, the Arbitrator concludes that MPSO has not established a compelling reason for exempting the police supervisors from the City-wide residency requirement.

Having considered the statutory criteria, the evidence and arguments presented by the parties, the Arbitrator, based on the above and foregoing discussion, makes and issues the following

AWARD

That the following Award be incorporated into the parties 2007-2009 three-year collective bargaining agreement, along with those provisions agreed upon during their negotiations, as well as those provisions in their expired agreement which they agreed were to remain unchanged.

1. Across-the-board wage increases of 3% for 2007; 3.25% for 2008; and for 2009, a 3% increase, after adding \$100 to pp. 26 2008 rates of pay.
2. The City's proposal relating to direct deposit of pay checks, Article 9.
3. The City's proposal relating to Article 17, health insurance.
4. The City's proposal relating to parking, Article 55.¹⁷
5. The City's Interpreter/Translator Pay; Off-Duty Employment; Political Leaves of Absence; Drug Testing; and Early Intervention Program proposals are determined to be withdrawn.

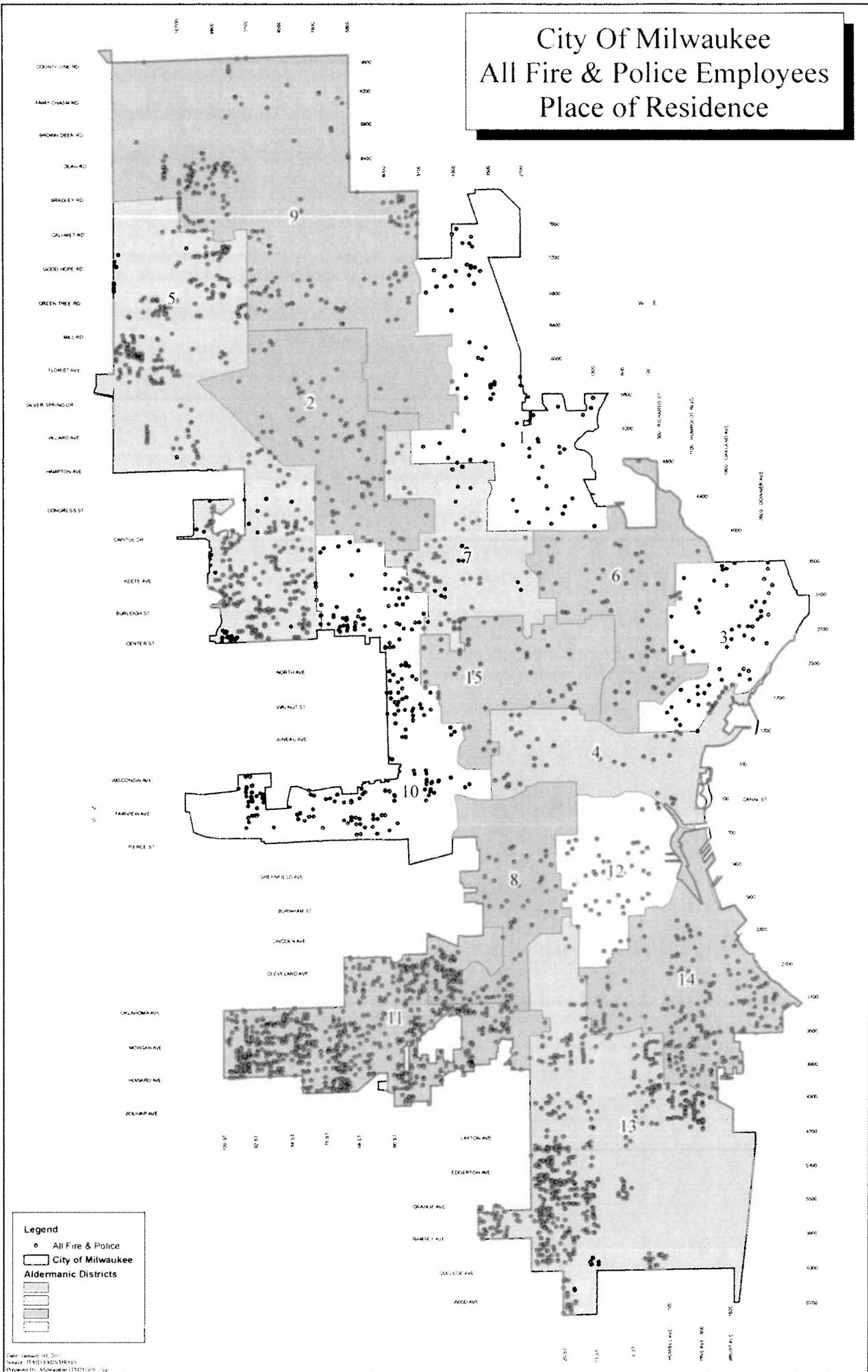
Dated at Madison, Wisconsin, this 20th day of July, 2010.

Herman Torosian, Arbitrator

¹⁷ As noted earlier in the decision, MPSO indicated at the hearing that it did not oppose the City's parking offer.



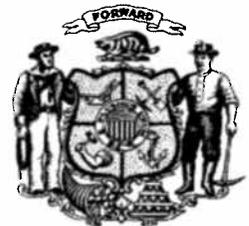
City Of Milwaukee All Fire & Police Employees Place of Residence



SB 30 folder - Jan. 4, 2011



WISCONSIN STATE LEGISLATURE



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Aldermanic District	Fire and Police	% of all Fire & Police	General City	% of all General City	Total	% of Total
1	73	2.40%	201	5.27%	274	3.99%
2	76	2.49%	225	5.89%	301	4.38%
3	64	2.10%	226	5.92%	290	4.22%
4	48	1.57%	113	2.96%	161	2.35%
5	444	14.57%	384	10.06%	828	12.06%
6	53	1.74%	123	3.22%	176	2.56%
7	75	2.46%	197	5.16%	272	3.96%
8	121	3.97%	128	3.35%	249	3.63%
9	206	6.76%	222	5.82%	428	6.23%
10	218	7.15%	340	8.91%	558	8.13%
11	738	24.21%	532	13.94%	1270	18.50%
12	40	1.31%	44	1.15%	84	1.22%
13	636	20.87%	563	14.75%	1199	17.47%
14	213	6.99%	393	10.30%	606	8.83%
15	43	1.41%	126	3.30%	169	2.46%
	3048	100.00%	3817	100.00%	6865	100.00%

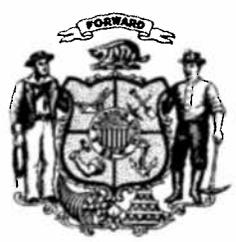
NOTE: The addresses used in this calculation are "self-reported" employee home addresses. The totals represented here are the addresses that exactly matched the master address file or 96% of the total city employee addresses. Fire and Police in this chart include sworn and unsworn MPD and MFD staff.

Data Source: HRMS-2010
 Prepared by: DOA/ITMD
 Date: 3/15/2011





WISCONSIN STATE LEGISLATURE



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Excerpted remarks from Chief Edward A. Flynn, as printed in the March 19, 2011 Milwaukee Journal Sentinel

I have over 40 years of governmental experience in four states. I offer a perspective that is not necessarily available to those in the midst of this debate. Too much of that debate has been dogmatic assertion and dogmatic denial. What we really need in the governing process is a little more practical wisdom and a little more skepticism about simple answers to complex problems. It is my hope that if I can point out some things that I have learned through my experience that some of these discussions might move in a more positive direction. No state has ever led itself out of a recession by facilitating the decline of its major city.

It is easy to understand why any city worker is attracted to the suburbs particularly given that so many of them are paying tuition to school their children. But this is a benefit not without negative consequences. It has a dramatic impact in the long term on the economic and social life of the city. It doesn't happen all at once, but gradually and inexorably as a critical mass of middle class city workers and their families leave the city. Those that can sell their houses, do. But the value of those houses decreases as the potential market for those houses decreases. Those unable to sell their houses take the equity as a down payment and rent their homes, destabilizing the neighborhood.

The officers who move soon find they are strangers in two communities. Gradually, an important connection between the police and those whom they police is lost. I am proud to be able to say at a community meeting, "My officers share your burdens and concerns as they share a great responsibility for the city." I don't believe the level of professionalism will decline, but the bonds of trust and legitimacy with the people who are being policed will be frayed. Viable cities are the result of a very delicate balance of economic and social diversity. Sudden disruptions in that balance have historically had negative consequences. When I was a police officer in Jersey City, state law released firefighters, teachers and police officers from the residency requirement. I saw firsthand what happened to Newark, Jersey City, Paterson, Trenton and Camden when these workers left their cities. None benefited from the loss of this critical part of their middle class. Most of these cities have never recovered. The same sad scenario has played out across the nation in other old industrial cities such as Buffalo, Baltimore, St. Louis, Cincinnati and Detroit.