

**COUNTY OF MILWAUKEE**  
Inter-office Communication

DATE: 4/21/2023

TO: Marcelia Nicholson, Chairwoman, Milwaukee County Board of Supervisors

FROM: Donna Brown-Martin, Director, Department of Transportation  
Margaret Daun, Corporation Counsel, Office of Corporation Counsel

SUBJECT: From the Director, Department of Transportation and Corporation Counsel, Office of Corporation Counsel, providing an Informational Report and Memorandum Concerning Legality for the Milwaukee County Transit System and Milwaukee County to Provide Free Public Transportation on Election Days.

FILE TYPE: Informational Report

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**REQUEST**

From the Director, Department of Transportation and Corporation Counsel, Office of Corporation Counsel (OCC), providing an Informational Report and Memorandum Concerning Legality for the Milwaukee County Transit System (MCTS) and Milwaukee County to Provide Free Public Transportation on Election Days.

**POLICY**

Wisconsin State Statutes:	12.07(4), 12.08, and 12.11
Specific Adopted Budget:	2023 Milwaukee County Budget
Specific Adopted Budget Amendment:	Adopted Amendment 1A012

**BACKGROUND**

During Milwaukee County's 2023 Budget development process, the Milwaukee County Department of Transportation and Milwaukee County Transit System (MCTS) was given a directive to develop a plan for free rides to all riders on election days for approval by the Milwaukee County Board of Supervisors.

Milwaukee County Department of Transportation and MCTS opposes implementation of this directive due to violation of State Statute 12.07, 12.08 and 12.11. We are also extremely concerned that the dire financial constraints of MCTS may be further exacerbated with uncertain impact on farebox revenue reduction for each election day affected. The estimated loss of farebox revenue for an election day is \$63,000.

The Office of Corporation Counsel (OCC) answered with a memorandum response to the budget directive (Exhibit 1).

Related File No's:	22-993
Associated File No's (Including Transfer Packets):	18-685, 16-31, 15-166
Previous Action Date(s):	9/22/2022

**ALIGNMENT TO STRATEGIC PLAN**

Describe how the item aligns to the strategic plan:

- 2A: Determine what, where, and how we deliver services to advance health equity.
- 2C: Apply a racial equity lens to all decisions.
- 3A: Invest “upstream” to address root causes of health disparities.

**RECOMMENDATION**

It is the opinion of the OCC that any provision of free rides to the polls, available to the public, whether funded by public or private dollars, is illegal. If Milwaukee County provided free rides to the polls, regardless of funding source, and such was challenged in court, we believe that Milwaukee County would be certain to lose, whether at trial or eventually before the Wisconsin Supreme Court as currently constituted.

Violation of section 12.11 carries the risk of both criminal and civil liability, as well as the risk of removal from office for elected officials.

**FISCAL EFFECT**

MCTS farebox revenue reduction will vary for each election day affected but is currently estimated at \$63,000. These costs are not included in the 2023-24 Department Budget per MCDOT’s concerns.

**VIRTUAL MEETING INVITES**

Donna Brown-Martin, Director, Department of Transportation  
 Margaret Daun, Corporation Counsel, Office of Corporation Counsel

**PREPARED BY:**

Donna Brown-Martin, Director, Department of Transportation

**APPROVED BY:**



Donna Brown-Martin, Director, Department of Transportation

**ATTACHMENTS:**

Exhibit 1: Memorandum Concerning Legality of a Proposal for the Milwaukee County Transit System and Milwaukee County to Provide Free Public Transportation on Election Day.

cc: Kelly Bablitch, Chief of Staff, County Board of Supervisors  
 Janelle M. Jensen, Legislative Services Division Manager, Office of the County Clerk