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(ITEM) A resolution/ordinance by Supervisor Lipscomb, Sr., authorizing the initiation of an action related to Chapter 59, Chapter 63, Chapter 66, and other sections of the Wisconsin State Statutes, as affected by 2013 Wisconsin Act 14 and 2015 Wisconsin Act 55, and amending Section 1.11 and Section 1.27 of the Milwaukee County Code of General Ordinances, to create the legal mechanism by which the Chairperson can enforce and defend the legal rights of the Milwaukee County Board of Supervisors, by recommending adoption of the following:

A RESOLUTION/ORDINANCE

WHEREAS, the Milwaukee County Board of Supervisors (County Board) previously authorized the initiation of an action to declare the respective powers of the County Board and the County Executive under Chapter 59, Chapter 63, Chapter 66, and other sections of the Wisconsin State Statutes, as affected by 2013 Wisconsin Act 14 and 2015 Wisconsin Act 55 (File No. 15-622); and

WHEREAS, the Chairperson of the County Board initiated such an action on behalf of the County Board on October 22, 2015, and the Milwaukee County Circuit Court (the Court) dismissed the action without prejudice on procedural grounds and without reaching a decision on the merits on February 29, 2016; and

WHEREAS, the court’s dismissal without prejudice was based on its determination that the Chairperson’s standing to bring the lawsuit was not demonstrated because the resolution authorizing the lawsuit was not specifically referenced in or attached to the complaint; and

WHEREAS, there is no legal requirement or precedent requiring such a resolution to be referenced in or attached to a complaint in order to confer standing; and

WHEREAS, the County Board continues to desire a judicial determination of the legal rights and duties of the County Board and the County Executive under the applicable statutes, as previously resolved, and has been advised by retained counsel Cullen Weston Pines & Bach LLP that a new action may be filed without prejudice to the County Board’s legal interests and position; and

WHEREAS, the Committee on Judiciary, Safety, and General Services, at its special meeting of March 17, 2016, recommended adoption of this resolution/ordinance (vote 4-2); now, therefore,

BE IT RESOLVED, pursuant to Section 1.11 of the Milwaukee County Code of General Ordinances, as amended herein, the Milwaukee County Board of Supervisors (County Board) authorizes the initiation of an action by the Chairperson and the County Board to declare the rights and powers of the County Board and the Milwaukee County Executive related to Chapter 59, Chapter 63, Chapter 66, and other sections of the

47 Wisconsin State Statutes, as affected by 2013 Wisconsin Act 14 and 2015 Wisconsin
48 Act 55, promptly upon publication of the ordinance herein enacted; and

49 BE IT FURTHER RESOLVED, the County Board hereby amends Chapter 1 of
50 the Milwaukee County Code of General Ordinances by adopting the following:

51

52

AN ORDINANCE

53

54 The Board of Supervisors of the County of Milwaukee does ordain as follows:

55

56 **Section 1.** Chapter 1.11 of the Milwaukee County Code of General Ordinances is
57 hereby amended as follows:

58

59 3) *Committee on judiciary, safety and general services.*

60

61 1. Departmental policy of: county funded state court services, family court
62 commissioner, jury commission, register in probate, election commission, county
63 clerk, register of deeds, sheriff, medical examiner, legal resource center, district
64 attorney, department of child support services, and corporation counsel.

65

66 2. (a) *Actions against the county.* The committee, subject to full board approval,
67 shall review and approve all matters pertaining to suits or claims against the
68 county, including, but not limited to, those for personal injuries and property
69 damage. The committee has the authority to approve the payment of claims
70 against the county in an amount not to exceed ten thousand dollars (\$10,000.00)
71 and to recommend to the board approval or denial of claims and settlements in
72 excess of that amount.

73

74 (b) *Actions initiated by the county.* The committee, subject to full board approval,
75 shall approve the initiation of all suits or claims by the county against other
76 persons or entities where the amount claimed exceeds ten thousand dollars
77 (\$10,000.00) or where the rights sought to be declared have a potential fiscal
78 effect on the county in excess of ten thousand dollars (\$10,000.00), except when
79 the county executive approves the initiation of an action on an emergency basis
80 to preserve property, to protect the life, health or welfare of persons, or to obtain
81 an injunction on the grounds set forth in ch. 813, Wis. Stats. In the event the
82 county executive authorizes corporation counsel to file an action under this
83 exception, corporation counsel shall provide a report to the committee members
84 and the county board chair immediately upon receiving the county executive's
85 authorization of such action.

86

87

88 (c) Intracounty actions. The committee shall consider and make its recommendation
89 thereon to the full board, subject to its approval, the initiation of all actions for
90 declaratory, injunctive, or other extraordinary relief or remedy seeking to
91 preserve, enforce, and defend the legal rights and status of the board in relation
92 to other branches of county government or elected county officials. The
93 committee, subject to full board approval, may delegate authority to the board
94 chairperson, as head of the department of the county board, to initiate such an
95 action on behalf of the board.
96

97 (e)(d) Corporation counsel is delegated authority to approve the payment of claims
98 against the county where the payment is no more than five hundred dollars
99 (\$500.00), pursuant to s. 59.52(12)(b), Wis. Stats. Corporation counsel is
100 authorized to initiate claims or suits by the county against other persons or
101 entities where the amount claimed is ten thousand dollars (\$10,000.00) or less
102

103 (d)(e) The committee shall be afforded confidential access to privileged attorney-
104 client communication and to attorney work product in any matter where
105 Milwaukee County or a Milwaukee County officer or employe is named as a
106 part in an action or proceeding arising from the commission of official duties.
107

- 108 3. Applications for licenses requiring action by the county board.
- 109
- 110 4. Purchase of surety bonds.
- 111
- 112 5. Action required by state statute.
- 113

114 **Section 2.** Chapter 1.27 of the Milwaukee County Code of General Ordinances is
115 hereby amended as follows:
116

117 1.27. - Chairperson of board is head of department.
118

119 The chairperson of the county board is the head of the department of the county
120 board for purposes of having budgeting and personnel oversight authority over all
121 county board staff, overseeing departmental operations, approving departmental
122 expenditures, and submitting requested budgets, and, as delegated and approved by
123 the board, to initiate an action for declaratory, injunctive, or other extraordinary relief or
124 remedy seeking to preserve, enforce, and defend the legal rights and status of the
125 board in relation to other branches of county government or elected county officials.
126

127 **Section 3.** The provisions of this Ordinance shall become effective upon passage and
128 publication.

srb
03/17/16
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