

1993 Assembly Bill 1099

Date of enactment: April 21, 1994

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# 1993 WISCONSIN ACT 406

AN ACT to amend 66.30 (1) (b) and (2), 159.01 (9) and 159.09 (1) (d); and to create 992.20 of the statutes, relating to: intergovernmental cooperation agreements and units of government responsible for recycling.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

PREFATORY NOTE: This bill was prepared for the legislative council's American Indian study committee.

Currently, under s. 66.30 (2), municipalities may contract with other municipalities to receive or furnish services or to jointly exercise a power or duty required or authorized by law. "Municipality" is defined in s. 66.30 (1) (a) as "...the state or any department or agency thereof, or any city, village, town, county, school district, public library system, public inland lake protection and rehabilitation district, sanitary district, farm drainage district, metropolitan sewerage district, sewer utility district, solid waste management system created under s. 59.07 (135), water utility district, mosquito control district, municipal electric company, county or city transit commission, commission created by contract under this section, taxation district or regional planning commission."

However, if the purpose of the intergovernmental cooperation is the establishment of a joint transit commission, "municipality" is defined in s. 66.30 (1) (b) as "...any city, village, town, county or federally recognized Indian tribe or band."

Under this bill, municipalities are authorized to enter into cooperative agreements with Indian tribes and bands in this state, as they are currently authorized to do with other municipalities under s. 66.30 (2). The bill does not change the effect of the current s. 66.30 (1) (b), which permits cities, villages, towns and counties to enter into cooperative agreements with tribes and bands to establish a joint transit commission. The deletion of the reference to tribes and bands in sub. (1) (b) and the insertion in sub. (2) of the statement that municipalities may contract with each other *and with tribes and bands* is intended to more accurately reflect the status of tribes and bands as entities which are separate and distinct from subdivisions of the state and whose current authority to contract with the state and its subdivisions derives from the tribes' sovereignty rather than from the state.

The bill also addresses the designation of responsible units of government for recycling purposes. A "responsible unit" is the entity assigned responsibility under s. 159.09 (1) for implementing a comprehensive recycling program. Currently, under s. 159.09 (1) (d), a responsible unit may, by contract under s. 66.30, designate another unit of government to be the responsible unit for recycling program purposes. The bill authorizes the designation of a tribe or band as a responsible unit. The bill also amends the definition of "responsible unit" in s. 159.01 (9) to reflect this change in s. 159.09 (1) (d).

Finally, the bill "grandfathers in" already existing cooperative agreements between municipalities and Indian tribes or bands by validating such agreements entered into before the effective date of the bill.

**SECTION 1.** 66.30 (1) (b) and (2) of the statutes are amended to read:

66.30 (1) (b) If the purpose of the intergovernmental cooperation is the establishment of a joint transit commission, "municipality" means any city, village, town, or county ~~or federally recognized Indian tribe or band~~.

(2) In addition to the provisions of any other statutes specifically authorizing cooperation between municipalities, unless such statutes specifically exclude action under this section, any municipality may contract with other municipalities and with federally recognized Indian tribes and bands in this state, for the receipt or furnishing of services or the joint exercise of any power or duty required or authorized by law. If municipal or tribal parties to a contract have varying powers or duties under the law, each may act under the contract to the extent of its lawful powers and duties. This section shall be interpreted liberally in favor of cooperative action between municipalities and between municipalities and Indian tribes and bands in this state.

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**SECTION 2.** 159.01 (9) of the statutes is amended to read:

159.01 (9) “Responsible unit” means a municipality, county, another unit of government, including a federally recognized Indian tribe or band in this state, or solid waste management system under s. 59.07 (135), that is designated under s. 159.09 (1).

**SECTION 3.** 159.09 (1) (d) of the statutes is amended to read:

159.09 (1) (d) The governing body of a responsible unit designated under par. (a), (b) or (c) may by contract under s. 66.30 designate another unit of government, including a federally recognized Indian tribe or band in this state, or a solid waste management system created

under s. 59.07 (135) to be the responsible unit in lieu of the responsible unit designated under par. (a), (b) or (c). The contract shall cover all functions required under sub. (2), including provisions for financing and enforcing the recycling or other solid waste management program.

**SECTION 4.** 992.20 of the statutes is created to read:

**992.20 Agreements between units of government and Indian tribes or bands validated.** All contracts for the receipt or furnishing of services or the joint exercise of any power or duty required or authorized by law entered into by a municipality, as defined in s. 66.30 (1) (a), and a federally recognized Indian tribe or band in this state before the effective date of this section .... [revisor inserts date], are validated.

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