



WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
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TO: SENATOR ALBERTA DARLING AND REPRESENTATIVE JOE SANFELIPPO

FROM: Anna Henning, Staff Attorney

RE: LRB-1340/2, Relating to the Milwaukee County Board of Supervisors

DATE: February 14, 2013 (Revised February 15, 2013)

This memorandum describes LRB-1340/2 ("the bill"), relating to the Milwaukee County Board of Supervisors, and provides relevant background information.

BACKGROUND

Counties are political subdivisions of the state. Wisconsin Constitution, Article IV, Sections 22 and 23, provide that the Legislature "shall establish one or more systems of county government," and that the Legislature "may confer upon the boards of supervisors of the several counties of the state such powers of a local, legislative and administrative character as [the Legislature] shall from time to time prescribe."

Milwaukee County is governed by the Milwaukee County Board and the Milwaukee County Executive. Like boards and county executives in other counties, both the Milwaukee County Board and the Milwaukee County Executive have general and specific powers under the Wisconsin statutes. However, numerous additional authorities apply only in counties with populations of 500,000 or more, and thus only to Milwaukee County. For example, the Milwaukee County Board has unique authority to determine the number of supervisors who will serve on the Board.

The Milwaukee County Board consists of 18 members.¹ The County Board exercises legislative powers, generally through the enactment of ordinances and the adoption of resolutions, but its authority is not limited to legislative functions. Like other county boards in the state, it is vested with "administrative home rule"--that is, with all powers of a local, legislative and administrative character. [s. 59.03 (2) (a), Stats.] The Milwaukee County Board also has various specific authorities, some of which are unique to Milwaukee County.

¹ The Milwaukee County Board reduced its size in 2004 and 2011.

The Milwaukee County Executive position was created in 1960. The Milwaukee County Executive is the chief executive officer of the county and generally must take care that every county ordinance and state and federal law is observed, enforced, and administered. In addition, the Milwaukee County Executive must coordinate and direct all administrative and management functions of the county government not otherwise vested in other elected officers. In Milwaukee County, the County Executive is also generally authorized to appoint and supervise the heads of county departments. [s. 59.17 (2), Stats.]

Audits and media reports have addressed issues of concern regarding Milwaukee County government throughout the last decade. For example, in 2002, the Legislative Audit Bureau conducted an audit of Milwaukee County government, prompted in part by public reaction to a significant increase in retirement benefits approved for county employees and subsequent questions regarding the structure and operations of the Milwaukee County Board. Among other issues, the audit reviewed the increase in Milwaukee County Board supervisors' salaries over time, from \$35,479 in 1991 to \$52,227 in 2002. The Milwaukee County Board made some changes to its structure and practices before and after that time.

LRB-1340/2, RELATING TO THE MILWAUKEE COUNTY BOARD OF SUPERVISORS

The bill makes various changes affecting the compensation and powers of the Milwaukee County Board. It also modifies the authority of the Milwaukee County Executive.

Limitation on Supervisors' Salaries

Under current law, the Milwaukee County Board sets the annual salary for Milwaukee County Board supervisors.² The Board is authorized to provide higher compensation for the chair than is provided to other supervisors. [s. 59.10 (2) (c), Stats.]

The bill requires a referendum regarding Milwaukee County Board supervisors' compensation, to be held in Milwaukee County during the spring elections in 2014. The approach to compensation set forth in the bill, described below, would take effect only if approved as part of that referendum.

If the referendum passes, then, beginning with the term that begins with the 2016 spring election, the bill generally limits the annual salary that may be paid to a Milwaukee County Board supervisor to the annual per capita income of Milwaukee County, as determined by the most recent U.S. Census (approximately \$24,000). The bill provides that the chair's salary may be no more than 150% of the salary amount set for supervisors, and the salary of the chair of the Board's Finance Committee may be no more than 125% of the salary set for supervisors.

The bill allows for modest increases to supervisors' salaries based on increases in the Consumer Price Index, and it allows for greater increases in salary if approved by referendum. However, in no case may the salary and other benefits and compensation provided to a

² However, for the duration of their terms, supervisors may not receive salaries that exceed the salaries in effect when they took office. [s. 66.0505 (2), Stats.]

supervisor, other than the Board Chair and Finance Committee Chair, be authorized to exceed the annual per capita income of Milwaukee County, as determined in the latest U.S. Census.

Under current law, a county board may also provide additional compensation to the Vice-Chair of the Board. Under the bill, Milwaukee County would not be authorized to provide additional compensation to the Vice-Chair of the Milwaukee County Board.

Reduction in Term Length from Four Years to Two Years

Under current law, Milwaukee County supervisors are elected for four-year terms.³ [s. 59.10 (2) (b), Stats.] Under the bill, beginning with the term that begins with the 2016 spring election, the term for Milwaukee County supervisors is two years.

Limitation on Board Expenditures to .4% of the County Tax Levy

Under current law, there is no statutory limitation on the portion of the county tax levy that may be used for expenditures related to the operation of the Milwaukee County Board.

The bill generally limits expenditures that are directly related to the operation and functioning of the board to .4% of the county's portion of the county tax levy. However, the .4% limit does not apply to the following expenditures:

- Costs related to pension and health care payments for retired county employees, officers, and their families.
- Costs for salaries paid to supervisors and the Board chair prior to the 2016 spring election.
- Costs associated with duties performed by the Milwaukee County Clerk.

Powers of the Milwaukee County Executive and the Milwaukee County Board

The bill makes various changes to the powers of the Milwaukee County Executive and Milwaukee County Board. In general, the effect of the changes is to increase certain authorities of the Executive, decrease certain authorities of the Board, and clarify the roles of the two entities in some areas in which power is shared. The bill generally retains the provision of current law that states that a county board is vested with all powers of a local, legislative and administrative character. However, it provides exceptions to that provision for certain limitations to the Milwaukee County Board's authority under the bill.

Supervision and Day-to-Day Control of County Departments

Under current law, the Milwaukee County Executive must supervise the heads of county departments, but the department heads are responsible for supervising the

³ Supervisors in other counties are generally elected for two-year terms. [s. 59.10 (1) (b) and (3) (cm) 4., Stats.]

administration of their departments. [s. 59.17 (2) (b), Stats.] Under the bill, the Milwaukee County Executive has the exclusive responsibility for administering, supervising, and directing all county departments, including any person who provides lobbying services for, or negotiates on behalf of, the county.

In addition, the bill prohibits the Milwaukee County Board from exercising day-to-day control of any county department or department subunit. The bill authorizes the County Board to require, as necessary, the attendance of any county employee or officer at a board meeting to provide information and answer questions. Except for the purpose of inquiry, the bill specifies that the County Board and its members may deal with county departments and department subunits solely through the County Executive. The bill also specifically prohibits County Supervisors from giving any instructions or orders to any subordinate of the County Executive.

Appointment of Department Heads

Under current law, the Milwaukee County Executive has the power to appoint all county department heads. Such appointments must be confirmed by the Milwaukee County Board, unless the Board, by ordinance, elects to waive its confirmation. [s. 59.17 (2) (b), Stats.]

The bill retains those authorities but provides that if the Milwaukee County Board does not take action on a given confirmation within 60 days after the appointment is made, then the appointment is automatically confirmed without further action by the Board. The bill also requires the County Executive and the Board to use good faith efforts to reflect the diversity of the people in Milwaukee County when making and confirming appointments.

Certain Authorities Transferred from the Milwaukee County Board to the Milwaukee County Executive

The bill transfers certain authorities currently held by the Milwaukee County Board to the Milwaukee County Executive. It retains other authorities of the County Board, including the majority of the Board's general administrative home rule authority, and the authority to establish certain programs and facilities for which the bill transfers operational authority to the County Executive. Under the bill, the Milwaukee County Executive may do all of the following:

- Subject to approval by the County Board, acquire, lease, or rent real and personal property for public uses or purposes of any nature, and take and hold land acquired from the sale of tax delinquent property.⁴

⁴ The bill further provides that the County Board may only approve or reject this type of contract as negotiated by the County Executive, and the Board may not change or add any terms or conditions in such a contract.

- Contract with the Department of Children and Families (DCF) to implement and administer certain programs provided for by Title IV of the federal Social Security Act.
- Hire or contract with attorneys to provide support enforcement for health and human services programs.
- Operate a work center to provide employment for severely handicapped individuals.
- Operate a program of relief for a specific class or classes of persons residing in the county.
- Operate and maintain a public museum.
- Operate and maintain fish hatcheries and facilities for raising game birds.
- Operate harbor facilities on county land.

Additional Authorities of the Milwaukee County Executive

In addition to authorities under current law, the bill authorizes the Milwaukee County Executive to do the following:

- Call a special meeting of the Milwaukee County Board with a written request specifying a time and place for the meeting, to be held at least 48 hours after the request.
- Subject to approval by the County Board, establish departments in the Milwaukee County government, and sections and divisions within those departments, that the County Executive believes are necessary for the efficient administration of the county.
- Sign all contracts, conveyances, and evidences of indebtedness on behalf of the county.⁵
- Introduce proposed ordinances and resolutions for consideration by the County Board.
- Hire and supervise the number of employees that the County Executive reasonably believes are necessary to carry out the duties of the County Executive's office.

⁵ The bill specifies that no contract with Milwaukee County is valid unless it is signed or countersigned by the Milwaukee County Executive.

Specific Authorities Removed from the Milwaukee County Board

In addition to authorities that the bill transfers from the Milwaukee County Board to the Milwaukee County Executive, the bill removes specified other authorities from the Milwaukee County Board. Specifically, the Milwaukee County Board is not authorized to do the following under the bill:

- Appoint a building inspector.
- Contract to do soil conservation work on privately owned land.
- Establish a mosquito control district.
- Appropriate money for planning and participation in a world festival celebration, or similar program or activity designed to promote international commerce and culture.
- Enter into contracts for the services of retired county employees.
- Own and operate a professional baseball team.
- Enact an ordinance requiring licenses for cats.
- Let a contract for the construction of a sheriff's department training academy.

Collective Bargaining Authority

The bill specifies that in Milwaukee County, the County Executive is the entity authorized to bargain collectively with county employees.

Process for Approval of Contracts

The bill creates a new process for the approval by the Milwaukee County Board of contracts to which Milwaukee County is a party. Under the bill, any contract with a value of at least \$100,000 but not more than \$300,000, may take effect only if one of the following occurs:

- The Board's Finance Committee votes to approve the contract.
- The Board's Finance Committee does not vote to approve or reject the contract within 14 days after the contract is signed or countersigned by the County Executive.
- The Board's Finance Committee votes to reject a contract, but the contract is approved by a vote of the Board within 30 days after the Finance Committee votes to reject the contract.

Also, under the bill, any contract with a value or aggregate value of more than \$300,000 may take effect only if it is approved by a vote of the Board.

Finally, the bill specifies that the Board's Finance Committee is the only committee with jurisdiction over contract approvals.

Intergovernmental Cooperation Agreements

The bill creates a new requirement for intergovernmental cooperation agreements negotiated by Milwaukee County. Under the bill, before such an agreement may take effect and become binding on the county, the agreement must be approved by an executive council, comprised of the elected executive officer of every city and village that is wholly located within Milwaukee County.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

AH:jal