

**INTEROFFICE COMMUNICATION  
COUNTY OF MILWAUKEE**

DATE: June 7, 2012

TO: Willie Johnson Jr. & David Cullen, Co-Chairs  
Committee on Finance, Personnel and Audit

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

SUBJECT: **File No. 12-144**; A resolution authorizing the development of a process whereby designated representatives of authorized employee groups meet and confer with Milwaukee County management representatives on terms and conditions of employment and operational issues.

At its meeting on March 9, 2012, the Committee on Personnel referred this resolution to Corporation Counsel for a written legal opinion as to whether this resolution is in accordance with State Statutes. For the reasons set forth below, we believe that the resolution is not inconsistent with state laws.

Preliminarily, the resolution merely authorizes the drafting of policies or ordinances for the stated purpose. The final proposal will need to be reviewed to ensure that it is consistent with state laws. The more the final proposal appears similar to collective bargaining that is now prohibited under the Municipal Employee Relations Act (MERA), the more chance would exist that it would be contrary to state law. We would also note that this proposal cannot be a substitute for, or replace, Milwaukee County's continuing obligation to collectively bargain with its public safety worker unions.

However, with the prior caveat, we would note that public employers, including Milwaukee County, have established committees, sometimes authorized as part of a union contract and sometimes not, to address topics of interest to management and the labor force. One common example would be safety committees. State law has not previously, and does not currently, preclude policymakers or management from soliciting the views of employees on any matter. Alternatively, nothing requires policymakers or management to do so.

Importantly, the resolution makes clear that the contemplated process will not be binding, in any fashion, on policymakers or management. The Act 10 changes prohibit collective bargaining with unions over most matters. Thus, any proposal that seeks the input of employees in general, without any binding or impeding effect on the adoption of policy, would not constitute "bargaining" in the manner referenced by MERA. As noted in the resolution, the ultimate proposal should be clear that management and policymakers

Memo to Willie Johnson Jr. & David Cullen

6/7/2012

Page 2 of 2

retain the exclusive right to make decisions over all such matters, regardless of the input from employees or employee groups.

In a similar manner, it would be preferable if the employees to be involved in the process are not limited solely to former union representatives, but are instead defined as a potentially larger group of employees that may include, but is not limited to, former union representatives.

As noted in the resolution, the City of Milwaukee has addressed these issues in its adopted policy.

Subject to these considerations, it is our opinion that the resolution and the ultimate policy on this subject may be adopted by the County consistently with state statutes.