



DALE KOOYENGA

STATE REPRESENTATIVE • 14th ASSEMBLY DISTRICT

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February 14, 2018

TO: Members of the Assembly Committee on Government Accountability and Oversight
FR: Representative Dale Kooyenga
RE: support for Assembly Bill 923 – county modernization

Thank you for holding a hearing on Assembly Bill 923. This bill relates to county modernization and county reforms that will lead to improved governance in Wisconsin's counties.

It is important to note the differences between Wisconsin counties and other local governments. The purpose of county government is to carry out state business and it is appropriate in our role as state legislators that we seek efficiencies to better serve those in need in Wisconsin and Wisconsin taxpayers.

Assembly Bill 923 will provide flexibility to County Executives that in many aspects mirror best practices of state government. These reforms include the ability of the executive to introduce a 2 year budget. The biennial budget serves the state well. Among the benefits of a biennial budget, a county board will be better able to balance their civilian and county board responsibilities. A biennial budget will also provide longer periods of certainty to taxpayers, those in need and other organizations working with county government.

Other provisions of the bill include the prohibition of certain double-dipping in Milwaukee County. The change places Milwaukee on a consistent basis with the state and the other 71 counties.

There have been several false assertions regarding AB 923 and that is unfortunate since the bill has bipartisan support at both the legislative and county levels. An example of a false claim is that "the bill would grant a county executive or administrator broad powers such as the ability to adopt a wheel tax of any value." The bill does not allow a

county executive or administrator to unilaterally raise taxes. This issue is addressed in a Legislative Council memo.

The authors of the bill appreciate the committee holding a public hearing. We are interested in receiving constructive feedback from all parties. In fact, we have already introduced one amendment, AA 1, and are open to other suggestions.

Again, thank you for hearing this bill and I respectfully ask for your support.



WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director

Jessica Karls-Ruplinger, Deputy Director

TO: REPRESENTATIVE DALE KOOYENGA

FROM: Steve McCarthy, Staff Attorney

RE: 2017 Assembly Bill 923

DATE: February 12, 2018

You asked whether 2017 Assembly Bill 923 ("the bill") confers power on a county executive, including the Milwaukee County Executive, to unilaterally increase certain taxes adopted pursuant to county ordinance, including the county motor vehicle registration fee ("wheel tax") and the county sales and use tax, over the objection of a county board. As discussed in more detail below, it appears the bill does not confer such power on a county executive.

BACKGROUND

In Wisconsin, counties are bodies corporate and political subdivisions of the state. The Wisconsin Constitution, Article IV, Sections 22 and 23, provides 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."

Over time, the Legislature has increased the power delegated to county governments to determine their organizational structure and govern their local affairs. Under current law, counties are vested with "administrative home rule" -- that is, with powers of a local, legislative, and administrative character. [s. 59.03 (2) (a), Stats.] Consequently, county powers generally are not derived from the Wisconsin Constitution, but from what is specifically authorized by state statutes and what can reasonably be implied from them.

A county's legislative power is exercised by the county board of supervisors, generally through the enactment of ordinances and the adoption of resolutions. The statutes authorize

county boards to enact various types of ordinances, including imposing a wheel tax and a county sales and use tax. [ss. 341.35 (1) and 77.70, Stats.]¹

Each county has either a county executive or a county administrator² who assists in carrying out the county's executive and administrative functions, including "tak[ing] care that every county ordinance and state or federal law is observed, enforced and administered within his or her county." [ss. 59.17 (2) and 59.18 (2), Stats.] The Milwaukee County Executive also has the power to "introduce proposed ordinances and resolutions for consideration by the board." [s. 59.17 (2) (b) 5., Stats.] The Wisconsin Constitution and statutes require approval of any county ordinance or resolution by a county's chief executive officer, and outlines a procedure for ordinance and resolution veto by the county chief executive officer and veto override by the county board. [Wis. Const. Art. IV, s. 23a. and s. 59.17 (6), Stats.]

THE BILL

Generally, the bill expands some of the powers that may be exercised by a county executive and makes other changes that apply to all counties. The bill also makes various changes specific to the powers of the Milwaukee County Executive and Milwaukee County Board. The effect of the changes is to add certain new authorities to a county executive, transfer or remove certain authorities of a county board, and clarify the roles of the two entities in some areas in which power is shared.

Specifically, the bill provides the Milwaukee County Executive with the power to, among other things, provide certain types of insurance for county property, examine and settle all accounts of the county and all claims, and take administrative actions with regard to procurement.

The bill also provides that the county executive in any county may, among other things, enter into public contracts and leases, order the issuance and sale of bonds in the case of county obligations, and accept donations, gifts, or grants for any public governmental purpose within the powers of the county.

Additionally, the bill makes a number of other changes, including changes relating to county and municipal budget procedures, accounting procedures, appointment of certain county officers, and county officer compensation.

¹ The wheel tax statute authorizes the adoption of an ordinance imposing an annual flat municipal or county registration fee on all motor vehicles registered in this state that are customarily kept in the municipality or county. The county sales and use tax statute authorizes the adoption of an ordinance imposing a tax of 0.5 percent of the sales price or purchase price, with the condition that the county sales and use taxes may be imposed only for the purpose of directly reducing the property tax levy.

² The statutes also provide that, in any county that has not created the office of county executive or county administrator, the board shall designate...an elected or appointed official to serve as "administrative coordinator of the county," who is responsible for coordinating all administrative and management functions of the county government not otherwise vested by law in boards or commissions, or in other elected officers. [s. 59.19, Stats.]

DISCUSSION

It appears the bill does not vest in a county executive the power to unilaterally increase the wheel tax or the county sales and use tax over the objection of the county board. Although the bill expands county executive powers as described above, the bill does not modify the statutes relating to the wheel tax, county sales and use tax, or other county taxing authority.³ Additionally, the bill neither creates a new power for a county executive to unilaterally modify these specific types of ordinances, nor alters the relationship between a county executive and a county board as it relates to adoption and approval of these ordinances. Therefore, it appears that, under the bill, a county board would retain the power to enact these types of ordinances as provided under current law.

You also asked whether certain language in the bill relating to resolution of conflicts between a county executive and a county board confers new power to a county executive. Specifically, page 23, lines 20-24 of the bill, provide that "Any power conferred under [ch. 59, Stats.] to a county executive or county administrator shall be broadly and liberally construed and limited only by express language. To the extent that an action of the board conflicts with the powers of the county executive or the county administrator, the action of the executive or administrator, to the extent of the conflict, shall prevail."

It appears the language does not confer any new power to a county executive. Rather, the language appears to govern the resolution of conflicts regarding existing powers conferred to a county executive (or county administrator) by ch. 59, Stats. As stated above, the bill does not alter the wheel tax or county sales and use tax statutes and does not create a new statutory power for the county executive to unilaterally raise these types of taxes. Although no new power is conferred by this language, it is unclear exactly how a court would apply the language if presented with a conflict between a county board and a county executive. Any such instance would require a case-specific analysis by a court.

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

SM:ksm

³ Under current law, and unchanged by the bill, a county board has the power to apportion and levy taxes and appropriate money to carry into effect any of the board's powers and duties. [s. 59.51 (2), Stats.]



WAUKESHA COUNTY
OFFICE OF THE COUNTY EXECUTIVE

February 13, 2018

Chairman Duey Stroebel
Room 18 South, State Capitol
Madison, WI 53707-7882

Dear Chairman Stroebel,

Chairman Stroebel, and Members of the Committee on Government Operations, Technology and Consumer Protection. I am writing to you today in support of Senate Bill 777 and Assembly Bill 923, legislation to modernize state statutes relating to county executives.

As Waukesha County Executive I am privileged to have a close working relationship with the Waukesha County Board and our County Board Chairman, Paul Decker. Waukesha County is unique in the way the County Executive and County Board work hand-in-hand throughout our budget process and has very open lines of communication.

Together, we have implemented policies that make the working relationship between the County Board and the County Executive as good as anywhere in the state. I am proud to say that many parts of these bills mimic the best practices we have adopted to enhance our working relationship and place them into state statute.

The legislation does go beyond that though. First, the bills modernize existing state law by providing clarity to the roles of the executive and legislative bodies in county government. Addressing these areas of ambiguity in current law will help strengthen County Board and County Executive relationships, especially in populous counties. Secondly, and most importantly, the bills grant local governments the option to enact a biennial, rather than annual, budget. This significant change in current practice will allow governments to operate in a more efficient manner and encourage longer term thinking and planning.

These modifications to current law will go a long way improving the way local governments operate and will modernize state statutes that have not been updated in many years. I encourage members of the committee to support these bills.

Thank you for your time and consideration.

Sincerely,

PAUL FARROW
Waukesha County Executive



OFFICE OF THE COUNTY EXECUTIVE

Milwaukee County

CHRIS ABELE • COUNTY EXECUTIVE

ASSEMBLY COMMITTEE ON GOVERNMENT ACCOUNTABILITY & OVERSIGHT SUPPORT FOR AB 923 – COUNTY GOVERNMENT MODERNIZATION

Wednesday, February 14, 2018

Chairman Hutton & members –

Thank you for taking testimony today on Assembly Bill 923, modernizing county government. As County Executive of the state's largest county, I am pleased to be here today and support this bill.

WHY WE ARE HERE

It goes without saying that if we were to construct county government from scratch today, we would not use the 1848 model that we are in. Equally, the changes made in the 20th century do not fully bring us into the 21st century. The point of this bill is to start – just start – to modernize the county government structure of Wisconsin and clear up the contradictions and inconsistencies of the Executive form of county government.

Wisconsin law requires counties to operate under 1 of 3 types of county leadership – County Executive, County Administrator, or Administrative Coordinator. There are 11 County Executives in Wisconsin. There are 28 Administrators in Wisconsin. The remaining 33 counties have an administrative coordinator. County Executives were authorized by the State of Wisconsin in 1959 and the enabling law for the office was layered over the top of the existing county law. The basic understanding is the County Board is like the Legislature responsible for policy-making while the Executive is like the Governor, responsible for administration and day-to-day operation of the government. Unfortunately, that basic understanding has not always been carefully enacted, protected, or preserved thus creating conflicts and contradictions. Far too often litigation has ensued and/or political battles have flared up. This experience is not limited to Milwaukee County. There are examples from around the state. The intention of this bill to start clearing up some of those challenges.

Along with modernizing the county government, clarifying the roles for the Executive or Board, this bill also implements a procurement best practice in Milwaukee County and eliminates areas where Milwaukee County is treated differently than the other counties – namely confirmations for department heads and the office of Corporation Counsel. County government is no stranger to the involvement of the Legislature in its business as such. We have no charters, nor home rule authority. You, the Legislature, are the authors of our structure and the appropriate place to come to resolve the problems that old laws create.

AB 923 is best considered in three different buckets of policy changes. 1) Statewide changes; 2) Changes to provide uniformity of the counties; 3) Implementing new policies & best practices in Milwaukee County.

STATEWIDE CHANGES

The largest single change to county government, and all other local governments, is the option to adopt a biennial budget rather than an annual budget. Obviously there is an efficiency created by saving a year's worth of time and energy on a budget process but also for larger governments, there is little, if any, time to evaluate the budget you have adopted before you must plan for the next budget. Program evaluation is important and necessary for an effective government to operate efficiently and in the best interests of its citizens. The biennial budget would be adopted in the fall of odd-numbered years and follow the state budget process.

The biennial budget process does contain specific provisions that are new to county law but designed to promote ultimate transparency and good government – amendments must be publicly available for 24 hours before adoption, amendments must have fiscal notes on long-term effect, bonding is limited to that which the Executive and legislative body agree, and fund transfers after adoption of the budget require consultation with the executive and legislative bodies rather raiding departments. Additionally, the bill provides for a rainy day fund for any county. Currently Milwaukee County has no effective rainy day fund as the statutes are prohibitive about how the funds can be used.

The biennial budget option is extended to all local governments in this bill following feedback from legislators last session. The mechanics of municipal budgeting are different than that of counties, but this bill does preserve the transparency and good policy inclusions for municipalities that we feel are effective for county government. Additionally, this bill places the authority to determine whether to use the default annual budget or the biennial budget in the hands of the local government Chief Executive Officer. Current law does not give a County Board any power to decide what kind of budget is to be submitted. 59.17(5) requires the Executive and 59.18(5) requires an Administrator to submit an annual budget. The vast majority of the budget process is done by the administration in creating and recommending a budget to the legislative body. As statute declares an annual budget must be used, I feel it is appropriate for statute to allow the administration to submit a biennial budget.

This bill also changes two matters related to compensation for elected officials. The first change is to mirror the 27th amendment of the US Constitution and state law to end any change in pay for county board members mid-term. Under the bill, pay for supervisors is determined by supervisors but is not changed until the new term in office. Secondly, the bill creates an optional independent commission to set the pay of the county-wide elected offices (Executive, Clerk, Sheriff, etc.). The commission is made up of 4 citizens, 2 appointed by the County Executive and 2 by the County Board whom are not elected officials and the County Director of HR/Personnel to study and make recommendations on the compensation of elected county officials. The commission is created at the discretion of the County Executive or Administrator and the bills requires the county board's approval without amendment of the commission's recommendations. If the commission is not created by the Executive then current law is maintained and governs those compensation issues.

Finally, the bill makes clear the equality of the "branches" of county government and the primacy of state law over local government actions. Section 41 of the bill deals with the separation of powers. The first sentence, "*Any power conferred under this chapter to a county executive or county administrator shall be broadly and liberally construed and limited only by express language.*" is a duplicate of current law for the county boards (59.51) which equalizes both branches. The second sentence, "*To the extent that an action of the board conflicts with the powers of the county executive or the county administrator, the action of the executive or administrator, to the extent of the conflict, shall prevail.*", restates the that

state law must be followed by the local governments. County governments cannot pass ordinances or resolutions that contradict or conflict with the powers granted to the executive or administrator by state law. For example, the County Board cannot require me to appoint a certain person as a department head, because the state law is clear that appointment is my role. This second sentence makes clear to any judge adjudicating the dispute that the powers of the Executive must be preserved when in conflict. This does not mean the action of the Executive is automatic over that of the Board. The doctrine of ministerial duty applies and the conflict is resolved by a judge in a court of law.

CHANGES TOWARDS UNIFORMITY

This bill makes two important changes to bring about uniformity between the counties. In all counties where there is a Corporation Counsel, except for Milwaukee County, the Corporation Counsel is appointed by the Executive or Administrator and confirmed by the Board. Should there need to be a dismissal of the Corporation Counsel, the Board and Executive or Administrator must both agree to the termination/dismissal. Milwaukee County however, is different in statute, and the County Board can fire the Corporation Counsel over the objection of the Executive. Unfortunately, this has happened in Milwaukee, when in 2013, the County Board fired our first African-American Corporation Counsel, Kimberly Walker, over my veto of the dismissal. This bill will make Milwaukee County just like every other county in the state. Regardless of that or any persons involved, Corporation Counsel must serve two masters in their role. There should not be a fear of being fired for honestly interpreting the law.

The second change is to remove specific language requiring Milwaukee County department head appointments and make uniform the confirmation process. 5 department heads in Milwaukee County are treated differently than every other county department head in the state. The Parks, Administration, Health & Human Services, Transportation, & Human Resources Directors all have a term-limit of 4 years that does not exist for any other department head in statute. The bill would remove this term-limit and allow for one confirmation for that person when serving in that role.

POPULOUS COUNTIES BEST PRACTICES & NEW POLICIES

AB 923 also takes steps to implement best practices and new policies for Milwaukee County. This bill will put in place the best practice for procurement, modeled after the State of Wisconsin policy and the American Bar Association (ABA) & National Association of State Procurement Officers (NASPO) best practices. This procurement model centralizes procurement, creates transparent processes, and eliminates politician's involvement in awards and appeals. Under the bill, the County will create a Procurement Manual, similar to the state's, and all procurement processes will be centralized there. Additional transparency is added under this bill to require a list of all contracts valued over \$5000 to be posted publicly.

This bill also eliminates the conflicts in statute relating to human resources and compensation matters. The clear arc of legislation passed in recent years has confirmed day to day operations and supervision of employees is an executive function. Unfortunately, as litigation and counsel's opinions have pointed the statutes do not give clarity to the human resources functions of the county. This bill will clearly go through Ch. 59 and appropriately update all the various sections to reflect the human resource administration vested in the executive "branch" in the direction of the model used by the state.

THINGS THIS BILL IS NOT

Obviously, with any bill that deals in such material or arcane laws, there are going to be questions raised and sometimes, assertions made, that simply are not reality. There have been those moments already and today's hearing is a good time to address those matters. First, as Legislative Council points out, this bill does not give me or any other Executive unilateral powers to increase the wheel tax, sales tax, or any other tax. Secondly, it was never my intention to remove the County Board from the parking regulations discussion we have had in Milwaukee County, and I appreciate and support the amendment from the authors that removes that section of the bill. This bill is also not the death of transparency. In fact every provision of this bill maintains the lawful requirements for public access to request and view any one of the issues contained in the bill. In fact, Milwaukee County will be all the more transparent with public postings of contracts that is not required in other counties.

THE PRESERVATION OF THE BRANCHES

Finally, it is my opinion that this bill goes further than many in the past to make clear the roles or "lanes" both the Board and the Executive operate in. It is the clarity of these roles that will do the most to preserve the separation of powers for each branch of County government. This kind of clarity is what the public needs to hold us accountable for the actions we take as elected officials and to hold each other accountable for the operations of the people's government we are elected to serve.

Thank you for your support of AB 923 and I encourage you to send this bill to the floor for Assembly action.



Memorandum

To: Hon. Wisconsin Legislators
From: County Leaders for Modernization
Date: February 2018
Subject: Support for LRB 5135/2

County Leaders for Modernization is a bipartisan coalition of elected County Executives from across Wisconsin, who seek to ensure that counties choosing the executive form of government operate in the most efficient, accountable, and successful manner possible. As executive leaders of our counties, we are responsible not only for the faithful execution of the laws enacted by the State of Wisconsin, but also for constantly improving the operations of county government and having a vision for how county government can better leverage new technologies and new approaches to delivery of services. We meet routinely with one another to share ideas and develop solutions to the shared challenges we face.

We are writing to express our strong support for LRB 5135/2. These bills grant the local governments of Wisconsin the option to enact a biennial budget rather than an annual budget. Additionally, these bills will clarify the roles of the county executive and county board so that the public will have a clear understanding of who is accountable for the successes or failures of county government. They also address ambiguities in the law, which remain from the original enactment of the county executive statutes and which have, over the years, caused undue delay and conflict in the administration of county government. These ambiguities also inhibit the ability of County Executives to plan for the future and the adoption of more modern, efficient approaches to administering the law and delivering services.

Key aspects of these bills include:

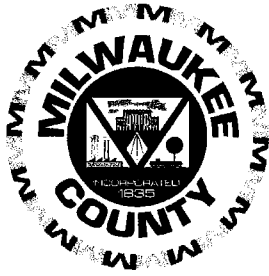
- Modernizing the county budget process and creating a biennial budget option. This is the cornerstone of this legislation, which will create an opportunity for county executives and county boards to thoughtfully plan for future years, thereby spending taxpayer dollars more efficiently.

- Ensuring statutory clarity to the roles of the executive and legislative bodies in county government.
- Providing certainty in county elected official compensation in a manner similar to the way state legislator pay is determined and providing an optional process to de-politicize county elected official compensation decisions through an independent commission.
- Modernizing basic county administrative processes for populous counties (Milwaukee), including aligning procurement, property management and personnel management to more closely mirror State processes
- Eliminating disparate statutes between the counties by creating a uniform process for county executive cabinet appointments, similar to that utilized for gubernatorial cabinet appointments.

As executive leaders representing communities in all corners of the state, we all see the wisdom of correcting these issues in a uniform manner and focusing all of county government on the future. Please join us in supporting this important legislation.

On behalf of County Leaders for Modernization

Paul Farrow, Waukesha County Executive
Chris Abele, Milwaukee County Executive
Thomas Nelson, Outagamie County Executive



Milwaukee County Board of Supervisors

Supervisor David L. Sartori, 8th District

Testimony of Supervisor David L. Sartori on AB 923

Good morning. My name is David L. Sartori, and I represent the communities of St. Francis, Cudahy, South Milwaukee, and parts of Oak Creek on the Milwaukee County Board of Supervisors.

I'm here today to ask members of this committee to vote "No" on Assembly Bill 923.

Assembly Bill 923 undermines the foundation of our government, which is the American system of checks and balances.

Assembly Bill 923 gives too much power to county executives and administrators, and goes too far to limit the role of the legislative branch in a number of areas. If adopted, this bill would allow for unchecked executive power on a range of important policy and administrative issue.

First, the bill would extend the kinds of conflicts we've seen in Milwaukee County to local governments statewide, by granting powers that only the Milwaukee County executive already has to other county executives and county administrators.

Secondly, the bill would limit the role of county boards on a range of issues, including on such important matters as political appointments, compensation of county employees, budgeting, issuing debt, transportation, contracting, among many others.

Local governments function more efficiently and effectively when the legislature provides clarity regarding our roles and responsibilities. This bill would create more confusion. Robust checks and balances ensure that power is shared, and that citizen voices matter. This bill does away with important checks and balances. Strong ethical standards and fiscal controls promote transparency and accountability in the public interest. This bill weakens those standards.

Government works best when leaders are responsive to the will of the people. When 72% of voters rejected a proposal to double our wheel tax to \$60, Milwaukee County Supervisors listened. If it becomes law, this bill could potentially allow a county executive in Wisconsin to impose a wheel tax at any level, even over the objection of voters, and the legislative branch.

Wisconsin's high standards for transparency, accountability, and strong checks and balances were historically seen as a model for good government. These good government principles ensured that the people weren't shut out of halls of power, and our state thrived as a result.

We need more accountability in government, not less. We should be shoring up and reinforcing Wisconsin's foundation of good government, not undermining it. The people of Wisconsin must have confidence that all levels of government will honor our Wisconsin values. Thank you.



DAVID CULLEN

Milwaukee County Treasurer

TO: Representative Rob Hutton, Chairman, Assembly Committee on Government
Accountability and Oversight

RE: Opposition to Assembly Bill 923

Thank you for the opportunity to share my thoughts with you on this proposal. I am opposed to this bill for a number of reasons, but at its most basic it is an attack on the legislative branch of county government statewide. It gives virtually king like powers to county executives and administrators, and will greatly inhibit the public's ability to have input into its government.

Perhaps the most onerous part of this bill is found in Section 41, which provides that to "the extent that an action of the Board conflicts with the powers of the county executive or the county administrator, the action of the executive or administrator, to the extent of the conflict, shall prevail".

Allow me to share two examples from Milwaukee County as to how this will play out. Our County Executive proposed doubling the wheel tax to \$60. The County Board voted against this proposal. 72% of voters also said no to this idea in a referendum. Despite this, the County Executive continues to press forward with the idea. Under Section 41 of this bill, he could double, triple, or quadruple the wheel tax unilaterally if he so chose.

Another timely example is the establishing of parking fees in county parks. I realize the specific language dealing with this is the subject of Amendment 1 offered by the bill's authors. However, by any reasonable interpretation of Section 41, the County Executive could still implement this fee and the County Board and public would be powerless to stop him.

Statewide, the bill also allows the county executives or administrators to sell land and other county property without county board review and approval. It also eliminates the need for county board approval when executing contracts. This is a dangerous lack of oversight of public dollars.

A provision that only affects Milwaukee County is giving the County Executive the power to determine salary and compensation, including pension benefits, of all county employees. It also gives the County Executive the power to determine the number of county employees.

There are two recent examples in Milwaukee of the danger of giving this much authority to one person.

Recently, the County Executive gave a raise of more than \$48,682 to one of his Department heads. This 39% raise gave him a salary of \$175,000 per year. The public was not informed of this raise. It was only discovered when word leaked out about this exorbitant raise. Circuit Court Judge John J. DiMotto ruled that this action was illegal and the raise was rescinded. Again, under this bill, these things could happen all of the time without the public's knowledge or ability to stop it.

Also recently, the County Executive hired a Human Resources Director of Operations. Along with giving this person a larger salary than his retiring predecessor, he was secretly given a signing bonus of upwards of \$10,000. Again, there was no accountability and Judge DiMotto determined that this action violated the law.

Another section of the bill that is seemingly less controversial, but has some problems, is the provision to allow biennial budgets. This new policy could be implemented by the county executive or administrator without county board approval. A potential problem with this idea is the lack of transparency and public input allowed because it creates a budget that covers twice the amount of time of the current budget, but reduces the time for public and board input to 31 days.

Keep in mind that county board members are part time. Most have other jobs and they do not have the LRB, Fiscal Bureau, or full time aides to provide them with an independent analysis of the proposal.

After hearing these concerns, I hope you will agree that this proposal is far too sweeping to enact just a few days after the public has been made aware of it.

As a former legislator who served in both the majority and the minority, I know what it is like to sit in your chairs. If Governor Doyle, Governor Thompson, or Governor Walker presented a proposal like this to the legislature for the operation of state government, I am sure it would be dead on arrival, no matter which party controlled the Legislature.

It is not in the public's interest to give so much power to any one person at the expense of the legislature and the public.

If you have any questions, I would be happy to answer them.



Office of the Comptroller

Milwaukee County

Scott B. Manske • Comptroller

The Honorable Rob Hutton
Room 220 North
State Capitol
PO Box 8952
Madison, WI 53707

February 18, 2018

Dear Representative Hutton,

As a long-time employee of Milwaukee County, I have served as both the appointed Controller, and now elected Comptroller, and see great value in streamlining government. My comments on 2017 SB 777 / 2017 AB 923 below are offered with the sole intent of protecting County taxpayers and the dollars they contribute to the County; my comments would be the same regardless of those serving in County leadership.

With the limited time available, I was able to identify that this legislation abolishes some of the core principles of fiscal management: checks and balances are eliminated; preventive and detective controls are minimized; previously separated duties are being consolidated into one position; and the pathway to fiscally sound management is now open to riskier activity.

I respectfully urge you to take the issues discussed below into consideration. This legislation was only recently released and I fear that these issues, without more intense review and discussion, could undo many of our financial safeguards. Some of these safeguards were implemented to prevent another multi-million dollar pension scandal. Furthermore, the County's overall financial status may be weakened by this bill, potentially leading to lower bond ratings, higher borrowing costs, and the inability to attract and retain high quality staff and affordable contractors.

Public Debt

I am responsible for overseeing the County's debt. To ensure the County gets the lowest borrowing rates possible, my staff and County Executive staff vigorously defend our financial practices and system of checks and balances. In the past, the County has been given high marks by bond rating agencies for having strong management over its fiscal affairs. This bill eliminates many of the checks and balances currently in place which could have serious ramifications on our ability to maintain our current bond ratings.

By consolidating both the power of funds management and the power of appropriation transfers in the same person with almost no public transparency, situations could easily result where funds are left to deficit without correction while surpluses are spent without public input or without consultation with other County officials.

Under current law, any surplus or deficit in the County at year end is applied to the subsequent year's budget. While the best practice is to maintain surplus reserves, under the bill, a County Executive has unilateral authority over the final disposition of year end surpluses and deficits throughout the County.

Biennial Budgeting

Biennial budgeting is a valuable tool that can streamline operations at the County. However, the bill removes all the previously required budgetary controls. Vesting such power in one person invalidates the transparency of the County's current budgeting process because subsequent changes can be made to the budget without public or legislative input.

For example, a County Executive could request a new program in the recommended budget. If a County Board denied the request based on public input, then under the proposed law, a County Executive could move forward regardless via the new appropriation transfer process.

Centralizing budgetary authority into one position without any controls for fiscal review or public disclosure allows for financial issues to occur. The proposal strips the necessary checks and balances that produce judicious financial management and instead inserts unnecessary risk in the County's financial affairs.

Positions, Salary and Benefits

I support changes to the County's compensation system to better attract and retain workers, and this legislation would allow the County to move forward with the changes that the County Executive and I proposed. However, the proposed bill concentrates power over salary and benefits within one individual and limits the appropriate checks and balances and public disclosure which prevent *the giving of costly employee benefits*, such as those that occurred during the Milwaukee County pension scandal of 2001, all of which occurred prior to the requirement of an independent fiscal analysis. I believe if an independent fiscal analysis had been required at the time, the pension backdrop provisions would not have passed.

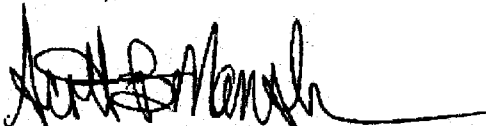
The bill also centralizes the authority of over 3,500 FTEs in one person, giving that person the full authority, without limitation or public disclosure, to establish pay and benefits. It also gives that person the power to determine staffing levels for elected officials such as myself, the Sheriff and the Chief Judge without any appeal process or recourse should there be disagreements. A County Executive could also eliminate an entire department's staff, essentially eliminating the duties of a department. All of this could occur without a public hearing.

Conferring sole authority over salary and benefits removes the checks and balances that have been critical in keeping salary and benefit dollars at all-time lows in Milwaukee County for several years now. It also removes the preventive controls that have kept salary and benefits from becoming an avenue for misconduct amongst those in power, which have been useful to the County as it continues to recover from a pension scandal that occurred nearly two decades ago. I strongly urge you to consider the appropriate checks and balances with respect to positions, pay and benefits so that this legislation does not put the County's fiscal health at risk.

I appreciate your time and consideration. To briefly summarize, as CFO of Milwaukee County, I would like more time to work with you and other legislators to ensure that modernization of Milwaukee County is done in a way that does not jeopardize the following:

- Strong, independent fiscal analysis
- Transparency of government transactions; and
- Checks and balances that are designed to protect the public and taxpayer dollars.

Sincerely,



Scott B. Manske, Comptroller
Milwaukee County



Wednesday, February 14, 2018

To: Assembly Committee on Government Accountability and Oversight

From: Sarah Spaeth, Legislative Policy Advisor for Waukesha County Board

Re: Testimony for information only on Assembly Bill 923

Last week, Assembly Bill 923 was introduced which makes various changes to the County Board and County Executive levels of authority. The Waukesha County Board's Executive committee will be reviewing the legislation at its committee meeting next week Monday to determine their position. The impacts to Waukesha County Board as are follows:

The bill provides the County Executive the option to establish a compensation commission to determine the salaries of county elected officials (with the exception of the Board of Supervisors) and implements the mandatory adoption of the commission's recommendations. Under our current practice our Human Resources Division provides analysis and makes recommendations regarding elected officials salaries and Supervisors can offer amendments, vote in favor or opposed. If using the county commission model, it is unclear how you could mandate the board to vote in favor of recommendations made by the commission.

The bill also gives the County Executive authority to accept donations, gifts or grants without board approval. The Supervisors typically review these items and will question how the department plans to fund items once a grant runs out or how a piece of equipment might be replaced once it reaches the end of its useful life.

AB 923 gives the County Executive the authority to use biennial budgeting. The timeline included in the bill would reduce our current budget review schedule.

Thank you for your time and attention.



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To: Assembly Committee on Government Accountability and Oversight
From: Curt Witynski, J.D., Deputy Executive Director, League of Wisconsin Municipalities
Date: February 14, 2018
Re: **AB 923, Increasing county executive powers; authorizing mayors, village presidents to unilaterally adopt alternative 2-year budgeting process**

The League of Wisconsin Municipalities has the following concerns about Section 76 of AB 923, enabling mayors and village presidents to unilaterally adopt the biennial alternative budget procedure set out in the bill:

1. Our main concern is the method by which a community is to adopt the alternative 2-year budgeting process set forth in the bill. Under the bill, the alternative budgeting process is adopted when the municipality's chief executive (defined under the bill as the mayor and village president) issues a written proclamation stating that the municipality will use the alternative process. No action by the governing body is needed and the bill expressly states that the governing body is powerless to stop or repeal the proclamation.

This is a radical departure from longstanding common and statutory law in Wisconsin, which ordinarily requires local changes in process and other policy decisions to be enacted by the governing body. I'm unaware of any other situation in which a mayor or village president may unilaterally implement a new process or policy without involvement of the governing body. The governing body serves as the legislative arm of the municipal government. It decides policy matters. It enacts ordinances, resolutions, and motions. Mayors and village presidents have no power to act unilaterally on behalf of the city or village.

2. While typically we welcome enabling legislation giving municipalities the option of adopting an alternative process, revenue source, or regulatory tool, I'm not aware of any municipalities requesting this particular grant of authority. We believe cities and village already have adequate authority to adopt a two year budget cycle if they want. The City of Superior did so for years. They don't do so currently, but they have in the past.

3. Section 76 appears to be drafted under the presumption that all cities and villages in the state are large enough to have a budget or finance director, various department heads, and that all municipalities have a finance committee. This is not the case. Most League members are under 2,500 in population and the municipal clerk prepares the initial draft of the annual budget. Committees are not mandated by state law and some communities don't have a committee structure in place. My point here is that a village president or mayor may unilaterally adopt the alternative budget process created by the bill, but the community may lack the level of sophistication and staffing level contemplated by the bill. Yet, the governing body would be unable to reject the mayor or village president's decision.

Absent deletion or major changes to Section 76, we urge the committee to not recommend passage of AB 923. Thanks for considering our comments.

YOUR VOICE. YOUR WISCONSIN.



MILWAUKEE COMMON COUNCIL

City Hall Room 205, 200 E. Wells Street, Milwaukee, WI 53202 • (414) 286-2221 • Fax (414) 286-3456 • www.milwaukee.gov/council

City of Milwaukee Testimony on AB 923 Assembly Committee on Government Accountability and Oversight February 14, 2018

The Common Council of the City of Milwaukee is opposed to AB 923 as currently written due to the infringement on local control of the local governing body. The bill gives expansive authority to the Mayor over municipal finances and in the process significantly eliminates transparency for the general public. My comments will focus on Section 76 of the bill which affects all municipalities in the State. The Council respectfully requests that this section be removed from the bill.

Section 76 gives municipalities the ability to adopt a biennial budget. We are not opposed to this concept in principle and believe that we may already have this authority. A statute change may not be necessary to accomplish this. However, we are opposed to the provision in the bill that would just allow the Mayor to make this decision through proclamation without any approval from the legislative body.

The bill further lays out a municipal budget time line and amendment process. Currently, we adopt a \$1.5 billion budget in approximately 8 weeks. Our process is very similar to the state budget process. It's fairly efficient and as far as I know we have never passed a budget beyond the statutory deadline.

Typically, the Mayor proposes a budget by the end of September and the Council adopts it by mid-November. A public hearing, departmental hearings, and finance committee amendments are made during the month of October. Rather than the 8 weeks we have now, the bill narrows the municipal budget review to a few weeks. The reduction of time in the budget process will only lead to a reduction in oversight of the municipal budget. We believe it is the responsibility of government to provide a thorough public vetting of the \$1.5 billion of City taxpayer money. We hope the Legislature agrees that municipal legislative bodies should have the same oversight over municipal executive budgets as the Legislature has over the Governor's budget.

The bill requires the Mayor to present a budget by October 1 and a public hearing must be held no sooner than October 16th. Under the bill, the Finance Committee must propose all amendments to the budget at its next meeting before any departmental hearings have even been held and that meeting cannot take place before October 17th. The Council would have to submit all amendments to the comptroller by October 19th in order to meet the requirement to submit all amendments to the comptroller seven business days before consideration in order to adopt a budget by the requirement of November 1st. This timeline is cumbersome and too restrictive.

In 65.30 (6)(c) 5., the bill specifies that the Council must act on the Mayor's vetoes or *changes*. What are *changes* at this point? Typically, the executive can veto actions of the body but not add or subtract from the budget at this stage. This section seems to give the executive the authority to make any changes. A clarification of this provision is necessary.

65.30 (6)(d) allows the executive to make unilateral budget decisions affecting a municipality if revenues received or expenditures incurred are different than anticipated. We believe there should continue to be legislative oversight if this occurs. For example, if we experienced more snow days than budgeted for and needed to allocate more resources for salt and plow operations than the bill allows the Mayor to unilaterally choose to close a fire station or eliminate police officers or sanitation workers. The Council should be involved in this decision.

65.30 (6)(f) allows departments to receive gifts or grants with the consent of the chief executive but without the approval of the governing body. We receive intergovernmental and private grants and are concerned that the granting authority may require legislative oversight. Currently, when the City receives a grant a Council committee holds a hearing and the public is given the opportunity to hear how those funds will be used and weigh in. The bill eliminates the transparency that currently exists with any grant funds.

Generally, we don't believe the bill is good public policy because it shifts too much authority to the executive branch. It is important to have checks and balances in the system especially when the current system is working pretty well. The Common Council of the City of Milwaukee requests that the bill be amended by deleting Section 76 of the bill in its entirety.

Thank you for your consideration.

For more information, please contact:
Brenda Wood
Intergovernmental Policy Manager
City of Milwaukee
bwood@milwaukee.gov
414-286-2371 office
414-339-9054 cell

Municipal Budget Timeline Under AB 923-SB 777

- | | |
|-----------|--|
| 10/1 | Mayoral deadline to submit budget |
| 10/2 | Publish Class 1 notice in newspaper |
| 10/5-10/9 | Finance committee amendments must be sent to the comptroller |
| 10/16 | Earliest Public Hearing date |
| 10/17 | Earliest Finance Committee date |
| 10/19 | Council amendments sent to the comptroller |
| 11/1 | Budget adoption |
| 11/14 | Mayor issues vetoes/changes |
| 11/19 | Council action on vetoes |



LEAGUE OF WOMEN VOTERS®

WISCONSIN

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February 14, 2018

To: Assembly Committee on Government Accountability and Oversight

From: Caryl Terrell, member, League of Women Voters of Wisconsin Legislative Committee

Re: Opposition to AB 923

The League of Women Voters promotes open government that is representative, accountable and responsive. The League has studied the role of counties in Wisconsin and adopted support for strengthened county government, recognizing variances in organization to meet differing needs. The League supports county board apportionment by population and the opportunity to establish an executive or administrator. The League's positions express concern about changing independent boards and commissions from policy-making and implementation to advisory status which could diminish the opportunity for citizen advocacy to ensure adequate services.

The League opposes AB 923 and SB 777 because this legislation makes major changes to the power structure of county government without input from the elected or voters. The transfer in administrative and fiscal authority removes necessary checks and balances needed for accountability, and those changes would set precedent that could impact all counties in the future. We urge you to reject this bill.

Thank you.



To: Members, Assembly Committee on Government Accountability and Oversight
From: Badger State Sheriffs' Association (BSSA)
Wisconsin Sheriffs and Deputy Sheriffs Association (WS&DSA)
Date: February 14, 2018
RE: Opposition to Assembly Bill 923

Our organizations submit these comments in opposition to Assembly Bill 923, which unnecessarily change the salary determination process for Sheriffs.

The specific issue of concern is in Section 22 of the bill that would require the county board to establish the annual compensation of a sheriff through enacting an ordinance. Our organizations question the reasoning behind this requirement. In addition, the legislation provides an optional process for the county executive, county administrator or administrative coordinator to appoint a commission to recommend compensation, which the board must mirror in an ordinance.

We have significant concerns with requiring the annual compensation of a sheriff be only enacted through ordinance, and even further concerns with this alternative compensation process. This new process places significant power in the hands of the county executive, county administrator, or administrator coordinator to appoint the commission and removes the current deliberative process of the county board to make compensation decisions for the Sheriff.

We request the ordinance requirement is removed from Section 22 and that Sheriffs, like circuit judges and supervisors, are exempted from the alternative compensation process outlined in the bill.

Thank you for your consideration of this request.

TESTIMONY ON AB 923

Assembly Committee on Government Accountability and Oversight

February 14, 2018

By Tom Frazier, Citizen

This bill may not be unconstitutional but, at a minimum, it violates some constitutional principles of a democratic republic. For example:

- **Three equal branches of government**-AB 923 greatly increases the powers of the county executive and decreases the powers of the county board (legislative branch). As state legislators, would you propose legislation saying that any dispute between the Governor and the Legislature would always be decided in the favor of the Governor? I doubt it and you should reconsider the wisdom of doing this in favor of the executive branch over the legislative branch in Milwaukee County. This bill will make the already stronger executive branch even more so, and makes a mockery of the concept of three equal branches of government.
- **Checks and balances**-AB 923 significantly reduces the ability of the legislative branch to provide checks on the power or abuse of power by the executive branch of government in Milwaukee County. Such abuse might include getting the state legislature to weaken the county legislative branch whenever the county executive doesn't like it when the legislative branch disagrees (or checks) the power of the executive, even when a large majority of voters favor checking that power.

I believe that executive powers at all levels in this country have expanded over time without laws to legally expand those powers. Again, if you would not apply this law to yourselves as the state legislative branch, you may want to reconsider applying it to a county legislative branch. I urge you to table this ill-advised bill.

Tom Frazier, Middleton, WI 608.770.0605

TO: Members of the Assembly Government Accountability and Oversight Committee, Chair Hutton, Vice Chair Brandtjen, and Representatives Krug, Wichgers, Kuglitsch, August, Pope, Brostoff and Riemer

FROM: Louise Petering, 7229 N. Santa Monica Blvd., Fox Point, WI 53217

RE: AB 923, Powers and duties of a county executive

DATE: February 14, 2018

As members of the Government Accountability and Oversight Committee, keep in mind you are accountable to the public. You must not approve AB 923.

This bill is a slap in face of representative government. It constitutes the usurpation of the powers of elected representatives.

As written, AB 923 provides overreaching powers to the County Executive or administrator; it allows for a wholesale power grab by a County Executive should an Executive decide to avail him- or her-self of the powers proposed here to rest in that office. AB 923 provides that the executive prevails in the event of a conflict between a county board and the county executive and therefore robs the public of representation by their duly elected district supervisors. Codifying this investment of considerable power in one elected office, the County Executive, flies in the face of several principles of our representative Democracy:

Check and balances provided in the U.S. Constitution and propagated down to the lowest levels of government.

The establishment of three co-equal branches of government – no all-powerful branch, whether executive, legislative or judicial.

Fiscal responsibility initiated in the legislative branch – AB 923 generally transfers the authority to enter into public contracts and leases from the board to the County Executive. This vests far too much monetary power in one individual. It constitutes a temptation to cronyism and corruption. Remember, “power corrupts and absolute power corrupts absolutely.”

AB 923 threatens the viability and makes a sham of our Representative Democracy, a form of government essentially in effect since February, 1789 when New Hampshire was the 9th state to ratify the US Constitution.

This legislation strikes at the heart of our founding document.

It must not pass!