

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0385/P1dn

PG:kmg:pg

October 23, 2002

Larry:

1. In item no. 3, I amended s. 43.15 (1) (a) as you instructed, but don't you also need to change the minimum population to 200,000? Otherwise, a system will be allowed to have a population of only 100,000, but if a system with a population of 200,000 falls below 200,000 because of certain events, it must realign. Is that your intent?
2. In item no. 5, what about vacation and sick leave?
3. I have a number of questions regarding item no. 10:
  - (a) I created s. 43.52 (1m) (b) so cities and villages will need to get county board approval to establish a new public library. Given that requirement, why is it necessary to also create s. 43.64 (2m) (b) to require county board approval for a city or village to be exempt from the county levy?
  - (b) Do you want to extend this requirement to towns or school districts?
  - (c) The draft creates no standards for a county board to apply when determining whether to exempt a city or village from the county levy. This may constitute an unconstitutional delegation of legislative authority.
4. I did not draft item no. 11. Section 990.01 (29), stats., defines "population" to mean "that shown by the most recent regular or special federal census." So I think s. 43.54 (1m) (a) 1., which requires that members of a joint library board be "representative of the populations of the participating municipalities," already accomplishes your goal.
5. In item no. 12, there may be a delegation problem because no criteria are provided for adjusting the uniform rate. There may also be a violation of that part of the public purpose doctrine which requires that "[A] tax must be spent at the level at which it is raised." *State ex. rel. Wisconsin Dev. Authority v. Dammann*, 228 Wis. 147, 183 (1938). "Wisconsin has long recognized this rule of constitutional interpretation, *i.e.*, the purpose of the tax must be one which pertains to the public purpose of the district within which the tax is to be levied and raised." *Buse v. Smith*, 97 Wis. 3d 550, 577 (1976). Under this bill, the tax imposed by one local level of government, a participant in the joint library, will be spent by another level of government, the joint library board.
6. In item no. 14, I included language regarding the distribution of liabilities as well as assets. OK?

7. Please check the various effective dates and initial applicability provisions.