




WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: REPRESENTATIVE DALE KOOYENGA

FROM:  David Moore, Staff Attorney

RE: Authority of Counties to Regulate Taxicabs

DATE: February 21, 2014

You asked whether a county has the authority to enact an ordinance regulating taxicabs. A county may not enact an ordinance regulating or licensing taxicabs because: (1) counties lack express statutory authority to do so; and (2) such an ordinance would conflict with the Legislature's delegation of this authority to cities, villages, and towns.¹

DISCUSSION

"A county 'has only such powers as are expressly conferred upon it or necessarily implied from the powers expressly given or from the nature of the grant of power.'" [*County of Milwaukee v. Williams*, 2007 WI 69, ¶ 24 (citations omitted).] "As a creature of the legislature, a county must exercise its powers within the scope of authority that the State confers upon it." [*Id.*, quoting *Mommsen v. Schueller*, 228 Wis. 2d 627, 634-35 (Ct. App. 1999).] The state has not expressly conferred on counties the authority to enact ordinances regulating taxicabs.

Although the lack of express statutory authority is sufficient to conclude a county may not enact an ordinance regulating and licensing taxicabs, there is a second reason to reach this conclusion as well. The Legislature has expressly granted the authority to regulate taxicabs to "the council of any city and every village or town board." Section 349.24, Stats., authorizes a city council or village or town board to:

- Regulate and license chauffeurs and operators of taxicabs used for hire.
- Regulate and license the taxicab business by licensing each taxicab used for hire.

¹A county may, in certain limited circumstances, enact an ordinance that affects the operation of taxicabs; for example, by requiring a taxicab picking up passengers from a county-operated airport to have a permit from the airport. [*County of Milwaukee v. Williams*, 2007 WI 69.]

- Prohibit any person from operating any motor vehicle for taxicab purposes upon the highways of the city, village, or town unless the person is licensed as a chauffeur and operator and unless the taxicab business is licensed by the licensing of each taxicab.
- Revoke any license mentioned above when in its judgment the public safety so requires.

A county ordinance purporting to regulate taxicabs would arguably conflict with the Legislature's delegation of this authority to cities, villages, and towns. "Local regulation is preempted by state law when...it logically conflicts with state legislation." [*Lake Beulah Management District v. Village of East Troy*, 2011 WI 55, ¶ 15 (citations and internal punctuation omitted).]

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

DM:jal:ksm