

MILWAUKEE COUNTY FISCAL NOTE FORM

DATE: February 15, 2024

Original Fiscal Note

Substitute Fiscal Note

SUBJECT: A resolution from the Office of Corporation Counsel requesting authorization to select and to enter into a contingency fee agreement with outside legal counsel, pursuant to which outside legal counsel will represent Milwaukee County in litigation against certain manufacturers, pharmacy benefit managers, and/or other entities involved in alleged manipulation of the market for insulin and insulin-analog diabetes medications that has resulted in an unlawful increase in the entities' profits at the expense of Milwaukee County.

FISCAL EFFECT:

- No Direct County Fiscal Impact
 - Existing Staff Time Required
- Increase Operating Expenditures
(If checked, check one of two boxes below)
 - Absorbed Within Agency's Budget
 - Not Absorbed Within Agency's Budget
- Decrease Operating Expenditures
- Increase Operating Revenues
- Decrease Operating Revenues
- Increase Capital Expenditures
- Decrease Capital Expenditures
- Increase Capital Revenues
- Decrease Capital Revenues
- Use of contingent funds

Indicate below the dollar change from budget for any submission that is projected to result in increased/decreased expenditures or revenues in the current year.

	Expenditure or Revenue Category	Current Year	Subsequent Year
Operating Budget	Expenditure	\$0	\$0
	Revenue	\$0	\$0
	Net Cost	\$0	\$0
Capital Improvement Budget	Expenditure	\$0	\$0
	Revenue	\$0	\$0
	Net Cost	\$0	\$0

DESCRIPTION OF FISCAL EFFECT

In the space below, you must provide the following information. Attach additional pages if necessary.

- A. Briefly describe the nature of the action that is being requested or proposed, and the new or changed conditions that would occur if the request or proposal were adopted.
- B. State the direct costs, savings or anticipated revenues associated with the requested or proposed action in the current budget year and how those were calculated.¹ If annualized or subsequent year fiscal impacts are substantially different from current year impacts, then those shall be stated as well. In addition, cite any one-time costs associated with the action, the source of any new or additional revenues (e.g. State, Federal, user fee or private donation), the use of contingent funds, and/or the use of budgeted appropriations due to surpluses or change in purpose required to fund the requested action.
- C. Discuss the budgetary impacts associated with the proposed action in the current year. A statement that sufficient funds are budgeted should be justified with information regarding the amount of budgeted appropriations in the relevant account and whether that amount is sufficient to offset the cost of the requested action. If relevant, discussion of budgetary impacts in subsequent years also shall be discussed. Subsequent year fiscal impacts shall be noted for the entire period in which the requested or proposed action would be implemented when it is reasonable to do so (i.e. a five-year lease agreement shall specify the costs/savings for each of the five years in question). Otherwise, impacts associated with the existing and subsequent budget years should be cited.
- D. Describe any assumptions or interpretations that were utilized to provide the information on this form.

Response to A: The Office of Corporation Counsel (OCC) seeks authorization to allow the OCC, in its discretion, to select outside legal counsel and to enter into a contingency fee agreement with outside legal counsel, pursuant to which outside legal counsel will represent Milwaukee County in litigation against any insulin manufacturers, pharmacy benefit managers, and/or other entities that previously engaged in or continues to engage in market manipulation practices that inflated the prices for insulin medication within Milwaukee County.

Response to B: The engagement of outside legal counsel will be on a contingency fee basis. In a contingent fee arrangement, the parties agree that the outside legal counsel engaged will receive a fixed percentage of the ultimate recovery from the lawsuits as payment for legal services rendered. Therefore, outside legal counsel will not be entitled to compensation for such representation unless Milwaukee County receives a financial benefit as a result of any such lawsuits. The OCC monitors and manages such litigation using existing OCC attorneys and support staff who are compensated within the current OCC budget. Any potential revenue that may be generated through the resolution of any lawsuit (by settlement, verdict, or other judgment in favor of Milwaukee County) cannot be reasonably estimated at this time, and recovery is not guaranteed. It is anticipated that any recovery would be required to be used to address the insulin price issues that are the subject of the lawsuits.

Response to C: At this time, there is no anticipated budgetary impact in current or subsequent years. If any lawsuit is resolved in favor of Milwaukee County, funds would be expected to flow to Milwaukee County at such time. It is anticipated that any recovery would be required to be used to address the insulin price issues that are the subject of the lawsuits.

¹ If it is assumed that there is no fiscal impact associated with the requested action, then an explanatory statement that justifies that conclusion shall be provided. If precise impacts cannot be calculated, then an estimate or range should be provided.

² Community Business Development Partners' review is required on all professional service and public work construction contracts.

As noted, outside counsel will be engaged on a contingency fee basis, so there will be no expenditure of funds for legal representation.

Response to D: No assumptions or interpretations were utilized in responding to this form.

Department/Prepared By: Karen L. Tidwall, Deputy Corporation Counsel

Authorized Signature: s/ Karen L. Tidwall

Did DAS-Fiscal Staff Review? Yes No

Did CBDP Review?² Yes No Not Required