

2
3
4 **A RESOLUTION**

5
6 Requesting an opinion from the Milwaukee County Office of Corporation Counsel on
7 whether 2013 Wisconsin Act 14 violates the Voting Rights Act of 1965
8
9

10 WHEREAS, in 2013, the State of Wisconsin adopted 2013 Wisconsin Act 14
11 (“Act 14”), which altered the pay structure, term length, and pension options of the
12 Milwaukee County Board of Supervisors, including limiting their authority over entering
13 into certain agreements; and
14

15 WHEREAS, Act 14 limits the total appropriations for County Board operations,
16 including salaries of County Board Supervisors and County Board employees, to 0.4
17 percent of the total County tax levy budget, making Milwaukee County the only County
18 in Wisconsin with a cap on spending for its legislative body; and
19

20 WHEREAS, the report in File No. 20-679 from the Milwaukee County Office of
21 the Comptroller and the Department of Administrative Services determined that, due to
22 restrictions on the portion of the tax levy that the County Board budget can comprise,
23 the number of supervisory districts in Milwaukee County is limited to an amount that can
24 reasonably provide salaries to Supervisors, salaries and benefits to staff, and for
25 commodities and services and that an increase in supervisory districts would require
26 less spending on departmental salaries or other departmental accounts; and
27

28 WHEREAS, continued reductions to departmental salaries and other
29 departmental accounts is not feasible to maintain the staffing necessary to effectuate
30 the services provided by the County Board or provide other services to constituents,
31 including mailings and communications, outreach related to the County’s services and
32 budget, community events, amongst other expenditures; and
33

34 WHEREAS, the report in File No. 20-670 from the Milwaukee County Office of
35 the Comptroller and Department of Administrative Services found that unless the
36 County Board continues at a baseline scenario over the next ten years, the County
37 Board budget will have increasingly less funds for services to constituents or to perform
38 its core duties; and
39

40 WHEREAS, continuing in a baseline scenario is not feasible given the continued
41 increase in the cost of living every year, which could lead to further staffing cuts, and, as
42 a result, a decrease in services that may be provided to constituents; and

43 WHEREAS, Act 14 also permits the County Executive to introduce resolutions to
44 the County Board, in essence making his position a “Super Supervisor” that is elected
45 countywide and allows him to serve as the day-to-day administrator and as a legislator;
46 and

47
48 WHEREAS, Act 14 does not place any limits as to the portion of the County tax
49 levy that the Office of the County Executive can comprise; and

50
51 WHEREAS, Act 14 applies only to counties with a population of more than
52 750,000, of which Milwaukee County is the sole county to which this applies; and

53
54 WHEREAS, according to the Wisconsin Department of Health Services, Black
55 residents compose 6.1 percent of the state’s total population, while Milwaukee County is
56 home to 69.4 percent of Wisconsin’s Black residents; and

57
58 WHEREAS, the City of Milwaukee makes up 63 percent of the County’s total
59 population, including 96 percent of the County’s Black residents and 81 percent of the
60 County’s Latino population; and

61
62 WHEREAS, therefore, the Milwaukee County Board of Supervisors represent the
63 majority of the people of color in the State of Wisconsin; and

64
65 WHEREAS, on May 25, 2019, Milwaukee County adopted File No. 19-416 and
66 File No. 19-397, supporting the Office on African American Affairs’ long-term racial
67 equity action plan and Milwaukee County’s commitment to achieve racial equity,
68 respectively; and

69
70 WHEREAS, Milwaukee County adopted File No. 20-174 in April 2020
71 establishing Chapter 108 of the Milwaukee County Code of General Ordinances, which
72 codifies Milwaukee County’s commitment to becoming the healthiest County in the
73 State of Wisconsin by achieving racial equity and aligning its priorities and practices to
74 align with that goal; and

75
76 WHEREAS, Milwaukee County’s commitment to achieve racial equity includes
77 addressing racial bias in organizational culture and decision-making and aims to
78 improve racial equity in operations, fiscal appropriations, IS systems, policies and
79 programs, legislation, workforce, organizational culture, and community engagement;
80 and

81
82 WHEREAS, the Voting Rights Act of 1965 prohibits racial discrimination in voting,
83 prevents “any denial or abridgement of the right to vote...on account of race”, and
84 enforces the Fourteenth and Fifteenth Amendments to the U.S. Constitution; and

85 WHEREAS, Section 2 of the Voting Rights Act of 1965 prohibits voting practices
86 or procedures that discriminate on the basis of race, color, or membership in one of the
87 language minority groups and, in 1982, the U.S. Congress determined that the intention
88 of a practice or procedure was not relevant to whether or not a practice or procedure
89 was discriminatory and that violations were to be evaluated solely based on the results
90 of a practice or procedure; and

91

92 WHEREAS, guidance provided by the U.S. Congress in 1982 includes that
93 evaluation of a violation should include analysis of the extent to which voting in the
94 election of a state or political subdivision is racially polarized and the extent to which
95 minority group members bear the effects of discrimination in areas such as education,
96 employment, and health, which hinder their ability to participate effectively in the political
97 process, amongst other provisions; and

98

99 WHEREAS, the U.S. Supreme Court upheld the provisions of the Voting Rights
100 Act of 1965 in many cases since its passage, including Thornburg v. Gingles (1986),
101 Johnson v. DeGrandy (1994), and Village of Arlington Heights v. Metropolitan Housing
102 Development Corporation (1977), and others; and

103

104 WHEREAS, Act 14 targets the representative body of Milwaukee County, which
105 is home to a majority of the people of color in the State of Wisconsin; and

106

107 WHEREAS, Act 14 may constitute an unequal application of the law based on
108 race, color, or membership in one of the language minority groups; and

109

110 WHEREAS, the Committee on Audit, at its meeting of January 27, 2021,
111 recommended adoption of File No. 21-76 (vote 5-0); now, therefore,

112

113 BE IT RESOLVED, that 2013 Wisconsin Act 14 exclusively limits the power and
114 authority of the Milwaukee County Board of Supervisors, which dilutes the
115 representation of Milwaukee County constituents; and

116

117 BE IT FURTHER RESOLVED, that Section 2 of the Voting Rights Act of 1965
118 prohibits practices or procedures that discriminate based upon race, color, or
119 membership in one of the language minority groups, which the provisions of 2013
120 Wisconsin Act 14 may constitute; and

121

122 BE IT FURTHER RESOLVED, that the Milwaukee County Board of Supervisors
123 requests that the Milwaukee County Office of Corporation Counsel review and issue an
124 opinion by the March 2021 cycle to determine whether 2013 Wisconsin Act 14 violates
125 Voting Rights Act of 1965; and

126

127 BE IT FURTHER RESOLVED, upon submission of a written opinion to the
128 Milwaukee County Board of Supervisors, the Milwaukee County Office of Corporation
129 Counsel shall request an opinion on the constitutionality of 2013 Wisconsin Act 14 in
130 light of the Voting Rights Act of 1965 from the State of Wisconsin Attorney General; and
131

132 BE IT FURTHER RESOLVED, that the Milwaukee County Office of Corporation
133 Counsel shall provide regular updates to the Milwaukee County Board of Supervisors
134 on the status of the opinion requested from the State of Wisconsin Attorney General
135 and shall submit the Attorney General's opinion upon receipt.
136

137
138
139

01/27/21

s:\committees\2021\jan\audit\resolutions\21-76 act 14 weishan resolution.docx