



Legislation Text

File #: 02553, Version: 5

**Fiscal Note**

This Fourth Substitute ordinance amendment expands and extends the term of current wage and benefit guarantees to City employees on active military duty and could result in substantial increases in the costs associated with training and active duty pay supplements. The amount of additional cost would be entirely dependent on the frequency and duration of future active duty assignments for City employees, and cannot be predicted with certainty. However, had these amended provisions been in place during the past 3 years, the additional cost would have been approximately \$98,000 per year.

Current City ordinances grant employees up to 3 weeks per year of paid leave for military training or other active military duty. During this 3 week period, the City has continued to compensate the employee as though they reported to work for their normal City job. The City also continues to make normal contributions to the employee's health and other insurance coverages, and the employee continues to accumulate vacation, sick leave and other benefits without interruption. Following the employee's return to work, and after they submit documentation of the compensation they received from the military during the leave period, the City deducts that amount from subsequent City payrolls. Thus, the employee is guaranteed that there is no interruption in the normal level of compensation during the military training leave and there is no net reduction in compensation as a result of participation in military training duties. (It is sometimes difficult to obtain the documentation of military pay from returning employees in a timely manner.) The cost of this 3 week military leave benefit has been approximately \$36,000 per year during the last 3 calendar years.

This proposed Fourth Substitute ordinance amendment would extend paid military leave benefits from the current 3 weeks to cover the full period of training or active duty, regardless of length. This extension of benefits could result in a substantial increase in compensation costs, depending on the frequency and duration of future active duty assignments. A survey done by the City Human Resources Department indicates that there are at least 30 current employees who are members of the national guard and reserves and that an average of about 10 City employees have been called to active duty annually during the past 3 years. This group was granted an average of 115 weeks of military leave per year, or an average of 11.5 weeks per employee per year. The vast majority of this leave was unpaid. Had the extended provisions of the proposed ordinance been in place during this time, the additional cost would have been roughly \$98,000 per year.

This version of the proposed ordinance provides that if the number of employees drawing military leave benefits exceeds the greater of 30 FTE's or 1% of the total City work force, all benefits provided under the ordinance would be suspended. This suspension of benefits clause effectively limits the maximum cost of City paid military leave benefits to less than \$20,000 per week, or roughly \$1,000,000 per year, even if much larger numbers of City employees are called to active military duty than at the present time.

The proposed ordinance would become effective upon publication. If this ordinance amendment is adopted, City staff would need to find an alternative to the present method of administering military leave pay benefits, as it would become impractical to advance full City pay to employees, with subsequent reimbursement of military pay, for leave periods longer than the current 3 week maximum.

**Title**

FOURTH SUBSTITUTE - Amending Section 3.36(11) of the Madison General Ordinances to modify the pay differential and leave accumulation for employees on military leave.

**Body**

DRAFTER'S ANALYSIS: This amendment would provide expanded pay differential and benefits to employees who are called to active duty. The substitute does not create a paid holiday for veterans and members of Guard and Reserves for Veteran's Day. This program would be suspended anytime that the number of employees eligible to draw such benefits exceeds the greater of 30 employees or 1% of the City's fulltime workforce.

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The Common Council of the City of Madison do hereby ordain as follows:

Subsection (11) entitled "Military Training and Call-Up Leave" of Section 3.36 entitled "Absence of Employees from Duty" of the Madison General Ordinances is amended to read as follows:

"(11) Military Training and Call-Up Leave.

- (a) Eligibility. Officials and employees of the City of Madison who are members of the uniformed services of the United States may be eligible to take leaves of absences, without loss of credited service time, in order to fulfill their official duties as members of the uniformed services of the United States. Eligibility for such leave, the requesting of such leave, the administration of such leave and an employee's rights to reemployment upon return from such leave shall be determined in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. §§ 4301- 4333, as amended by Pub. L. 105-368, Veterans Programs Enhancement Act of 1998, 112 Stat 3315 (10 Nov. 1998) and any subsequent amendments to that law. Members of the Wisconsin National Guard who are called to active duty by order of the Governor or by an order issued under the authority of § 32 U.S.C. 502(f), which is not considered to be service in the uniformed services of the United States, are entitled to a leave of absence without loss of credited service time, however, such leave shall be requested, granted and administered pursuant to §21.80 and §45.50-45.51, Wis. Stats., as that law may be amended from time to time.
- (b) Pay Differential and Leave Accumulation for Active Duty Service for Purposes Other Than for Training. ~~In each calendar year, the first three (3) weeks of said leaves of absence shall be without loss of pay within the limitations set forth below.~~
1. ~~Where the gross salaries paid for such leaves of absence are less than the salary paid by the City, the City shall reimburse said employee for the loss occasioned by such difference in pay.~~
  2. ~~Where the gross salaries paid for such leaves of absence are equal to or greater than the salary paid to such employee by the City, no compensation shall be paid by the City.~~
  1. Subject to sub. 3, an employee who is activated to serve on military duty in the U.S. armed forces shall be paid his or her City salary, less any military pay and housing allowances that he or she receives, during the period in which the employee is on military duty in the U.S. armed forces, unless the military pay and housing allowances equal or exceed his or her City salary, and shall accumulate sick leave and vacation as though no interruption in service has occurred if all of the following apply:
    - a. The employee is activated to serve, or is serving, on military duty in the U.S. armed forces.
    - b. On the date on which he or she is activated, the employee is either a member of the National Guard or a member of a reserve component of the U.S. armed forces or is recalled to active military duty from inactive reserve status.
    - c. The employee has received a military leave of absence under sec. 3.36(11)(a), M.G.O. or under a collective bargaining agreement or is eligible for reemployment with the city under secs. 21.80, 45.50, Wis. Stats., or under USERRA, after completion of his or her service in the U.S. armed forces.
  2. Subject to sub. 3, a City employee who is required to serve, or who is serving, in the U.S. public health service and who is on detail with any of the U.S. armed forces shall be paid his or her city salary, less any federal pay and housing allowances that he or she receives, during the period in which the employee is detailed for duty with any of the U.S. armed forces, unless the federal pay and housing allowances equal or exceed his or her City salary, and shall accumulate sick leave and vacation as though no interruption in service has occurred.
  3. Limitations on Term of Pay Differential
    - a. Except as provided in par. b., beginning on the day in which a City employee is activated to serve on military duty in the U.S. armed forces or to serve in the U.S. public health service, the employee shall receive the pay and benefits authorized under sub. 1 or 2. There shall be no limitation on the number of times a city employee may be deployed and receive pay differential and benefits under this ordinance so long as such employee remains eligible to return to City employment under sec. 3.36(11), M.G.O. or under secs. 21.80, 45.50, Wis. Stats., or under USERRA.
    - b. This ordinance shall not have any retroactive effect. No employee who is eligible to receive the pay and benefits under sub. (1) or (2) may receive the pay or benefits for any service in the U.S. armed forces or the U.S. public health service for any such service

that has occurred before the enactment of these provisions.

4. Any city employee who is eligible to receive the pay and benefits authorized under sub. (1) or (2) and who has completed his or her duty with the U.S. armed forces or the U.S. public health service may use up to 160 hours of accumulated vacation before the employee resumes employment with the City. Any accumulated vacation that is used under this subsection must be used no later than 30 calendar days after the employee has completed his or her duty with the U.S. armed forces or the U.S. public health service. If, after using any such accumulated vacation, an employee has any accumulated vacation remaining that was accumulated while on duty with the U.S. armed forces or the U.S. public health service, the employee's department/division head and the Human Resources Director shall permit the employee to carry over the leave into the next year for use in that year. This subsection shall not have any retroactive effect and shall not apply to any periods of service occurring before the enactment of this subsection.
5. Continuity of Healthcare and Life Insurance. Unless an employee ordered to active duty (other than training) with the armed forces of the United States under the authority of Titles 10 or 32, United States Code, has specifically requested otherwise and in writing, the city shall continue to pay the employer's contribution towards health and dental insurance premiums, life insurance premiums and contributions to the Wisconsin State Retirement Fund on behalf of any employee, at the rate which would be in effect for the employee had he or she not been ordered to active duty. This subsection shall not have any retroactive effect and shall not apply to any periods of service occurring before the enactment of this subsection.
6. Suspension of Benefits. If at any time, the number of City of Madison employees concurrently drawing benefits under the provisions of this ordinance shall exceed the greater of either the equivalent of thirty (30) full time employees or shall meet or shall exceed 1% of the total City workforce as determined by full time equivalents the benefits provided under this subsection are suspended by action of this ordinance. The suspension of these benefits shall remain in effect until such point in time that the number of City employees otherwise eligible to actually receive the benefits provided by this ordinance has remained, for a period of not less than 90 consecutive days, at or below the greater number of either thirty full time employees or 1% of the total workforce, as set forth above. Any employee who is currently receiving benefits under this ordinance at the time that such a suspension of benefits becomes operative, shall receive a thirty (30) day notice of the City's intent to suspend such benefits and such employee shall continue to receive such benefits until the thirtieth day following the issuance of such notice. The suspension of these benefits does not affect the rights and entitlements of any employee as such rights and entitlements may be guaranteed under state and federal law.
7. Notice of Benefits. Within 60 days of the passage of this ordinance the Human Resources Department shall create and distribute a poster that notifies eligible employees of their rights under sec. 3.36(11) M.G.O. City department/division heads shall ensure that this poster is prominently posted in all city workplaces."