

Gibson, Charlotte J.

From: Kimberly.Walker@milwcnty.com
Sent: Monday, December 03, 2012 3:03 PM
To: Gibson, Charlotte J.
Cc: Potter, Kevin
Subject: Re: Milwaukee County Corporation Counsel Request for Attorney General Legal Opinions

Categories: pending response

Charlotte -

Thank you for the follow up email.

At this point, I would like to seek an opinion addressing the following statements in item 4. As to the authority of the county board under state law to pass ordinances (1) limiting the lobbying authority of the county executive; (2) requiring status reports from departments headed by the executive -- (Please note, the question for 2 is not regarding the county board's authority under state law to pass ordinances requiring department heads to provide the county board with reports). The question for which I seek a legal opinion is regarding the county board's authority under state law to pass ordinances requiring department heads to report to the legislative branch. Finally, regarding item 4, I would appreciate receiving an opinion from the Attorney General's office as to the county board's authority under state law to pass ordinances which permit the board to penalize department heads and employees by demotion, suspension or discharge.

Please let me know if additional information is needed. Otherwise, please advise as to when my office may expect to receive the written legal opinion. Thank you in advance for your time and consideration.

Kimberly

Kimberly R. Walker
Corporation Counsel
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From: "Gibson, Charlotte J." <GibsonCJ@DOJ.STATE.WI.US>
To: "Kimberly.Walker@milwcnty.com" <Kimberly.Walker@milwcnty.com>
Cc: "Potter, Kevin" <potterkc@doj.state.wi.us>
Date: 11/28/2012 05:10 PM
Subject: Milwaukee County Corporation Counsel Request for Attorney General Legal Opinions

Kimberly,

Following up on our call today, here is a summary of our review so far:

1. Regarding the authority of a county board to hire outside counsel, we are currently preparing a formal opinion for another requester on this topic, and hope to have it issued in the next few months. We believe that opinion will address the gist of your question.
2. Regarding the Milwaukee County Board's abolishing and creation of the economic development director, any opinion the AG could offer would not substantively address what is a factually-specific question.
3. Regarding the authority of a county board to create a capital improvements committee, we found no analysis of that question the materials provided that would satisfy DOJ's requirements for seeking an opinion. You have a copy of the preface from volume 77 of the Wisconsin AG opinions for reference. If you're interested in pursuing an opinion on that issue, we will need that analysis.
4. As to the authority of the county board under state law to pass ordinances (1) limiting the lobbying authority of the county executive; (2) requiring status reports from departments headed by the executive; and (3) requiring approval of the board for residency waiver requests, we can proceed to offer an opinion on those questions. An opinion would be limited to the question of the board's authority under state law; it would not attempt to construe any specific ordinance, weigh in on its relationship to other ordinances, or opine on its constitutionality. Let us know whether you are interested in seeking an opinion addressing those questions.

Feel free to call if you have follow-up questions

Charlotte Gibson

Assistant Attorney General

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From: Kimberly.Walker@milwcnty.com [mailto:Kimberly.Walker@milwcnty.com]

Sent: Tuesday, November 20, 2012 10:30 AM

To: St. John, Kevin M.; Potter, Kevin

Subject: Milwaukee County Corporation Counsel Request for Attorney General Legal Opinions

Kevin,

As you know, the Office of Corporation Counsel is requesting an Attorney General legal opinion related to a number of actions taken by the Milwaukee County Board during the budget process. In addition, our office is requesting an opinion from the Office of the Attorney General as it relates to an ordinance amendment passed by the County Board outside of the budget process. Specifically, please see the following questions below:

- (1) Does the County Board budget amendment allocating \$50,000 to the County Board's budget for the retention of outside counsel violate any laws, including but not limited to Wisconsin Statutes, 59.42?
- (2) Does the County Board ordinance amendment creating a Capital Improvements Committee violate any laws, including but not limited to the Wisconsin Statutes, 59.17 related to County Executive's budgetary and/or administrative authority?
- (3) Does the County Board ordinance amendment abolishing Economic Development Director and creating County Economic Development Director violate any laws, including but not limited to Wisconsin Statutes, 17.10?
- (4) Does the County Board budget amendment to Chapter 1 of the Milwaukee County General Ordinances violate the County Executive's constitutional rights or statutory authority?

Attached, you will find the relevant resolution(s) or ordinance(s) at issue, together with accompanying legal opinions and legal research. Finally, I have included the relevant County Executive veto messages related to the above-stated issues for your information and review.

Per our conversation, my understanding of next steps is as follows: you will review the questions and accompanying material, and advise me as to which issues you believe are appropriate/inappropriate for the Office of the Attorney General by the end of this business week; issues to be addressed by the Attorney General's Office will be assigned to your best/brightest attorneys by the week of November 26th, (given the upcoming holiday); you will advise me as to timing regarding the legal opinions once you have a sense of the attorney's availability.

Thank you in advance for your review and consideration of these issues. I hope you can appreciate the need for our office to have clarity concerning the legislative and executive branches of government.

Kimberly

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