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DATE: November 12, 2017
TO: Interested Parties
FROM: Corporation Counsel Margaret C. Daun
RE: Return of the Budget Unsigned

Late last week, the County Executive returned the County budget as adopted by the County Board unsigned (the property tax levy was signed). In response, the County Board Chairman inquired of the Office of Corporation Counsel (OCC) as to whether this was proper, and what steps the County Board need to undertake to formally adopt the budget in response to its return unsigned.

A review of caselaw in Wisconsin revealed no authority on this question. Thus, the OCC must rely exclusively upon state statutes. Under Wis. Stat. § 59.17(5) and (6), it appears that the state legislature intended the County Executive to have the options available to him or her under sub (6), just as he or she does in response to an adopted resolution or ordinance. Specifically, sub (5) states that the County Executive, “[n]otwithstanding any other provision of the law ... may exercise the power to veto any increases or decreases in the budget under sub. (6).” While this sentence expressly only mentions a “veto,” sub (6) discusses an Executive’s ability to sign, veto, or leave unsigned a resolution or ordinance. As mandated under sub (5), sub (6) applies equally to the budget and thus, the Executive may sign, leave unsigned, or veto the budget (in whole or in part).¹

On June 23, 2017, the OCC submitted an opinion that analyzed at length when resolutions and ordinances become effective under sub (6) in response to a veto override, signature by the executive, and return of a resolution or ordinance without signature. That analysis therefore applies equally to an unsigned budget and is incorporated herein by reference.

In conclusion, according to the OCC’s opinion of June 23, an unsigned budget formally becomes the budget for Milwaukee County as soon as the Board gavels in its first meeting after the return of the budget unsigned from the County Executive. Unlike resolutions and ordinances, “publication” of the budget is not required before it becomes “effective,” so long as the finalized budget is made publicly available as soon as practicable after adoption (no later than the final business day before January 1).

¹ The OCC has previously opined regarding the complexities of the “Vanna White” veto options the executive has related uniquely to the County budget. That analysis is not germane to this opinion, but it is worthy to note that subsection (6) does not comprehensively addresses those unique veto powers of the executive.