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Date: October 26, 2016

To: Chairman Theodore Lipscomb, Sr.
Board of Supervisors

Cc: Kelly Bablitch, Chief of Staff

From: Interim Corporation Counsel Colleen Foley

Re: File 16-567: Proposed Vehicle Registration Fee Ordinance

Question: Whether the County Board could adopt in 2016 for the 2017 budget a Vehicle Registration Fee at tiered levels based upon criteria such as vehicle value or owner income-level, age, or disability status?

Answer: Wis. Stat. §341.35 permits a county's imposition of a vehicle registration fee on a flat fee basis only.

Background: The 2017 Recommended Budget includes a request to create a chapter in the Milwaukee County Code of General Ordinances for collection of an annual \$60.00 Vehicle Registration Fee (VRF). Enacting a VRF ordinance requires County Board action and County Executive approval (or override by the Board of an Executive veto). Once passed, the County would notify the State, which would collect the fee as part of annual license plate renewals. The purpose of the VRF per the budget submissions is funding of eligible transportation-related activities as defined by statute. The budget request proposes a future convening of a public/private taskforce to evaluate options for mitigating the VRF's impact on low-income households. The request also references modification of the statute to provide flexibility in assessing the VRF on the basis of value or age of the vehicle.

Analysis: Milwaukee County has authority under state statute to enact an ordinance imposing annual registration fees on vehicles kept in the county. The plain language of that statute only permits a municipality or county to enact an ordinance imposing an "annual *flat* municipal or county registration fee on all motor vehicles registered in this state which are customarily kept in the municipality or county". Wis. Stat. § 341.35(1). (emphasis provided)

Statutory interpretation "begins with the language of the statute". *State ex rel. Kalal v. Circuit Court for Dane Cty.*, 271 Wis.2d 633, 663, 662 681 N.W.2d 110 (2004). If the meaning of the statute is plain, that ordinarily stops the inquiry. And statutory language is given its common, ordinary, and accepted meaning, unless the words have technical or specialty definitions. *Bruno v. Milwaukee Cty*, 260 Wis. 2d 633, 660 N.W.2d 656. A "flat" fee by definition is one that lacks variance. <http://www.merriam-webster.com/dictionary/flat>.

Additionally, the statute explicitly provides for exemptions from the VRF for “all vehicles exempted by this chapter”, which includes all-terrain vehicles (“ATVs”), snowmobiles, and electric personal assistance mobility devices. *See* Wis. Stats. §§ 341.35(2)(a) and 341.01(74). Also exempted from municipal or county VRFs by the statute are “all vehicles registered by the state under s. 341.26 for a fee of \$5”. Such vehicles include driver education vehicles, school district buses, vehicles operated exclusively by non-profits, etc.

Wis. Stat. §341.35 does not specify the amount of the VRF – just that the county (or municipality¹) must use all revenue from the VRF for transportation-related purposes. Four (4) other Wisconsin counties impose a VRF – all with a flat fee with exemptions only for VRFs paid in error. Here are those county VRF amounts and stated purpose, as well as related data²:

- Chippewa: \$10 fee to refund and maintain the winter maintenance account with a January 1, 2020 sunset date (effective January 2015) (population: 64,135; area: 1,041 square miles; vehicles eligible for a VRF for calendar year 2015 per Wisconsin DOT: 53,755)
- Iowa: \$20 fee for highway construction improvements (effective February 2015) (population: 23,829; area: 768 square miles; vehicles eligible for a VRF for calendar year 2015 per Wisconsin DOT: 20,290)
- Marathon: \$25 fee for 2017 only unless reinstated by the county board (effective December 2016) (population: 135,483; area: 1,576 square miles; vehicles eligible for a VRF for calendar year 2015 per Wisconsin DOT: 116,152)
- St. Croix: \$10 fee to maintain highways and bridges (effective January 2008) (population: 86,858; area: 736 square miles; vehicles eligible for a VRF for calendar year 2015 per Wisconsin DOT: 75,953)

In contrast, Cook County’s VRF ordinance contains explicit exemptions for seniors and persons with disabilities, including disabled veterans. However, it is distinguishable from Milwaukee County’s proposed VRF and the four (4) other Wisconsin county VRFs, in that it is based on home rule powers under the Illinois Constitution and not state statute.³ Hennepin County, Minnesota’s ordinance is based on a Minnesota statute with similarities to Wisconsin’s VRF statute. It sets a flat VRF rate through 2017 (at which point it increases to an “up to” amount), and permits the same statutory exemptions as in Wisconsin based on vehicle type, i.e., motorcycles, motorized bicycles, motorized foot scooters.

¹ Municipalities in Wisconsin that impose a VRF: City of Appleton - \$20; Arena Township - \$20; City of Beloit - \$20; City of Fort Atkinson - \$20 beginning for March 2016 registrations; City of Gillett - \$20; City of Janesville - \$20 beginning for January 2016 registrations; City of Kaukauna - \$10; City of Lodi - \$20 beginning for May 2016 registrations; City of Milwaukee - \$20; Village of Prairie du Sac - \$20 beginning for January 2016 registrations; City of Sheboygan - \$20 beginning for February 2016 registrations; Village of Tigerton - \$10 beginning for September 2016 registrations.

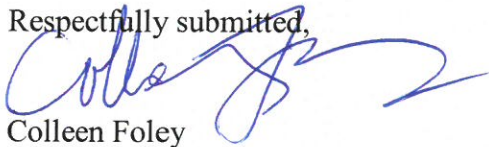
² Milwaukee County has a population of approximately 948,930, an area of 1,190 square miles, and 559,702 vehicles eligible for a VRF for calendar year 2015 per Wisconsin DOT.

³ Cook County’s VRF is \$50 for vehicles up to 10,000 lbs and \$75 for vehicles from 10,001 to 20,000 lbs.

Conclusion:

Wisconsin's statute in its current form permits counties to enact VRFs, but only on a flat fee basis. Therefore, should the County Board enact a VRF in 2016 for the 2017 budget, it must be at a flat rate. A change to the statutes is required before the county could implement a VRF based upon a varied scheme such as income, age, disability status or vehicle worth.

Respectfully submitted,



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