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MES/JTK/RAC/CMH/TKK:kjf:ph

2013 - 2014 LEGISLATURE

# ENGROSSED 2013 ASSEMBLY BILL 85

May 9, 2013 - Printed by direction of SENATE CHIEF CLERK.

1           **AN ACT** *to repeal* 59.79 (6), 59.79 (11), 59.79 (12), 59.79 (13)  
2                           and 806.155; *to*  
3                           **renumber and amend** 59.10 (2) (c), 59.17 (2) (b) and 111.70  
4                           (1) (j); *to amend*  
5                           59.03 (2) (a), 59.06 (2), 59.10 (2) (b), 59.12 (2), 59.17 (2) (bm)  
6                           1. (intro.), 59.17 (2)  
7                           (bm) 2., 59.17 (2) (br), 59.22 (2) (a), 59.22 (3), 59.52 (6) (a),  
8                           59.53 (5) (a), 59.53  
9                           (6) (a) 1., 59.53 (6) (a) 2., 59.53 (20), 59.53 (21), 59.56 (11),  
10                           59.60 (7), 59.698, 59.70  
11                           (7), 59.70 (8m), 59.70 (12) (a), 59.875 (title), 66.0301 (2) and  
12                           289.33 (3) (d); and  
13                           **to create** 59.10 (2) (c) 2., 59.10 (2) (c) 3., 59.10 (2) (c) 4., 59.11  
14                           (2) (c), 59.17 (2)  
                         (b) 2. to 6., 59.52 (31), 59.60 (7e), 59.794, 59.875 (3) and  
                         111.70 (1) (j) 2. b. of the  
                         statutes; **relating to:** changing the compensation structure  
                         by which a  
                         Milwaukee County supervisor may be paid, changing the  
                         term length of a  
                         Milwaukee County supervisor, affecting the right of an  
                         annuitant under the  
                         Milwaukee County Employee's Retirement System to be  
                         rehired by Milwaukee  
                         County, limiting the authority of Milwaukee County to enter  
                         into certain  
                         intergovernmental agreements, removing and clarifying some  
                         authority of the

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1 Milwaukee County board, increasing and clarifying the authority of  
 2 the  
 3 Milwaukee County executive, deleting obsolete statutory  
 references, and  
 requiring a referendum.

*Analysis by the Legislative Reference Bureau*

***Engrossment information:***

The text of Engrossed 2013 Assembly Bill 85 consists of the bill, as passed by the assembly on May 8, 2013, as affected by the following Assembly Amendments adopted in the assembly on April 17, 2013: Assembly Amendments 1, 2, and 3.

***Content of Engrossed 2013 Assembly Bill 85:***

Under current law, in a county with a population of at least 500,000 (presently only Milwaukee County), county board supervisors are paid an annual salary that is set by the board. In general, county board supervisors may receive other benefits such as life and health insurance, and supervisors in counties other than Milwaukee County are paid a per diem by the county for each day that the supervisor attends a county board meeting. Current law provides a maximum number of days for which a supervisor may receive such per diem payments, ranging from 20 to 30 days, based on the population of the county.

Subject to approval by the electors in a referendum to be held in Milwaukee County in April 2014, under this bill, county board supervisors in a county with a population of at least 500,000 may be paid an annual salary that may not exceed the annual per capita income of Milwaukee County, as determined by the U.S. Bureau of the Census, beginning with the term that commences in April 2016. Currently, the county's per capita annual income is approximately \$24,000. Under the bill, a Milwaukee County supervisor may not receive any additional compensation or benefits, including health insurance and pension benefits, that are not authorized or required by law, although the bill authorizes the board to provide the board chairperson additional compensation, such that his or her salary may

be up to 150 percent of the salary paid to a supervisor. The board may also provide the chairperson of the finance committee additional compensation such that his or her salary may be up to 125 percent of the salary paid to a supervisor. The board may increase a supervisor's salary by the rate of inflation or, subject to approval by the electors in a referendum, at a rate greater than the rate of inflation. In no case, however, may the salary of a supervisor, other than the board chairperson and finance committee chairperson, exceed the annual per capita income of Milwaukee County, as determined by the U.S. Bureau of the Census.

Currently, Milwaukee County employees are covered under the Milwaukee County Employee's Retirement System (MCERS), a retirement system established for a county having a population of 500,000 or more. MCERS is not part of the Wisconsin Retirement System (WRS), but is a separate retirement system.

The bill provides that no individual who is receiving an annuity under an employee retirement system of a county having a population of 500,000 or more and

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who is reemployed by the county may continue to receive the annuity if a similarly situated individual who is receiving an annuity under WRS and who was reemployed by a participating employer under that system would be required to terminate the annuity. This provision first applies to individuals who terminate employment on or after the bill's effective date.

Under current law, the term of a Milwaukee County supervisor is four years. Under the bill, beginning with the spring election in 2016, the term of such a supervisor is two years.

Subject to a number of exceptions, the bill also limits the Milwaukee County board's expenditures for expenses related to the county board, such as salaries and fringe benefits of county board members, costs for staff, and certain items related to the functioning of the board, to no more than 0.4 percent of the county portion of the

property tax levy. Items not subject to this 0.4 percent limit are costs related to pension and health care payments for retired county employees, officers, and their families; salaries, health benefits, and pension benefits for supervisors and the county board chairperson for a term that begins before April 2016; and certain costs related to duties performed by the Milwaukee County clerk.

Generally under current law, a county executive has the authority to direct all administrative and management functions of county government that are not vested by law in other elected officers. The Milwaukee County executive is further authorized to appoint and supervise the heads of all departments, unless otherwise provided by law, and the department heads are generally authorized to supervise the administration of their departments. Current law also generally authorizes a county board to exercise any organizational or administrative power that is not given to a county executive or administrator, or such a person's subordinate. The bill makes a number of changes which clarify or increase the authority of the Milwaukee County executive and limits and clarifies certain authority of the Milwaukee County board.

With regard to the powers of the Milwaukee County executive and board, the bill does the following:

1. Except for a specific statutory provision which states otherwise, authorizes the county executive to administer, supervise, and direct all county departments, including any person who lobbies for, or negotiates on behalf of, the county.
2. Authorizes the county executive to establish departments and subunits of the departments, subject to the approval of the board, that the executive believes are necessary for the efficient administration of the county. This authority is subject to board approval of the county executive department budget.
3. For a contract with the county to be valid, requires the county executive to sign all contracts on behalf of the county to the extent that no other county officer or employee is required to sign them, and the county executive must countersign all

other contracts. Under current law, and under the bill, contracts with the county must also be countersigned by the comptroller and corporation counsel.

4. The county executive may introduce proposed ordinances and resolutions for consideration by the board, call a special meeting of the board with the approval of the county board chairperson, and hire and supervise the number of employees that

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he or she believes are necessary to carry out his or her duties, subject to compliance with hiring policies set by the board.

5. The county board is prohibited from creating a county department or subunit of a department, and may not exercise day-to-day control of any county department or subunit of a department. Such control may be exercised only by the county executive.

6. Except for making an inquiry, referring a specific constituent concern, or using legal services of the corporation counsel, the supervisors may deal with county departments solely through the county executive, and no supervisor may give instructions or orders to any subordinate of the county executive, although the board may require any county employee or officer to attend a board meeting to provide information and answer questions.

7. Although the board may generally set the salary and compensation level of county employees, the bill prohibits the board from lowering the salary, terminating, or eliminating the position of any county employee who works in the office of the county executive, unless such changes affect all county employees in all county departments. This prohibition does not apply after the supervisors who are elected in the spring 2016 election take office.

8. Permits only the county executive to bargain collectively with county employees.

The bill creates a new approval process for contracts to which a populous county (a county with a population of at least 750,000) is a party. Under the bill, a contract with a value of between \$100,000 and \$300,000 is subject to passive

review, meaning  
 that the contract may take effect unless the board's finance committee  
 votes to reject  
 the contract within 14 days of the county executive signing or  
 countersigning the  
 contract. If the finance committee rejects the contract, it may still  
 take effect if the  
 entire board approves the contract within 30 days of the committee's  
 rejection. A  
 contract with a value of more than \$300,000 may take effect only if it  
 is approved by  
 the entire board.

Under current law, a county board may schedule an advisory  
 referendum or a  
 referendum on the question of ratification of an ordinance or  
 resolution of the county  
 board. This bill prohibits the Milwaukee County Board from  
 scheduling a  
 referendum on any matter that is subject to the approval of the  
 electors of a county  
 under this bill to be held concurrently with the election at which the  
 question of  
 approval is presented to the electors.

Under current law, the state, regional planning commissions,  
 federally  
 recognized Indian tribes and bands, and local units of government,  
 including  
 municipalities, counties, school districts, and other special purpose  
 districts, may  
 enter into intergovernmental cooperation agreements for the receipt  
 or furnishing  
 of services or joint exercise of powers. Under another provision of  
 current law, a  
 county and a city, village, or town (municipality), may enter into a  
 contract to  
 consolidate municipal services under which the county renders such  
 services to the  
 contracting municipality, either exclusively by the county or jointly  
 with the  
 municipality.

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Under this bill, before such a contract, or before an  
 intergovernmental  
 cooperation agreement with a value of more than \$300,000, between a  
 county with  
 a population of 750,000 or more (presently only Milwaukee County)  
 and another  
 local unit of government may take effect and become binding on such  
 a county, the  
 contract or agreement must be approved by an executive council. The  
 bill defines

executive council as a body that consists of the mayor of a first class city (presently only Milwaukee) and the mayor or village president of every city and village that is wholly located within that county and is based on a current law provision that is used to select four members of the Milwaukee Metropolitan Sewerage Commission.

This bill repeals an obsolete provision of civil procedure governing judgments entered before the first Monday in January 1962 in the civil court of Milwaukee or in any court which ceased to function on that date, or in any court functioning under ch. 254 of the 1959 Wisconsin Statutes.

This bill also removes certain authority currently possessed by the Milwaukee County board. Under the bill, the board may no longer do any of the following: appropriate money for planning or participating in a world festival celebration or any similar program designed to promote international commerce and culture; own and operate a professional baseball team, and maintain a nonprofit corporation for such ownership or operation; require licenses for cats; and let a contract for the design-build construction of a sheriff's department training academy.

Under current law, a county board has general authority to acquire, lease, or rent real and personal property. Under this bill, in Milwaukee County, such authority is exercised by the county executive, consistent with established county board policy, although the sale or lease of property is subject to a simple approval or rejection by the county board.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1                   SECTION 1. 59.03 (2) (a) of the statutes is amended to read:  
2                   59.03 (2) (a) ~~Except~~ Subject to s. 59.794 (2) and (3) and except  
3 as elsewhere  
4 specifically provided in these statutes, the board of any county is  
5 vested with all  
powers of a local, legislative and administrative character, including  
without  
limitation because of enumeration, the subject matter of water,

6 sewers, streets and  
 7 highways, fire, police, and health, and to carry out these powers in  
 8 districts which  
 it may create for different purposes, or throughout the county, and for  
 such purposes  
 to levy county taxes, to issue bonds, assessment certificates and  
 improvement bonds,

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1 or any other evidence of indebtedness. The powers hereby  
 2 conferred may be  
 3 exercised by the board in any municipality, or part thereof located in  
 4 the county upon  
 5 the request of any such municipality, evidenced by a resolution  
 6 adopted by a majority  
 7 vote of the members-elect of its governing body, designating the  
 8 particular function,  
 9 duty or act, and the terms, if any, upon which the powers shall be  
 10 exercised by the  
 11 board or by a similar resolution adopted by direct legislation in the  
 12 municipality in  
 13 the manner provided in s. 9.20. The resolution shall further provide  
 14 whether the  
 15 authority or function is to be exercised exclusively by the county or  
 16 jointly by the  
 17 county and the municipality, and shall also find that the exercise of  
 18 such power by  
 19 the county would be in the public interest. Upon the receipt of the  
 20 resolution, the  
 21 board may, by a resolution adopted by a majority vote of its  
 22 membership, elect to  
 23 assume the exercise of the function, upon the terms and conditions set  
 24 forth in the  
 resolution presented by the municipality.

SECTION 2. 59.06 (2) of the statutes is amended to read:

59.06 (2) EFFECT OF TRANSFER. All deeds, contracts and  
 agreements made on  
 behalf of the county under the directions of the board under s. 59.52  
 (6), or by a county  
executive acting under s. 59.17 (2) (b) 3., when signed and  
 acknowledged by the clerk  
 and the county seal is attached, are valid and binding on the county to  
 the extent of  
 the terms of the instrument and the right, title and interest which the  
 county has in  
 the property.

SECTION 3. 59.10 (2) (b) of the statutes is amended to read:

59.10 (2) (b) *Election; term.* ~~Supervisors~~ For an election that  
is held before  
2016, supervisors shall be elected for 4-year terms at the election to be  
 held on the  
 first Tuesday in April next preceding the expiration of their respective



25 terms, and  
shall take office on the 3rd Monday in April following their election.  
For an election

1 that is held in 2016 and thereafter, supervisors shall be  
2 elected for 2-year terms at  
3 the election to be held on the first Tuesday in April next preceding the  
4 expiration of  
5 their respective terms, and shall take office on the 3rd Monday in  
6 April following  
7 their election.

8 **SECTION 4.** 59.10 (2) (c) of the statutes is renumbered 59.10  
9 (2) (c) 1. and  
10 amended to read:

11 59.10 (2) (c) 1. Each supervisor shall be paid by the county an  
12 annual salary  
13 set by the board. The board may provide additional compensation for  
14 the  
15 chairperson, such that his or her salary may be an amount of up to  
16 150 percent of the  
17 salary of a supervisor, and for the chairperson of the board's finance  
18 committee, such  
19 that his or her salary may be an amount of up to 125 percent of the  
20 salary of a  
21 supervisor. Beginning with the term that commences in April 2016,  
22 the total dollar  
23 value of the annual salary and benefits that may be paid to a  
24 supervisor, other than  
25 the board chairperson and finance committee chairperson, may not  
exceed the  
annual per capita income of Milwaukee County as most recently  
determined by the  
U.S. bureau of the census and may be increased for a new term as  
provided in subds.  
2. and 3., subject to the limit specified in subd. 4. Section 66.0505  
applies to this  
paragraph.

**SECTION 5.** 59.10 (2) (c) 2. of the statutes is created to read:

59.10 (2) (c) 2. The board may increase the salary specified in  
subd. 1., or as  
otherwise adjusted under this paragraph, by an amount that does not  
exceed the  
percentage increase in the U.S. consumer price index for all urban  
consumers, U.S.  
city average, for the period between the time that a supervisor's  
salary was last set  
under subd. 1. or by the board, and the year before the year in which  
the salary  
increase is to take effect.

**SECTION 6.** 59.10 (2) (c) 3. of the statutes is created to read:

2                   59.10 (2) (c) 3. The board may increase the salary specified in  
3                   subd. 1., or as  
4                   otherwise adjusted under this paragraph, by an amount that exceeds  
5                   the percentage  
6                   increase in the U.S. consumer price index for all urban consumers,  
7                   U.S. city average,  
8                   for the period between the time that a supervisor's salary was last set  
9                   under subd.  
10                  1. or by the board, and the year before the year in which the salary  
11                  increase is to take  
12                  effect, except that such an increase may not take effect unless it is  
13                  ratified by a  
14                  majority vote of the electors in the county voting in a referendum on  
15                  the proposed  
16                  salary increase.

17                   SECTION 7. 59.10 (2) (c) 4. of the statutes is created to read:

18                   59.10 (2) (c) 4. A supervisor may not receive any other  
                  benefits or  
                  compensation, including health insurance and pension benefits, not  
                  specifically  
                  authorized or required by law. The maximum total dollar value of the  
                  salary and  
                  benefits that a supervisor, other than the chairperson of the board  
                  and the  
                  chairperson of the finance committee, receives in any year may not  
                  exceed the annual  
                  per capita income of Milwaukee County as most recently determined  
                  by the U.S.  
                  bureau of the census.

                  SECTION 8. 59.11 (2) (c) of the statutes is created to read: