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A resolution by Supervisor Lipscomb, Sr., in support of the repeal of the provisions included in 2015 Wisconsin Act 55 related to the scope of County Board 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, Wisconsin State (the State) Statutes, and delegated to the Milwaukee County Executive (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), State Statutes; and

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

WHEREAS, as a result, Act 55 created irreconcilable conflicts in the State 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 Office of Corporation Counsel (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), State Statues, 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 59.52, such as 59.52(2)-(4), (14) [addressing Milwaukee County (the County) records], 59.52(11) (insurance), 59.52(19) (donations and gifts), 59.52(23) (reference materials), and 59.52(24) (parking on County lands).

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- Section 59.52(6)(b), State Statutes, which grants to the County Executive the power “to commence and maintain actions,” but does not reconcile with Section 59.52(12), State Statutes, which grants to the County Board the power to “[e]xamine and settle ... all claims, demands, or causes of action against the county and issue county orders therefore.”
- Section 59.52(6)(d)2, State Statutes, which appears to grant the County Executive unilateral authority to issue revenue bonds under Section 66.0621, State Statutes, while Section 66.0621, State Statutes, requires County Board approval to issue bonds on behalf of the County.
- Section 59.17(2)(b)3, State Statutes, 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), State Statutes, 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, on March 23, 2017, the County Board adopted File No. 17-287, largely similar to this resolution, supporting the repeal of the provisions included in Act 55 related to the scope of County Board and County Executive authority, which was returned unsigned by the County Executive; and

WHEREAS, Governor Walker, in his 2017-2019 biennial budget, vetoed the repeal of these provisions as approved by the State Legislature; and

WHEREAS, these unreconciled statutory conflicts continue to produce instances where County Board authority has been both required and not required for the same entity, project, or issue; and

WHEREAS, most recently, these conflicts came into focus when the Marcus Center for Performing Arts (Marcus Center) unveiled a redesign of their campus, which included the removal of the horse chestnut tree grove; and

WHEREAS, on May 11, 2019, after months of attempts to give historic designation status to the chestnut grove at the Marcus Center, several chestnut trees were removed; and

86 WHEREAS, removal of the chestnut grove was opposed by some in the
87 community, but there was no public County process for registering concerns or debating
88 the design of the plan, due to the provisions in Act 55; and
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90 WHEREAS, the County Executive has exclusive authority over such actions as
91 approving the Marcus Center project plan, despite County Board action being required
92 to approve the 2016 Contribution Agreement outlining the property tax-funded annual
93 operating and capital support pledged to the Marcus Center through 2026; and
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95 WHEREAS, the County Board believes that the repeal of the provisions of Act
96 55, which are an anomaly unique to the County, provide the clearest, most expeditious
97 method by which to de-conflict the State Statutes, and return to a more traditional,
98 American-style model of shared governance, with checks and balances; and
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100 WHEREAS, the Committee on Intergovernmental Relations, at its meeting of
101 September 5, 2019, recommended adoption of File No. 19-739 (vote 5-0); now,
102 therefore,
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104 BE IT RESOLVED, the Milwaukee County Board of Supervisors (County Board)
105 urges and supports repeal of all of the provisions included as part of 2015 Wisconsin
106 Act 55 (Act 55) related to the scope of County Board and Milwaukee County Executive
107 authority; and
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109 BE IT FURTHER RESOLVED, the County Board authorizes and directs
110 Government Affairs staff to send a copy of this resolution to the Wisconsin State
111 Legislature, and lobby to effectuate the repeal of the provisions contained in Act 55.
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116 s:\committees\2019\sept\igr 090519\resolutions\19-739 repeal act 55.docx