

**INTEROFFICE COMMUNICATION
COUNTY OF MILWAUKEE**

DATE: November 20, 2012

TO: Marina Dimitirjevic, Chairwoman, County Board of Supervisors

FROM: Mark A. Grady, Deputy Corporation Counsel *MAG*

SUBJECT: WERC decision related to furlough days

Please refer the attached resolution to the Committee on Judiciary, Safety and General Services. Although not required, referral to the Finance, Personnel and Audit Committee would be appropriate as well. Our office recommends approval of the resolution to pay the 2011 furlough hours, in excess of 45 hours per employee, to affected AFSCME employees.

As noted in the resolution, the WERC ruled, among other things, that the County violated its duty to bargain in good faith when it imposed the furlough days in 2010 for affected AFSCME employees. The WERC order also required that the County maintain the status quo that existed before imposition of the 2010 furloughs. Before the WERC decision was received, the County had adopted the 2011 budget containing additional furlough hours in 2011 for AFSCME employees. AFSCME continues to assert in the litigation that the 2011 furlough hours violated the collective bargaining agreement that was in existence and violated the WERC order to maintain the status quo. The County asserts that defenses to that claim may exist. The WERC cannot rule on the matter at this time because the case is currently on appeal in the Court of Appeals for other issues in the litigation.

A fiscal note sets forth the liability of \$990,000 related to these furlough hours in 2011 and the interest that has accumulated of \$186,000. Interest would continue to accrue in the future at the approximate rate of \$10,000 per month. The fiscal note indicates that sufficient funds exist in the 2012 budget to pay these amounts. If the County continues to defend the claim, but receives an adverse decision in the future, it is unknown whether funds would exist at that time for payment of an award. In the absence of such funds, payment of any possible award in the future could create significantly greater budgetary constraints than would payment of these amounts now from the anticipated 2012 budget surplus.

Attachments

cc(w/att.): Amber Moreen
Janelle Jensen
Jennifer Collins
Steve Cady