

**COUNTY OF MILWAUKEE**  
**Inter-Office Communication**

**Date:** September 8, 2011

**To:** Supervisor Joe Sanfelippo, Chairman, Personnel Committee  
Supervisor Johnny Thomas, Chairman, Finance & Audit Committee

**From:** Employee Benefits Workgroup

**Subject:** Capping the Backdrop Pension Benefit (File No. INF 11-419)

A Deferred Retirement Option Plan (Backdrop) pension option was first effective for Milwaukee County employees in January 2001. In the decade since its adoption, many County employees have retired with significant lump sums in exchange for a reduced monthly pension payment. Concern about the manner in which the benefit was adopted resulted in one criminal conviction, political turmoil, a civil lawsuit against the County's actuary that yielded a \$45 million settlement and ongoing media coverage of the large lump sum payouts. The benefit was eliminated for newly hired non-union employees in 2002 and eventually from all other labor contract by 2007.

The Adopted 2011 Milwaukee County Budget includes the following language in the Wage and Benefit Account (Unit No. 1972):

Capping the Backdrop

The Employee Benefits Workgroup will study what steps must occur in order to cap the Backdrop pension benefit at a future point in time. This includes legal guidance as to how to best proceed and an actuarial study of the impact of such action. The Workgroup shall provide a report to the County Board for consideration at the June 2011 meeting cycle. (Note, the report was not prepared for the June cycle because the Workgroup was focused on State legislative changes that were not in effect at the time the County's 2011 Budget was adopted).

Upon being elected, County Executive Abele directed the Office of Corporation Counsel to obtain an outside legal opinion on Backdrop modifications. The Milwaukee County Board also adopted a resolution in July 2011 authorizing and directing Corporation Counsel to provide the Employee Benefits Workgroup with legal guidance on how to best proceed in order to cap the pension backdrop.

The Workgroup identified five steps that will need to be taken to respond to the budget directive:

1. Obtain legal guidance on the likelihood of successfully modifying or eliminating the Backdrop option.
2. Based on the legal opinion, select the best strategies.
3. Pursue all possible legal options related to the selected strategies.
4. Obtain actuarial calculations as the situation unfolds.
5. Adopt legislative changes to implement the strategies.

As the initial step, the Employee Benefits Workgroup, through the Office of Corporation Counsel, obtained an opinion from outside counsel. The **confidential, attorney-client privileged** opinion will be disseminated separately for discussion in closed session. It describes the legal risks associated with a number of alternative methods of capping the Backdrop. A **confidential, attorney-client privileged** summary of the legal opinion from Corporation Counsel will also be disseminated separately.

Supervisor Joe Sanfelippo, Chairman, Personnel Committee  
Supervisor Johnny Thomas, Chairman, Finance & Audit Committee  
September 8, 2011  
Page Two

After dissemination, the County Board and the County Executive will need to provide direction on the preferred approach and authorize the Office of Corporation Counsel to pursue the best strategies with input from the Employee Benefits Workgroup.

An updated actuarial analysis is recommended in order to establish a status of the pension obligations due to the Backdrop and effect due to the legal strategies. Currently there are approximately 3,100 active employees eligible for a Backdrop (of those, fewer than 150 are eligible for an additional benefit enhancement that increases by 25% the Final Average Salary upon which their pension benefits are calculated). For labor contracts in effect through 2011, a January 1, 2012 effective date could be pursued. The date of impact should be after 12/31/12 for FHNP employees. Proposed modification(s) will need to be negotiated with the Firefighters union. The Deputy Sheriffs contract never included the Backdrop.

Legislation including the actuarial analysis and a fiscal note will need to be enacted to make changes to the Backdrop. The revisions will need to be incorporated into the Code of General Ordinances.

In conclusion, the Employee Benefits Workgroup has taken the initial step of obtaining a legal opinion regarding elimination or modification of the Backdrop. In addition, the Workgroup has provided a roadmap for future steps to be taken regarding the Backdrop.

cc: Supervisor Lee Holloway, Chairman, Milwaukee County Board of Supervisors  
Milwaukee County Board of Supervisors  
Chris Abele, Milwaukee County Executive  
Pat Farley, Director, Department of Administrative Services  
Pamela Bryant, Interim Fiscal & Budget Administrator, DAS  
CJ Pahl, Assistant Fiscal & Budget Administrator, DAS  
Kimberly Walker, Corporation Counsel  
Mark Grady, Deputy Corporation Counsel  
Matt Hanchek, Interim Director of Employee Benefits, DAS  
Marian Ninneman, Interim ERS Manager, DAS  
Fred Bau, Labor Relations Specialist, Labor Relations  
Steve Cady, County Board Fiscal & Budget Analyst, County Board Staff  
Rick Ceschin, Senior Research Analyst, County Board Staff  
Doug Jenkins, Deputy Director, Department of Audit  
Jerome J. Heer, Director of Audits