

## Reserve Liquor License Fee Rebate Memo

TO: ALRC Members

FROM: Katherine Plominski

DATE: February 18, 2009

RE: State mandated \$10,000 reserve liquor license fee

### QUESTION PRESENTED:

**Should the City of Madison discontinue or adjust the reserve liquor license rebate?**

### HISTORY:

Wisconsin municipalities set fees for issuing and renewing liquor licenses, within a range established by the Legislature. In 1997, the Legislature required municipalities to set the fee to issue a reserve Class B liquor license at “not less than \$10,000.” The Tavern League of Wisconsin lobbied heavily for the fee, which was designed to protect mom-and-pop taverns from new competitors.

In response to the legislation, the City of Madison enacted an ordinance to “rebate” those who paid the \$10,000 reserve Class B license fee by issuing an economic development grant. At the time, the City felt that it was in the “interests of the public welfare to increase the property tax base, provide employment opportunities, attract tourists and generally enhance the economic and cultural climate of the community by providing additional economic incentives for new businesses with liquor licenses.” In addition, the City was concerned about the potential fee inequity.<sup>1</sup>

Shortly thereafter, the City was sued over the rebate but ultimately prevailed in court.

### OTHER COMMUNITIES:

Communities vary widely on whether they offer the rebate and why. Increasing budget pressures have prompted several communities to stop offering the rebates. For example, after one decade of rebating \$9,500 of the fee, the City of Beloit recently stopped offering the rebate. The City of Green Bay also started to keep the full amount of the reserve fee in 2007.

LaCrosse and Eau Claire have interesting alternative approaches to the reserve license fee. The City of LaCrosse rebates the \$10,000 reserve fee only for bona fide restaurants

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<sup>1</sup> The City goes back and forth from reserve to non-reserve licenses. For example, if an existing non-reserve business closes, that license goes back into the pool of available licenses and may be granted to a new licensee at only \$600 when someone else at the same time might be paying \$10,000.

that have been in operation for a minimum of 6 months. The City of Eau Claire offers rebates on a case-by-case basis.

There are some cities that have not had to deal with this issue yet because they have plenty of non-reserve licenses left to grant. For example, the City of Milwaukee has not had to issue any reserve licenses yet. In contrast, the City of Brookfield just started to issue reserve licenses and implemented a rebate of \$9,000 last year.

Cities that plan to continue rebating all or part of the reserve license fee include Middleton and Appleton.

#### POLICY IMPLICATIONS:

Most agree that although it does not cost a city \$10,000 to administer each license, it does cost significantly more than the \$600 annual fee. Each liquor license costs the city time and money on things like building and police inspections, compliance checks, background checks, etc. The City of Madison recently did an analysis of these costs. In 2008, the City spent \$563,000 on licensed establishment and only received \$313,140 in license fee revenue.

The \$600 annual fee for a non-reserve Class B Combination licenses is set by state law and has not been increased in over 12 years. The City of Madison recently lobbied to have this fee changed to \$1500. For comparison, many City of Madison restaurants actually pay more for their license to serve food (approx \$750) than for their liquor license.

There are several benefits associated with discontinuing or reducing the reserve liquor license fee rebate. First, keeping all or part of the fee ensures that businesses are properly capitalized. Additionally, keeping all or part of the fee more accurately reflects the actual cost to the City for establishing, managing, and policing establishments with liquor licenses. Finally, increasing the reserve license fee will not necessarily pose a significant barrier to small businesses because a Class B Beer license will still be available for \$100 and a Class C wine license will still be available for \$100.

**Note: An ordinance change is required to discontinue or adjust the reserve liquor license rebate.**

#### OPTIONS/RECOMMENDATION

There are several options. The rebate ordinance can be repealed or modified to allow the City of Madison to keep a portion of or the entire \$10,000 fee.

The City Attorney's Office has opined that the City has the power to modify the current fee, but if there is a differential between types of businesses, it would have to be couched in terms of economic development. For example, perhaps certain businesses are "better" for tourism or employ more people, or some other rational basis for the classification.