

2001 DRAFTING REQUEST

Bill

Received: 12/12/2000

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Samantha Starzyk (608)266-2530**

By/Representing: **Rep.-Elect Starzyk**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Addl. Drafters:

Subject: **Munis - miscellaneous
Bus. Assn. - miscellaneous**

Extra Copies: **RAC**

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Intergovernmental cooperation, mutual aid agreements between fire departments

Instructions:

See Attached. Remove Attorney-general approval for fire dept. mutual aid agreements; broaden scope of s. 66.0301 to include fire depts. created under ch. 181, 182, or 213.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	shoveme 12/26/2000	jdyer 12/27/2000	rschluet 01/07/2001 lrb_docadmin	_____	lrb_docadmin 01/08/2001	lrb_docadminS&L 12/13/2001	
			01/08/2001 ismith	_____		lrb_docadmin 12/13/2001	
			01/08/2001	_____			

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/1	shoveme 12/26/2000	jdye 12/27/2000	rschlue 01/07/2001	_____	lrb_docadmin 01/08/2001		S&L

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Att intro.

<END>

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1?	shoveme	1 12/27 jld	 1-5-1	 1-7-1			

11 MES 12/26/00

FE Sent For:

<END>

Samantha

Rep Porter - will
mutual aid agreements

AB review of
KS w/ other states

~~66.30(5)(a)~~

60.55

Goal - take AB out of
the loop

DATE: December 6, 2000
TO: Mark Shovers, Drafting Attorney
FROM: State Representative Elect Samantha Starzyk
RE: Proposed Mutual Aid Fire Legislation

A handwritten signature in black ink, appearing to read "Samantha", is written over the printed name "Samantha Starzyk" in the "FROM:" field.

Enclosed is a copy of a letter regarding proposed changes in mutual aid agreements between fire departments. I would like to have a bill draft put together. Please call me if you have any question at 608-266-2530 or 262-279-1037. Thank you for your time and consideration.

Law Offices
JENKINS AND STITTLEBURG
P.O. Box 9
La Farge, Wisconsin 54639-0009

David L. Jenkins
Philip C. Stittleburg

608/625-2185
608/625-2195

October 16, 2000

Mr. Steven Krause
Kenosha County Chiefs and Captains Association
P.O. Box 114
Somers, WI 53171

Re: Mutual Aid Agreements

Dear Steve,

At your request, I have reviewed the Wisconsin Statutes relating to fire department mutual aid contracts with specific reference to the inclusion of non-municipal departments. As I understand it, you are particularly interested in those mutual aid agreements involving fire departments in both Illinois and Wisconsin.

As you know, Wis. Stats. 66.30(2) authorizes any municipality to contract with other municipalities for the receipt or furnishing of services, such as fire protection and emergency medical services. Such a contract may be with municipalities of another state. (Wis. Stats. 66.30(5)). Such interstate agreements must be submitted to the attorney general for review before taking effect. (Wis. Stats. 66.30(5)(a)).

The problem which you are facing arises from the fact that one or more of the potential Wisconsin parties to the intended mutual aid agreement are not municipalities, but rather are private fire departments or EMS providers. Such organizations clearly are not covered by Wis. Stats. 66.30. You have suggested the possibility of introducing legislation to correct this problem, and I concur that this would be an appropriate solution.

It strikes me that the best legislative approach would be the simplest one. That would be to amend the definition of "municipality" contained in Wis. Stats. 66.30(1)(a) to include "fire department or rescue squad created under the cha. 180, 181, or 213."

Page -2-

October 16, 2000

Mr. Steven Krause

Such an amendment would pertain to both intrastate and interstate agreements, although as pointed out above, only interstate agreements require review by the attorney general. There is the possibility that someone might feel that this proposed amendment is unnecessarily broad.

In that event, I believe that limiting the amendment to only those agreements subject to attorney general's review under Wis. Stats. 66.30(5)(a) would be a reasonable alternative. Under existing law, Wisconsin towns already can contract with any person for fire protection (Wis. Stats. 60.55(1)(a)3), and can contract with one or more providers for ambulance service. Likewise, Wisconsin villages may currently utilize fire companies organized under ch. 213 (Wis. Stats. 61.65(2)(a)4) and may contract for ambulance service with one or more providers. Wisconsin cities may create a joint fire department with another city (Wis. Stats. 62.13(2m)(a)) or create a paid, volunteer, or combination fire department of their own (Wis. Stats. 62.13(8)). Likewise, they may contract for ambulance service with one or more providers. (Wis. Stats. 672.133). Consequently, it would appear there is less of an "intrastate" problem than an "interstate" problem.

If the foregoing proposal meets with your approval, I suggest that you proceed as follows:

- (1) Contact the assistant attorney general who is reviewing this matter. Inquire of him/her if the agreement which you have already had prepared would be acceptable if the proposed legislative change were accomplished. If the answer is negative, determine what other modifications are required.
- (2) Once tentative approval has been obtained, proceed with introduction of the legislation.

I know that when the issue of including non-municipal departments in the proposed agreement was considered by the attorney who drafted the agreement, he expressed concern regarding the fact that some parties would be municipalities, while others were not. Specifically, he was concerned about the fact that responsibilities and liabilities might differ depending upon the nature of

Page -3-

October 16, 2000

Mr. Steven Krause

the organization. I have not examined this issue in depth. However, if corrective legislation is pursued, I believe that this issue should be re-examined.

I hope that this information is helpful. If I can answer any questions or be of further service, please be sure to let me know. I hope that things are going well for you.

Sincerely,

JENKINS AND STITTLEBURG

Phil

Phillip C. Stittleburg

PCS: cd



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1451/F1

MES.....

jd (RMP)

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Notes

gem

- 1 AN ACT ...; relating to: the provision of fire protection by towns and villages and
- 2 removing the attorney general's review of interstate compacts relating to fire
- 3 fighting and emergency medical services.

(municipality)

Analysis by the Legislative Reference Bureau

Under current law a town, and a village with a population of at least 5,500, is required to provide fire protection for the town or village. A town may provide such protection by establishing a town fire department, establishing a joint fire department with another ~~municipality~~ city, village, or town, contracting with any person, or utilizing a fire company organized under ~~ch~~ 213 of the statutes. A village may provide fire protection by creating its own fire department, contracting for fire protection services with a municipality, creating a joint fire department with another ~~municipality~~ or utilizing a fire company organized under ~~ch~~ 213 of the statutes.

Chapter

Under this bill, a village or town may also provide fire protection services by utilizing a fire company organized under ~~ch~~ 180 or 181 of the statutes.

Also under current law, most local governmental units (including cities, villages, towns, counties, school districts, public library systems, metropolitan ~~sewerage districts, sanitary districts, and regional planning commissions~~) may enter into contracts with local governmental units of another state for the receipt or furnishing of services or the joint exercise of any power or duty. Such agreements have the status of interstate compacts and, in general, must be reviewed and approved by the attorney general before they may take effect.

Under this bill, an interstate agreement that relates to the receipt, furnishing, or joint exercise of fire fighting or emergency medical services need not be submitted to or approved by the attorney general before the agreement may take effect.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 60.55 (1) (a) 4. [✓] of the statutes is amended to read:

2 60.55 (1) (a) 4. Utilizing a fire company organized under ch. 180, 181, [✓] or 213.

3 History: 1983 a. 532; 1987 a. 399.

3 **SECTION 2.** 61.65 (2) (a) 4. [✓] of the statutes is amended to read:

4 61.65 (2) (a) 4. Utilizing a fire company organized under ch. 180, 181, [✓] or 213,

5 except that this subdivision does not apply in a village that provides fire protection

6 services under subd. 1. on December 9, 1993.

7 History: 1975 c. 94 s. 91 (5); 1975 c. 199; 1977 c. 29 s. 1654 (8) (d); 1977 c. 182; 1979 c. 256; 1981 c. 96 s. 67; 1981 c. 171; 1985 a. 166; 1987 a. 27, 399; 1993 a. 16, 77, 213.

7 **SECTION 3.** 66.0303 (3) [✓] of the statutes is renumbered 66.0303 (3) (a) and
8 amended to read:

9 66.0303 (3) (a) An [✓] Except as provided in par. (b), an agreement made under this
10 section shall, prior to and as a condition precedent to taking effect, be submitted to
11 the attorney general who shall determine whether the agreement is in proper form
12 and compatible with the laws of this state. The attorney general shall approve any
13 agreement submitted under this subsection unless the attorney general finds that
14 it does not meet the conditions set forth in this section and details in writing
15 addressed to the concerned municipal governing bodies the specific respects in which
16 the proposed agreement fails to meet the requirements of law. Failure to disapprove
17 an agreement submitted under this subsection within 90 days of its submission
18 constitutes approval. The attorney general, upon submission of an agreement, shall
19 transmit a copy of the agreement to the governor who shall consult with any state

1 department or agency affected by the agreement. The governor shall forward to the
2 attorney general any comments the governor may have concerning the agreement.

History: 1999 a. 150 ss. 77, 355.

66.0303 X

3 SECTION 4. ~~66.303~~ (3) (b) of the statutes is created to read:

66.0303

4 ~~66.303~~ (3) (b) An agreement under this section between a municipality of this
5 state and a municipality of another state that relates to the receipt, furnishing, or
6 joint exercise of fire fighting or emergency medical services need not be submitted
7 to or approved by the attorney general under sub. (2) before the agreement may take
8 effect.

9 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1451/1dn

MES.....

↑
JLD

Rep.-elect Starzyk:

This bill is not drafted according to the instructions in the letter you sent me from Mr. Stittleburg, but I believe that it accomplishes your intent. The letter suggests that the definition of "municipality" in s. 66.0301 (1) (a) be changed to include "fire department or rescue squad created under the cha. (sic) 180, 181, or 213." I do not believe that it is advisable to change the definition in this way for ^{two} reasons. First, as Mr. Stittleburg points out in his letter, this approach may be unnecessarily overbroad. Second, it doesn't make sense to me to include private entities in the definition of "municipality" in a subchapter that is about cooperation between units of government.

Instead, I added fire companies organized under ch. 180 or 181 to ss. 60.55 (1) (a) 4. and 61.65 (2) (a) 4. In addition, I'm not sure why it was felt that the definition of "municipality" in s. 66.0301 (1) (a) needed to be changed to allow a city, village, or town to enter into a contract with fire companies organized under ch. 180 or 181; a city or village would certainly have the authority to do so under its home rule authority, and a town may "[e]nter into contracts necessary for the exercise of its corporate powers" under s. 60.01 (2) (c).

Please let me know if this bill does not meet your intent so that I can redraft it.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1451/1dn
MES:jld:rs

January 8, 2001

Rep.-elect Starzyk:

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Please let me know if this bill does not meet your intent so that I can redraft it.

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Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

January 8, 2001

MEMORANDUM

To: Representative Starzyk

From: Marc E. Shovers, Senior Legislative Attorney

Re: LRB-1451 Intergovernmental cooperation, mutual aid agreements between fire departments

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-0129 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.