

## MILWAUKEE COUNTY FISCAL NOTE FORM

**DATE:** February 2, 2017

Original Fiscal Note

Substitute Fiscal Note

**SUBJECT:** A substitute resolution opposing discrimination in all its forms and affirming Milwaukee County's commitment to value all people equally regardless of race, sex, class, religion, sexual orientation, gender identity and expression, disability, age, ancestry or nationality, ethnicity, political or religious affiliation, or creed.

**FISCAL EFFECT:**

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| <input checked="" type="checkbox"/> No Direct County Fiscal Impact<br><input checked="" type="checkbox"/> Existing Staff Time Required<br><input type="checkbox"/> Increase Operating Expenditures<br>(If checked, check one of two boxes below)<br><input type="checkbox"/> Absorbed Within Agency's Budget<br><input type="checkbox"/> Not Absorbed Within Agency's Budget<br><input type="checkbox"/> Decrease Operating Expenditures<br><input type="checkbox"/> Increase Operating Revenues<br><input type="checkbox"/> Decrease Operating Revenues | <input type="checkbox"/> Increase Capital Expenditures<br><input type="checkbox"/> Decrease Capital Expenditures<br><input type="checkbox"/> Increase Capital Revenues<br><input type="checkbox"/> Decrease Capital Revenues<br><input type="checkbox"/> Use of contingent funds |
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*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
<b>Operating Budget</b>	Expenditure	Unknown	Unknown
	Revenue	Unknown	Unknown
	Net Cost	Unknown	Unknown
<b>Capital Improvement Budget</b>	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.<sup>1</sup> 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.
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- A. This substitute resolution, if adopted, states Milwaukee County's opposition to all forms of discrimination and affirms Milwaukee County's commitment to valuing all people, urges U.S. Immigration and Customs Enforcement (ICE) to add courthouses to the list of "sensitive locations", urges the Chief Judge of Milwaukee County to request that ICE refrain from carrying out enforcement actions on or around courthouse grounds, opposes the use of agreements with ICE that allow local agencies to act in ICE's stead, and requires that ICE detainer requests be accompanied by a federal judge's court order or warrant. This substitute resolution also communicates this information to the Sheriff, Chief Judge, the Milwaukee County Congressional Delegation, and the President of the United States.
  - B. Existing staff time will be utilized to communicate the contents of the substitute resolution to appropriate parties, if adopted.
  - C. It is unclear whether this substitute resolution will impact federal grant funding in this or subsequent years due to questions of compliance with federal law. In July of 2016, the Department of Justice Inspector General selected ten state and local jurisdictions for further review of certain policies, including Milwaukee County, related to 8 U.S.C., § 1373, a federal law that prohibits local and state law enforcement from restricting the sharing of immigration status information with federal authorities.

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<sup>1</sup> 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.

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

The legislation references a resolution passed in 2012 (File No. 12-135) that states Milwaukee County's policy to only honor detainer requests in certain cases. The 2012 policy led to Milwaukee County being recognized by Immigration and Custom Enforcement (ICE) as a jurisdiction that limits or prohibits cooperation with ICE. This substitute resolution adds the requirement that a detainer request be accompanied by a federal judge's court order or warrant. This substitute resolution will be communicated to the Milwaukee County Sheriff, but the Sheriff has broad latitude to administer inmate detentions and is not required to follow the policy in the 2012 resolution or this substitute resolution. The Sheriff's office states that its policy is "to cooperate with governmental and law enforcement agencies to ensure the public safety."

On November 22, 2016, Milwaukee County received an e-mail communication from the U.S. Department of Justice regarding future State Criminal Alien Assistance Program (SCAAP) awards. In order to continue receiving grant funding from SCAAP, the County must offer an official legal opinion (with a legal analysis) from counsel supporting the County's position that it is in compliance with 8 U.S.C., § 1373.

In 2016, Milwaukee County received \$937,932 under the SCAAP award with \$410,028 being retained by the county, \$410,028 allocated to City of Milwaukee, \$22,163 to West Allis, and \$95,713 to the Public Policy Forum.

Without further analysis, it is unclear whether the resolution from 2012 and/or this current substitute resolution will jeopardize the SCAAP funding.

Additionally, acting Corporation Counsel reviewed elements of this substitute resolution and released a memorandum on February 1, 2017, stating, in part, that "Moreover and of greater concern, how compliance with 8 U.S.C. § 1373 will be viewed and verified under the new federal administration is uncertain and unpredictable. It is reasonable to anticipate that the new administration will adopt a more "aggressive" and/or broad interpretation of section 1373. It is reasonable to anticipate that the new administration will attempt to link additional grant funding to section 1373 compliance, beyond SCAAP."

D. No assumptions or interpretations were utilized to provide information for this form.

Department/Prepared By Erica Hayden, Research & Policy Analyst, Office of the Comptroller

Authorized Signature \_\_\_\_\_

Did DAS-Fiscal Staff Review?  Yes  No

Did CBDP Review?<sup>2</sup>  Yes  No  Not Required