

CITY OF MADISON

Residency Options and Incentives for City of Madison Employees

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Overview

With the passage of the 2013-2015 Wisconsin Budget, local units of government, including the City of Madison, are no longer permitted under State law to enforce residency restriction for employees, with limited exception for certain public safety positions. Prior to this, the City of Madison had various levels of residency requirements for employee groups for years. As a result, the City is contemplating different ways to incentivize employees to reside within the City limits. This report will provide a history of residency requirements in the City, discuss the changes that were made at the State level in the new Budget, discuss the importance of residency, review what other governmental bodies are doing to encourage residency for employees, and provide various options that the City may consider for our employees going forward.

History of Residency¹

Prior to 1983, the City of Madison required all employees to live within the City limits. A residency requirement was included in all collective bargaining agreements, and was required of non-represented employees under City ordinances. In 1970, the City purchased the Madison Metro transit company, and assumed Metro's collective bargaining agreement with the Teamsters Union. The purchase was facilitated by federal grant funds, which included a stipulation that Metro employees would not suffer a worsening of employment conditions because of the acquisition. From 1970-1983, employees at Metro continued to be considered private employees of Madison Service Corporation, a private firm hired by the City to manage Metro. In 1983, the National Labor Relations Board issued a decision stating that Metro employees were actually City employees. The 1983-1986 contract with the Teamsters indicated that employees employed on or before October 31, 1983 would not be subject to the City residency requirement unless the employees established residency in the City prior to October 31, 1987. However, the 1990-1993 Teamster contract removed any residency requirement.

At the time the Metro employees were declared City employees, the contracts with Firefighters Local 311 and the Madison Professional Police Officers Association (MPPOA) included me-too language. In fact Article XXV of the Local 311 contract specifically stated

All members of the Fire Department shall be required to live within the City limits as a condition of employment. However, in the event that the City waives the City residency requirement for any group of employees, the requirement for members of the Fire Department shall be deemed to be waived.

¹ Much of the information in this section comes from *City of Madison and Laborers International Union of North America, Local 236*, Interest Arbitration Decision No. 27406-A, James L. Stern, Arbitrator, June 8, 1993.

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The City initially resisted the Union’s attempts to enforce this me-too clause, with the cases ending up before an arbitrator, and appealed to the courts. The cases ultimately ended up at the Wisconsin Supreme Court, where the unions prevailed.

In 1993, the Laborers Local 236 filed for interest arbitration to have the residency language removed from their contract. The evidence in the arbitration showed that residency requirements throughout Dane County and the State of Wisconsin varied widely. For instance, only 3 cities (Milwaukee, Green Bay, and Eau Claire) required union represented employees to live within the City. Other municipalities or counties required some or all employees to reside within a certain distance of the workplace, and this may vary by work group. Different bargaining units represented by the same general union also had different requirements. Because of these variations, and because at this time, Police, Fire, and Metro no longer had residency requirements, Arbitrator Stern removed the residency requirement from the Laborer’s contract. Over the next few years, the residency provision was removed from the remaining labor agreements.

Non-represented professional, supervisory, and managerial employees are required to live in Dane County. In order to encourage this group of employees to live in the City, employee longevity increases will be reduced by a total of 1% if the employee lives outside the City. If that employee moves back to the City, the 1% will be returned prospectively.

As of the start of 2013, the following residency restrictions were in place:

Table 1—Residency Restrictions as of January 1, 2013

Employee Group	Residency Restriction	Consequence	Number of employees
Professional, supervisory, managerial	Must live within Dane County unless specifically exempted by the Mayor	1% longevity reduction if an employee does not live in the City	373
Department/Division Heads and Mayoral Assistants	Must live in the City of Madison	Failure to maintain residency will result in termination	30
Police Captains, Assistant Police Chiefs, and Fire Supervisors	Must live within a 15 mile radius of the Capitol	1% longevity reduction if an employee does not live within 15 mile radius	22
All Other Positions	None	N/A	2275

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The Wisconsin 2013-2015 Budget and its Impact on Residency

The Wisconsin 2013-2015 Budget included the following new section of the State Statutes:

Section 1270. 66.0502 of the statutes is created to read:

66.0502 Employee residency requirements prohibited. (1) The legislature finds that public employee residency requirements are a matter of statewide concern.

(2) In this section, "local governmental unit" means any city, village, town, county, or school district.

(3) (a) Except as provided in sub. (4), no local governmental unit may require, as a condition of employment, that any employee or prospective employee reside within any jurisdictional limit.

(b) If a local governmental unit has a residency requirement that is in effect on the effective date of this paragraph [LRB inserts date], the residency requirement does not apply and may not be enforced.

(4) (a) This section does not affect any statute that requires residency within the jurisdictional limits of any local governmental unit or any provision of state or local law that requires residency in this state.

(b) Subject to par. (c), a local governmental unit may impose a residency requirement on law enforcement, fire, or emergency personnel that requires such personnel to reside within 15 miles of the jurisdictional boundaries of the local governmental unit.

(c) If the local governmental unit is a county, the county may impose a residency requirement on law enforcement, fire, or emergency personnel that requires such personnel to reside within 15 miles of the jurisdictional boundaries of the city, village, or town to which the personnel are assigned.

(d) A residency requirement imposed by a local governmental unit under par. (b) or (c) does not apply to any volunteer law enforcement, fire, or emergency personnel who are employees of a local governmental unit.

As a result of this new law, the City can no longer require professional, supervisors, and managers to live within Dane County. In addition, the requirement for Police Captains, Assistant Police Chiefs, and Fire Supervisors no longer conforms with the new law. However, because the Department/Division heads work under negotiated employment contracts, it is the opinion of the City Attorney that these agreements are not affected by the new law. Furthermore, the law only prohibits the City from imposing a hard residency rule. It does not eliminate the longevity incentive that the City has in place to encourage professional, supervisory, and managerial employees to reside in the City.

The Importance of Residency

Mayor Soglin testified in the aforementioned interest arbitration hearing regarding the importance of having employees reside within the City. He gave four main reasons for having a residency requirement:

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1. Employees who live in the City are apt to be more knowledgeable about the City;
2. Employees who live in the City will have a personal stake in the City as they are customers as well as employees;
3. Employees living in the City contribute to the economic success of the City in that they will likely spend their money on housing, groceries, etc. within the City; and
4. Employees living in the City helps diversity initiatives and ensures that the workforce of City employees represents the actual composition of the City.

These arguments remain as true today as they did in 1993. In fact, the City is currently working with Departments and Divisions on employee engagement and one of the drivers of engagement is ensuring employees are connected to purpose, or to the overall mission, vision, and goals of their organization. Living within the City keeps employees connected to the City's Vision: "The City of Madison will be a safe and healthy place for all to live, learn, work and play." The City's Mission Statement specifically references the importance of its employees: "The City of Madison, through the efforts of dedicated employees and elected officials, will deliver the highest quality services and provide a fair and orderly system of governance for our citizens and visitors." By living in the City, and receiving the services that employees deliver, it helps keep employees connected to purpose and engaged in the work they do.

Programs in Other Places to Encourage Residency

Employers have looked at various ways to encourage employees to live close to where they work. This goes back to the 1800s with mining towns, and was extended by Henry Ford when he created company towns back in the early 1900s. It is convenient to have employees close to the workplace as it makes it easier for the employees to get to work. Private companies have programs to encourage employees to live close to the workplace, and recently public sector employers have begun to emulate such programs. Existing programs generally take 2 forms: Monetary incentives through wages or homebuyer incentives.

Monetary Incentives

As mentioned earlier in this report, the City of Madison has had a monetary incentive for employees to live in the City tied to longevity increases. Madison is not the only city in Wisconsin to consider such an option. Following the passage of the State budget, the City of Milwaukee passed a 1.5% pay increase for most employees effective at the start of pay period 14 (June 23, 2013). However, if employees do not live in the City of Milwaukee, they are not eligible for the pay increase. Furthermore, if employees move out of the City after June 23, 2013, they are no longer eligible for the wage increase. In addition, if employees lived in the City of Milwaukee for the entire calendar year of 2013, employees can get a lump sum payment for pay periods 2-13, payable in February, 2014.²

² Information from City of Milwaukee, Department of Employee Relations website: <http://city.milwaukee.gov/der>.

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Housing Incentives

Instead of just giving employees money to maintain residency, some public sector employers have crafted programs to provide employees with assistance to purchase homes. There are 4 models for such Employer Assisted Housing (EAH) programs, although a program may consist of parts of some or all 4 models.³

1. *Financial Partner Model*—In this model, the employer provides employees with direct monetary assistance to purchase a home. Employees may be given money or may be given a loan. Such a program may be combined with greater incentives for living in certain neighborhoods in order to achieve goals of revitalization.
2. *Service Provider Model*—In this model, the employer may provide support services to encourage home buying, but not necessary a direct cash alternative. Such support may include home buyer education programs, credit counseling, or a direct link to a realtor.
3. *Connector/Facilitator Model*—In this model, the employer acts as a resource, referring employees to partners, such as private lenders, public housing assistance sources, or non-profit community partners. In this model, the employer would not pay for or directly provide the service to employees.
4. *Developer Model*—In this model, the employer would actually build and operate housing for employees.

Various cities offer different housing incentive programs, including Baltimore, New York City, Waco, and the State of New Jersey.⁴ Each program is summarized in the following table:

³ Information regarding the various models taken from Hoereth, Packnett, and Perry, "University Employer-Assisted Housing: Models of University-Community Partnerships," Lincoln Institute of Land Policy and the Great Cities Institute at University of Illinois-Chicago, 2007.

⁴ Bansal and Sullivan, "Employer-Assisted Housing Programs for Municipal and Higher Education Employers," Office of Legal Research, State of Connecticut, October 11, 2013.

Table 2—EAH Programs in Different Public Sector Agencies

Agency	Program Operator	Who is eligible	Incentives	Restrictions
City of Baltimore ⁵	Baltimore Housing	All employees of City agencies or quasi-agencies with at least 6 months tenure	\$3,000 down payment and closing assistance with no annual income limits for purchases within Baltimore City. An additional \$750 is given for homes purchased in Healthy Neighborhoods target blocks.	Mortgage loan may not exceed \$417,000. Buyer must contribute at least \$1,000 towards purchase and must use the property as the principal residence. Closing on the property must occur within 90 days of the contract date. Only one City employee per household may receive assistance. Loan is forgivable over 5 years, reducing 20 percent for each year of occupancy.
New York City ⁶	Department of Housing Preservation and Development	<p>Nearly all New York City employees are eligible for the preference.</p> <p>HomeFirst Down Payment program for all City residents.</p>	<ul style="list-style-type: none"> • Municipal employees are provided preference for 5% of eligible rentals and homes. • The HomeFirst Down Payment Assistance program provides qualified homebuyers with up to 6% of a home's purchase price, or \$10,000, whichever is greater, toward the down payment or closing costs on a 1-4 family home, a condominium, or a cooperative in one of HPD's Homeownership Zones in the Bronx, Brooklyn, Manhattan, Queens, or Staten Island. 	<p>To qualify for the loan, a prospective homebuyer must meet the following:</p> <ul style="list-style-type: none"> • Be a first-time homebuyer • Complete a homebuyer education course taught by an approved agency • Have his/her own savings to contribute to the down payment or closing costs • Meet program income eligibility requirements • Purchase a 1-4 family home, a condominium, or a cooperative for owner-occupancy in one of the five boroughs of New York City • The home must pass inspection • Live in the home purchased for at least 10 years

⁵ http://www.baltimorehousing.org/homeownership_employee

⁶ <http://www.nyc.gov/html/hpd/html/apartment/fags-municipal-employees.shtml> and <http://www.nyc.gov/html/hpd/html/buyers/downpayment.shtml>

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Agency	Program Operator	Who is eligible	Incentives	Restrictions
Waco, TX ⁷	Housing and Community Development	Employees Below 80% of the Median Income	Up to \$25,000 no-interest forgivable loan for the purchase of an owner-occupied home within the City of Waco	<ul style="list-style-type: none"> • Employees must be in good standing with the City of Waco and have been employed for a minimum of 12 consecutive months • Property must be owner-occupied (not for investment purposes) • Loan is forgiven at \$2,500 per year for 10 years, provided the owner-occupant remains employed in good standing with the City of Waco • New or existing homes are eligible • Subject to repayment if employment is terminated or the property is sold/transferred
State of New Jersey ⁸	New Jersey Housing and Mortgage Finance Agency	Homebuyers purchasing homes in the municipalities in which they work.	LWYW is a program that provides a forgivable down payment and closing cost assistance partnered with low-interest fixed rate mortgage loans and greater buying power because of expanded income ratios.	<ul style="list-style-type: none"> • Eligible properties include one-family units, including condominiums, (new and existing), and existing 2- to 4-family unit properties that are more than 5 years old. • Properties must be located in state designated Smart Growth locations.

⁷ <http://www.waco-texas.com/housing-homebuyer-assistance.asp#assistance>

⁸ <http://www.state.nj.us/dca/hmfa/homeownership/buyers/live/>

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Options for the City of Madison

Even with the changes at the State level, the City maintains an interest in seeing our employees live where they work. As such, it is important to look at various options and programs that we can implement in order to encourage our employees to live in Madison. Programs can be crafted that do not require residency, but encourage it, and they can fall into one of two areas, monetary incentives and housing incentives, along the lines of the ones described above. Each program brings its own set of issues and challenges and so will be discussed separately below.

Monetary Programs for City Employees

Various pay-related options exist to incentivize employees to live in the City. These options would all have the advantage of saving the City money because the incentive would not have to be applied to those employees who choose to live outside the City. The following list is a sample of possible ideas that could be considered:

- As noted earlier, the City already encourages residency by tying longevity increases for non-represented employees to living in the City. This program could be expanded to all employee groups, either through collective-bargaining or when the contracts expire.
- The incentives tied to longevity could be expanded. Currently, employees are eligible to receive longevity incentives up to 12% of their base pay, depending on their length of service with the City. The current residency tie-in only reduces this amount by 1% for employees living outside of the City of Madison. Hypothetically, the residency tie-in could eliminate longevity all together for employees living outside the City of Madison.
- The City could choose to craft pay increases similar to the City of Milwaukee, making the increase, or a part thereof, only available to those employees who live in the City.
- The City could provide lump sum payments to employees who maintain City residency. (If these are considered outside of a regular pay increase, this would not save the City any money.)
- The City currently requires employees who have a sick leave balance in excess of 150 days to receive an annual payout of the excess days. This payout could be tied to residency. Those who live in the City receive the full payout. Those who reside outside the City either forfeit the payout or receive a smaller portion, such as ½ the value of the excess sick leave.

Any of these changes would require changes to City ordinances, and possibly bargaining with the City's labor organizations.

Housing Programs for City Employees

The City could develop an Employer Assisted Housing program for City employees, administered through the City's Economic Development Division. The Economic Development Division already administers a down payment assistance program for all

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residents based on their income level. The program is called “Home-Buy,” and first time home buyers are eligible for a no-interest local to partially cover the down payment and closing costs of the first mortgage loan, up to \$5,000. In order to qualify, a resident must be at or below 80% of the Dane County median income. For a 1-person household, this is approximately \$45,000, and for a family of 4, it would be \$64,400. The good news is the majority of City jobs pay at or above the 1-person household level, but that means that most employees will not qualify for the program.

The City could construct an EAH program as described in the Housing Incentives section on page 5 of this report. First, the City would need to determine whether it wants to be a financial partner, service partner, facilitator/connector partner, build housing for employees, or develop a hybrid of the programs. In order to determine which EAH method would be most effective a study would need to be performed. The study would identify where employees currently live, the demand factors driving their housing decision, and the barriers to them renting or purchasing housing in the desired area. Fortunately, if this is of interest to the Mayor and City Council, the 2014 Capital Budget for Planning, Community, and Economic Development already includes funding designated to capture this data from a sample of major area employers in order to derive demand data for the Biennial Housing Report. The City of Madison could potentially serve as a pilot project for this program, providing the data necessary to design an effective employee housing assistance program.

Once the City has information on driving factors for our employees when deciding where to live, a program can be developed. EAH programs typically consist of one or more of the following components:

- Down payment Assistance
 - Applies to employees who purchase within a designated geography
 - Typically a forgivable loan with a 3-10 year maturity; a certain amount is forgiven each year
 - Typically \$5,000-\$10,000
 - Can be tiered—For example:
 - \$10,000 to buy a home within a target area
 - \$5,000 to buy a home within the city limits
 - \$1,000 to renovate a home they already own
 - Employees who leave before maturity would be responsible to pay off the remainder of the loan
- Mortgage Assistance
 - Employer partners with a financial institution to offer a streamlined mortgage process
 - Preferred lender can offer a reduced rate or fees
 - Can offer an ongoing subsidy to aid in mortgage payments

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- Often \$1,000 to \$2,500 as long as they remain an employee and resident
- Homebuyer Education
 - Begins with basic homebuyer education class
 - Can offer one-on-one real estate and credit counseling
 - Can offer a cash incentive for using preferred real estate brokers or reduced mortgage rates with reduced closing costs from preferred lenders
 - These courses/counseling may be required in order to qualify for other financial incentives

If the City wants to provide financial support for employees as part of the EAH program, this will be a financial commitment that will need to be built into the City's budget. In addition, it is important that such a program be an actual incentive for employees to move into the City. It is not valuable to provide money to employees who would otherwise choose to live in the City as the program then does not achieve its goals.

Another factor for consideration is whether to offer a program for renters. This could be similar to the mortgage assistance subsidy described above, where renters could be given a certain amount a month in assistance provided they rent within the City.

Conclusion

Residency in the City is an important way to keep City employees connected with the mission and vision of the City of Madison in which they work. As such, developing programs to encourage employees to live in the City is important. Consideration needs to be given to program costs, as well as whether the program will have an impact in increasing the number of employees who choose to live in the City. Further conversation on this issue is welcome.