



Legislation Text

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Fiscal Note

The fiscal effect of this proposed ordinance is indeterminate. Allowing employees in compensation groups 18 (professional and supervisory) and 44 (transit professional and supervisory) to reside outside of Dane County may broaden the pool of candidates associated with filling positions in these compensation groups. Furthermore, allowing these employees to live outside Dane County may result in additional compensation costs associated with travel time under certain conditions (e.g., inability to come into work due to weather conditions). The ordinance change and the potential fiscal effects are the result of prohibitions on local government employee residency requirements that were adopted as part of 2013 Wisconsin Act 20.

Title

CHARTER Creating Section 3.30(3) of the Madison General Ordinances to maintain residency requirements for specified City employees.

Body

DRAFTER'S ANALYSIS: The recently adopted State Budget Bill, 2013 Wisconsin Act 20, adopted new Wis. Stat. § 66.0502. The new law removes the authority of municipalities to establish residency requirements for municipal employees. The Legislature included a finding that the residency of local government employees was a matter of statewide concern.

Under Article XI, sec. 3(1) of the Wisconsin Constitution:

Cities and villages organized pursuant to state law may determine their local affairs and government, subject only to this constitution and to such enactments of the legislature of statewide concern as with uniformity shall affect every city or every village. The method of such determination shall be prescribed by the legislature.

The Wisconsin courts have held that the Legislature's determination of what is a matter of statewide or local concern is entitled to weight, but is not binding on a court. Our analysis suggests that there is almost nothing of statewide concern about the residency of local government employees and that, rather, the residency of local government employees is an issue of paramount local concern. A number of reasons suggest the primarily local concern of residency, including that residency requirements for City employees, particularly the limited number of managerial and supervisory employees now covered by the Madison ordinances, relate directly to the need to have high-level employees with a stake in the future of the City and the surrounding area. Residency requirements also assure that these employees understand more directly the impact of decisions they make, and contribute to the local tax base. These and other reasons are of paramount local concern.

By invoking the home rule powers of the Constitution through this Charter Ordinance, the City is opting out of the provisions of Wis. Stat. § 66.0502, and re-enacting some of its existing residency requirements.

Over time, most City of Madison employees have had all residency requirements lifted or reduced. The strongest basis for City residency requirements are for managers whose decisions may impact city services and taxes. This ordinance retains City residency requirements for all City managers (CG 21) and Mayoral assistants. Since the restrictions on CG 18, 19 and 44 were only for Dane County and not the City, these restrictions are likely not subject to a Charter ordinance. Changes in Act 20 also allow the City to impose jurisdictional requirements on emergency personnel, which the City may pursue through other actions. If adopted, the Charter provisions of this ordinance shall take effect 60 days from the date of passage and publication, subject to the referendum procedures of Wis. Stat. § 66.0101(5).

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

The City of Madison finds that the residency of its employees is a matter of paramount local concern. The City

therefore elects not to be governed by the provisions of Wis. Stat. § 66.0502, adopted in 2013 Wisconsin Act 20. This election is made pursuant to Wis. Stat. § 66.0101(4).

Subsection (3) entitled "Residence of Certain Employees" of Section 3.30 entitled "Qualifications--City Officers, Members of Commissions, and Employees" of the Madison General Ordinances is created to read as follows:

"(3) Residence of Certain Employees. Each person holding or who is eligible for appointment or employment to a position in Compensation Group 21, Secretary to the Mayor, Mayoral Assistant or Library Development Director shall be a resident of the City of Madison unless permission to reside outside the City of Madison is granted in writing by the Mayor. ~~Each person holding or who is eligible for appointment or employment as an employee in a position in Compensation Groups 18 and 44 shall be a resident of Dane County unless permission to reside outside Dane County is granted in writing by the Mayor. In the event any such person no longer resides in the City, such position shall be deemed vacant. In the event any other City employees are required to live within a specified distance of the City and such employee fails to live in the specified area, such position shall be deemed vacant.~~

This a Charter Ordinance adopted pursuant to Wis. Stat. § 66.0101, and Article XI, Sec. 3 of the Wisconsin Constitution and shall be effective upon sixty (60) days from passage and publication, subject to the referendum procedures of Wis. Stat. § 66.0101(5)."