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A resolution by Supervisors Lipscomb, Sr., and Moore Omokunde, in support of the repeal of the provisions included in 2015 Wisconsin Act 55 related to the scope of Milwaukee County Board of Supervisors and County Executive authority, by recommending adoption of the following:

A RESOLUTION

WHEREAS, 2015 Wisconsin Act 55 (Act 55) amended Section 59.17(2)(b)3 of the Wisconsin State Statutes (the Statutes) and delegated to the County Executive, rather than to the Milwaukee County Board of Supervisors (County Board), the authority to exercise those powers enumerated under Section 59.52(6) of the Statutes; and

WHEREAS, because the subsections of Section 59.52 of the Statutes define the powers of the County Board, not the County Executive, many of the powers described under Section 59.52(6) of the Statutes overlap with other powers of the County Board described under various other subsections of Section 59.52 of the Statutes; and

WHEREAS, as a result, Act 55 created irreconcilable conflicts in the Statutes related to the definition of the powers of the County Executive and the County Board; and

WHEREAS, in a report dated March 3, 2017, the Office of Corporation Counsel (OCC) provided a written opinion (File No. 17-274) affirming the existence of these conflicts, stating that the provisions contained in Act 55 “cannot be reconciled by the OCC because in doing so, the OCC would be forced to decide the fundamental balance of powers between the board and the executive in Milwaukee County, which in turn would usurp the state legislature’s function”; and

WHEREAS, the OCC identified the following irreconcilable conflicts created by Act 55, including, but not limited to:

- Section 59.52(6)(b), which grants to the County Executive the power to “make all orders concerning county property,” which is extremely broad language that does not seem to reconcile with other subsections of Section 59.52, such as Section 59.52(2)-(4), (14) (addressing county records), Section 59.52(11) (insurance), Section 59.52(19) (donations and gifts), Section 59.52(23) (reference materials), and Section 59.52(24) (parking on county lands)
- Section 59.52(6)(b), which grants to the County Executive the power “to commence and maintain actions,” but does not reconcile with Section 59.52(12), which grants to the board the power to “[e]xamine and settle ... all claims, demands, or causes of action against the county and issue county orders therefor”

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- Section 59.52(6)(d)2, which appears to grant the County Executive unilateral authority to issue revenue bonds under Section 66.0621, while Section 66.0621 requires County Board approval to issue bonds on behalf of the county
- Section 59.17(2)(b)3, which grants the County Executive the power to “s[ell], acqui[re], or lease as landlord or tenant” any non-park county property, notwithstanding Section 59.60(12), which mandates County Board review of any “contract, lease or other obligation requiring the payment of funds from the appropriations of a later fiscal year or of more than one fiscal year”

; and

WHEREAS, because the OCC is unable to reconcile these conflicts, the OCC thus recommended that these conflicts be resolved “through an opinion from the State Attorney General, a declaratory judgment action, and/or legislation”; and

WHEREAS, the County Board believes that the repeal of the provisions of Act 55, described above, provide the clearest, most expeditious method by which to de-conflict the Statutes; and

WHEREAS, the Committee on Intergovernmental Relations, at its meeting of March 21, 2017, recommended adoption of File No. 17-287 (vote 4-0); now, therefore,

BE IT RESOLVED, the Milwaukee County Board of Supervisors (County Board) hereby urges and supports repeal of all of the provisions included as part of 2015 Wisconsin Act 55 (Act 55) related to the scope of County Board and County Executive authority; and

BE IT FURTHER RESOLVED, the County Board authorizes and directs the Milwaukee County Office of Government Affairs staff to send a copy of this resolution to the Wisconsin State Legislature and lobby to effectuate the repeal of the provisions contained in Act 55.

jmj
03/21/17
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