2003 DRAFTING REQUEST

Bill

Received: **10/03/2002**

Wanted: **As time permits**

For: **Public Instruction 7-9225**

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

May Contact:

Subject: **Education - libraries**

Received By: **pgrant**

Identical to LRB:

By/Representing: **Michael H. Cross**

Drafter: **pgrant**

Addl. Drafters:

Extra Copies: **MJL**

Submit via email: **YES**

Requester's email: **michael.cross@dpi.state.wi.us**

Carbon copy (CC:) to: **michael.teronde@dpi.state.wi.us**
                           gayle.krueger@dpi.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Public libraries; organization and funding

Instructions:

See Attached

Jacket Sent to
Sen. Leibham per
Mike @ DPI

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	pgrant 10/15/2002	kgilfoy 10/22/2002		——— ———			S&L
/P1	pgrant 10/24/2003	kgilfoy 11/03/2003 kgilfoy	pgreensl 10/24/2002 jfrantze	——— ——— ———	lemery 10/24/2002		S&L

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
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				_____ _____	mbarman 11/04/2003		
/1			rschluet 02/13/2004	_____ _____	lnorthro 02/13/2004	lemery 02/13/2004	

FE Sent For:

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/P1	pgrant 10/24/2003	kgilfoy 11/03/2003 kgilfoy	pgreensl 10/24/2002 jfrantze	——— ——— ———	lemery 10/24/2002		S&L

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				_____ _____	mbarman 11/04/2003		
/1			rschluet 02/13/2004	_____ _____	lnorthro 02/13/2004		

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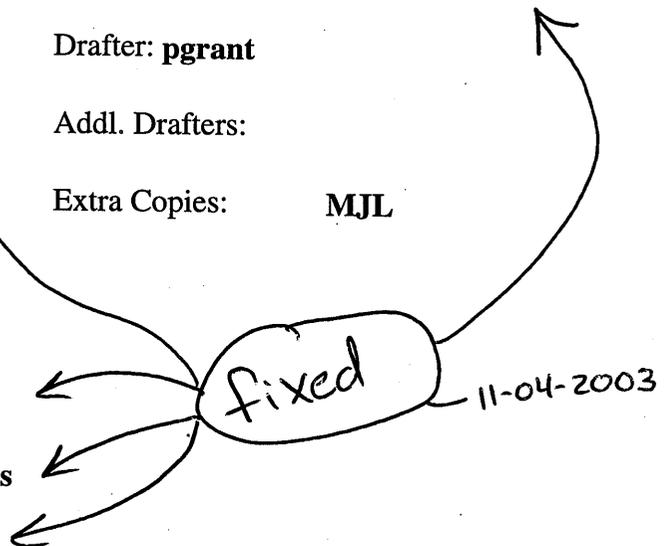Subject: **Education - libraries**

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By/Representing: **Michael H. Cross**

Drafter: **pgrant**

Addl. Drafters:

Extra Copies: **MJL**

fixed   11-04-2003

Pre Topic:

No specific pre topic given

Topic:

Public libraries; organization and funding

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	pgrant 10/15/2002	kgilfoy 10/22/2002		———			S&L
/P1	pgrant 10/24/2003	kgilfoy 11/03/2003 kgilfoy	pgreensl 10/24/2002 jfrantze	———	lemery 10/24/2002		S&L

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
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			11/04/2003	_____	11/04/2003		
				_____	mbarman		
				_____	11/04/2003		

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2003 DRAFTING REQUEST

Bill

Received: **10/03/2002**

Wanted: **As time permits**

For: **Public Instruction 6-7270**

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

May Contact:

Subject: **Education - libraries**

Received By: **pgrant**

Identical to LRB:

By/Representing: **Larry Nix**

Drafter: **pgrant**

Addl. Drafters:

Extra Copies: **MJL**

Submit via email: **YES**

Requester's email: **larry.nix@dpi.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Public libraries; organization and funding

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	pgrant 10/15/2002	kgilfoy 10/22/2002	___				S&L
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FE Sent For:

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LRB-0385

2003 DRAFTING REQUEST

Bill

Received: **10/03/2002**   Received By: **pgrant**

Wanted: **As time permits**   Identical to LRB:

For: **Public Instruction 6-7270**   By/Representing: **Larry Nix**

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

May Contact: Addl. Drafters:

Subject: **Education - libraries**   Extra Copies: **MJL**

Submit via email: **YES**

Requester's email: **larry.nix@dpi.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Public libraries; organization and funding

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
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FE Sent For:

<END>

P8 PC

From:	Nix, Larry DPI
Sent:	Thursday, October 03, 2002 11:32 AM
To:	Grant, Peter
Cc:	Potter, Calvin DPI; Grogan, Thomas R. DPI; Johnson, Thomas DPI; Cross, Michael DPI
Subject:	Bill Drafting Request #2

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ails.doc

       Hi Peter,
Attached is the second of two bill drafting requests from the Department of Public
Instruction based on recommendations from the State Superintendent's Task Force on Public
Library Legislation. We refer to this request as the "reform package". It includes more
substantive items. If you have any questions or if I need to do something else, let me
know.
Thanks.
Larry

Larry T. Nix, Director
Public Library Development Team
WI Department of Public Instruction
P.O. Box 7841
Madison, WI 53707
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(608) 266-7270
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Wisconsin Department of Public Instruction

Request for Bill Drafting Related to

Public Library Organization and Funding Reform

(The Reform Package)

10/03/02

DPI Contact: Larry Nix (larry.nix@dpi.state.wi.us or 266-7270)

The purpose of the bill is to modify statutory provisions relating to the organization and funding of public libraries and public library systems based on recommendations of the State Superintendent's Task Force on Public Library Legislation and Funding.

1. DPI's biennial budget request for public library funding

Current law:
Wisconsin Statutes Section 43.24 (6) requires that the department of public instruction include in its biennial budget request an amount for public library systems equal to 13% of the total operating expenditures for public library services from local and county sources in the calendar year immediately preceding the calendar year for which public library system aid is to be paid.

Possible changes:

Delete the current Section 43.24 (6):

In submitting information under s. 16.42 for purposes of the biennial budget bill, the department shall include an amount for the appropriation under s. 20.255 (3) (e) for each fiscal year of the fiscal biennium equal to 13% of the total operating expenditures for public library services, in territories anticipated to be within all systems in the state, from local and county sources in the calendar year immediately preceding the calendar year for which aid under this section is to be paid.

Replace with the following language:

In submitting information under s. 16.42 for purposes of the biennial budget bill, the department shall include an amount for public library services for each fiscal year of the fiscal biennium equal to at least 13% of the total operating expenditures for public library services, in territories anticipated to be within all systems in the state, from local and county sources in the calendar year immediately preceding the calendar year for which aid under this section is to be paid. The amount shall include a recommendation for the appropriation under s. 20.255 (3) (e) and recommendations for the funding of other public library service programs determined by the department in conjunction with public libraries and public library systems.

Explanation:
This change would allow more flexibility for the department of public instruction in developing its biennial budget request for funding to benefit public libraries and public library systems. Some programs of benefit to public libraries and the state's residents are delivered most effectively on a regional or public library system basis. Other programs may be delivered more effectively on a statewide or local basis.

✓ **2. Prohibit the creation of additional public library systems.**

Current law:
The number of public library systems is only limited by Wisconsin Statutes Section 43.15, which requires that a public library system area include a population of 100,000 or more, and provides that no new public library system can be established unless it serves at least 200,000 people. A public library system may be organized as a single-county federated public library system, a multi-county federated public library system or a single-county consolidated public library system. Under Section 43.18, a county may withdraw from a federated public library system whose territory lies within 2 or more counties if its board of supervisors passes a resolution by a two-thirds vote and if it has the approval of the governing bodies of participating municipalities in the county that contain at least 80% of the population of participating municipalities in the county. The county may then take action to participate in another public library system by fulfilling the requirements for initial participation in a system. If, because of the withdrawal of a participating municipality or county, a public library system has a population under 100,000, the remaining parts of the system must realign with an existing system within 2 years of the date on which the population falls below 100,000.

Proposed change:
Change the statutes to prohibit the creation of any new library system if such action would increase the total number of library systems in Wisconsin.

Explanation:
There are currently 17 federated public library systems in Wisconsin. Reducing the number of public library system organizations would likely result in greater efficiency and a reduction in administrative costs that could be reallocated to improving library services to the residents of the state. This is an especially important consideration with the current restrictions in state aid for public library systems. While this proposal would not reduce the number of library systems, at least it would prevent any increase in the number of library systems in Wisconsin. (See Issue Paper #6 on Library System Size and Organization for background information.)

✓ **3. Minimum population requirement for a public library system after reconfiguration.**

Current law:
Wisconsin Statutes Section 43.15(1)(a) provides that if, because of the withdrawal of a participating municipality or county, a public library system has a population under 100,000, the remaining parts of the system must realign with an existing system within 2 years of the date on which the population falls below 100,000.

Proposed change:
Change the statutes to provide that if, because of the withdrawal or realignment of participating municipalities or counties, a public library system has a population under 200,000 (currently 100,000), the remaining parts of the system shall realign with an existing system within 2 years after the date on which the population falls below 200,000.

Explanation:
This proposal might help limit the total number of library systems in Wisconsin. (See Issue Paper #6 on Library System Size and Organization for background information.)

✓ 4. Simplification of the process for merger of public library systems.

Current law:
Under Wisconsin Statutes Section 43.15 (4), two public library systems may merge with the approval of each public library system board, the county boards of the participating counties, and 51% of the participating public libraries in the system.

Proposed change:
Change the statutes to make the only requirement for merger of two library systems the approval of the participating county boards of both of the public library systems to be included in the merged system.

Explanation:
This proposal might, over time, lead to a reduction in the total number of library systems in Wisconsin. (See Issue Paper #6 on Library System Size and Organization for background information.)

✓ 5. New requirement for library system membership: properly certified library director works a minimum number of hours in the library.

Current law:
The current requirements for a library's membership in a library system [Wisconsin Statutes Section 43.15(4)(c)] are as follows:

- the library must be legally established and operated according to Chapter 43
- the library must be located in a county that is a member of a library system
- the library must agree to participate in the system and its activities
- the library must agree to participate in interlibrary loan of materials with other system member libraries
- the library must agree to serve all residents of the system area on the same basis as service is provided to residents of the municipality, county, or multiple jurisdictions (in the case of a joint library) that established the library
- the municipality, county, or multiple jurisdictions (in the case of a joint library) that established the library must provide support for the library at a level that is not less than the average of such funding for the previous three years
- the library must employ a head librarian holding current public librarian certification from the DPI

Proposed change:
Require that as an additional condition of library system membership a public library pay the certified head librarian for a minimum of 10 regularly scheduled hours per week of work in the library building during time the library is open to the public. This would be required by January 1 of the year after the effective date of this legislation.

Explanation:
It has been reported to the DLTCL that a few Wisconsin public libraries have tried to avoid good-faith compliance with Wisconsin's public librarian certification law by listing a properly certified individual as their head librarian on their annual report to the DLTCL, but assigning all or most of the library director duties to other individuals who do not have proper librarian certification. The proposal would help insure that properly qualified individuals are directing the public libraries in Wisconsin. (See Issue Paper #3 on Requirements for Library System Membership for background information.)

6. **New requirement for library system membership: minimum number of hours open per week.**

   Current law:
   See proposal 4, above.

   Proposed change:
   Require that as a condition of library system membership a public library provide a public library facility open to the public a minimum annual average of 25 hours per week by the year 2006.

   Explanation:
   A library's resources and services can only fully benefit the public if the library is open a sufficient number of convenient hours each week. This new system membership requirement would help ensure that the state's library system resources are directed to libraries that provide at least a minimum level of library service. (See Issue Paper #3 on Requirements for Library System Membership for background information.)

7. **New requirement for library system membership: minimum expenditures on library materials.**

   Current law:
   See proposal 4, above.   pub. by DPI , 3rd edition march 2000

   Proposed change:
   Require that as a condition of library system membership a public library annually spend a minimum of one third of the minimum amount recommended in *Wisconsin Public Library Standards* (this would amount to $3,333) on library materials (including electronic materials) by the year 2006. .)

   Explanation:
   To meet the needs and interests of the public, a library must constantly add new books, periodicals and other materials to its collection. This new system membership requirement would help ensure that the state's library system resources are directed to

libraries that add at least a minimal number of new materials each year. Funding of $3,333 per year allows for the purchase of only 167 items costing an average of $20 each. (See Issue Paper #3 on Requirements for Library System Membership for background information.)

8. **Permissive language to allow library systems to implement a crossover usage reimbursement plan.**

Current law:
One of the statutory requirements for a library's membership in a public library system is that the library agrees to provide to any resident of the system area the same services, on the same terms, that are provided to members of the municipality, municipalities, and/or county that established the library. Libraries may give preference to local community residents for library programs if the library limits program attendance. [Section 43.15(4)(c)(4)] Therefore, within a library system area, any resident may use any system member library and almost any of their services, regardless of municipal or county boundaries.

"Crossover library use" occurs when residents of a community with a library use a library in a different community. "Library use" (for purposes of defining crossover library use) is defined as the use of any library service by an individual walking into a library (borrowing materials, reference service, attending library programs, browsing materials, using computers in the library, etc.).

Possible change:
Allow a public library system board to adopt a plan requiring their participating public libraries to compensate other participating public libraries for crossover lending of library materials. If a plan is adopted by the public library system board for this purpose, it would be incorporated into the written agreement between each participating public library and the public library system board. The per-transaction level of compensation required under the intermunicipal lending of library materials reimbursement plan could not exceed the actual costs of providing the services.

Explanation:
Public library systems have few effective tools to resolve crossover disputes. Library systems do not have the legal authority to require crossover reimbursements. Library systems do not have the legal authority to mandate standards for library system membership. State funding received by library systems can be used to fund the cost of crossover use, but doing so reduces the funding available for required system services. In some cases, especially in southeastern Wisconsin, system funding of the full cost of crossover use within the system would probably require the use of more than the total annual income of the library system.

This change, while not a statewide solution, at least provides a tool which can be used to help resolve local or regional crossover usage issues. (See Issue Paper #10 on Crossover Library Usage for background information.)

9. Require that a city or village in a county with a county library must first obtain county board and county library board approval before establishment of a library if the municipality lies wholly within the county.

Current law:
In any Wisconsin county, including a county that operates a "consolidated county library" [established under Section 43.57(1)] any city or village may establish an independent public library and exempt from the county library levy as long as their municipal library levy is higher than the county library levy [as provided by Section 43.64(2)]. A town must obtain county board and county library board approval to establish a public library or participate in a joint public library. [Section 43.52(1m)]

Proposed change:
Require that a city or village in a county that operates a county library must first obtain county board and county library board approval before establishment of a library if the municipality lies wholly within the county.

Explanation:
This change would allow a county operating a county library to protect the tax base supporting that library. (See Issue Paper #8 on County Library Organizations for background information.)

10. Create new requirements for exemption from the county library levy for city or village libraries established after the effective date of this legislation.

Current law:
Any city or village may establish a public library (under Section 43.52 or 43.53) and be exempt from the county library levy as long as their municipal library levy is higher than the county library levy [as provided by Section 43.64(2)]. A town must obtain county board and county library board approval to establish a public library or participate in a joint public library. [Section 43.52(1m)]

Proposed change:
Require that any library established by a city or village after the effective date of this legislation must first obtain county board approval before they can qualify for exemption from the county library levy. Also require the library system to prepare an impact statement before any new public library is established.

See 43.52 (V)

Explanation:
Under the current organization of public library service in Wisconsin, counties have the responsibility for providing public library service outside of municipalities that maintain their own public library. In order to participate in a public library system, counties have to have a plan for providing public library service to this portion of the county. If a municipality establishes a new public library, the municipality can then exempt itself from the county library tax. In taking this action the municipality impacts public library services not only within its own community but in the entire county. Since county library funding is typically used primarily to reimburse municipalities with public libraries, these municipalities could experience a negative impact because there would be a lower county tax base to support reimbursement.

43.11 (3)(c)

This proposal also relates to the "crossover borrowing" issue. Because it is normally not possible to provide good municipal library service taxing only at the level necessary to exempt from the county library tax, unless a municipality contemplating establishment of a new library made a commitment to increase taxes to provide good library service, its residents would probably continue to use other municipal public libraries in the county. There currently is no good system for paying for this "crossover borrowing" so the municipalities with public libraries in the county could continue to be used at a similar level as before and would no longer be eligible for county reimbursement for that use. (See Issue Paper #10 on Crossover Library Usage and Issue Paper #8 on County Library Organizations for background information.)

1. Require the adjustment of joint library board appointments to reflect proportional changes in population of the participants to the joint library.

Current law:
The required agreement between the participants to a joint library must provide that the library board governing the joint library have between 7 and 11 members appointed by the joint library participants in proportion to the population of each participant. [Section 43.54(1m)] The agreement must provide for the appointment as one of the members a school district administrator, or the administrator's representative, to represent the public school district or districts in which the library is located. Not more than one member of each municipal governing body shall at any one time be a member of the library board.

Proposed change:
Require that new joint library agreements provide for review and adjustment of the number of library board appointments allocated to each participant within one year of the publication of population figures from the federal decennial census.

Explanation:
While the statutes require that proportional representation be provided for in the initial joint library agreement, there is no requirement that the representation be adjusted to reflect proportional changes in population. (See Issue Paper #5 on Joint Libraries for background information.)

2. Require uniform levy rate support for joint libraries established after the effective date of this legislation.

Current law:
The participants in a joint library must enter into an agreement that meets the requirements of Section 43.53(2). The joint library agreement must include provisions necessary to "perform the duties under Section 43.58" (the section of the statutes that spells out the legal powers and duties of the library board, the procedure for approval of library expenditures and payment of bills, etc.). The agreement must include provisions necessary to own and "operate" the library facility or facilities.

Proposed change:
Require that any new joint library agreement call for each participant in the joint library to support the joint library at the equivalent of a uniform library levy rate per $1000 of equalized assessed value (EAV), but maintain total funding at a level not lower than the

7

average of the previous three years. Also require that the agreement provide a procedure for adjustment of that levy rate at least every three years.

Explanation:
Under current law, it is completely up to the joint public library participants to agree to a formula and methodology for funding of the library. Current Wisconsin joint libraries apportion the costs among the joint library participants according to the respective population, total property value, library usage, or library registrants of each participant. Some of these methodologies result in disparate levels of library levy rate support. This can be especially problematic if it results in failure of one of the participants to qualify for exemption from the county library levy or results in failure to meet the maintenance of effort requirement for library system membership. (See Issue Paper #5 on Joint Libraries for background information.)

13. New required elements of joint public library agreements.

except few

Current law:
The participants in a joint library must enter into an agreement that meets the requirements of Section 43.53(2). The joint library agreement must include provisions necessary to "perform the duties under Section 43.58" (the section of the statutes that spells out the legal powers and duties of the library board, the procedure for approval of library expenditures and payment of bills, etc.). The agreement must include provisions necessary to own and operate the library facility or facilities.

Proposed change:
Require that joint library agreements provide that one of the participant organizations agree to act as the fiscal agent for the library, handle the payroll and benefit administration for library staff, pay library insurance costs, and handle library financial record-keeping and auditing. Documented costs for providing these services can be included toward the participant's required financial support for the library.

Explanation:
Joint public library boards do not have the authority to act as their own fiscal agent. As a practical matter, most joint library participants either formally or informally reach agreement on these issues. This change would require a formalized agreement on these issues. (See Issue Paper #5 on Joint Libraries for background information.)

14. Require that a joint library agreement provide a procedure for dissolution of assets in case the joint library is dissolved.

Current law:
Section 43.53(2) requires that a joint public library agreement include provisions necessary to own and operate the library facility or facilities.

Proposed change:
Require that a joint library agreement provide a procedure for dissolution of assets in case the joint library is dissolved.

Explanation:
While the current statutes require that a joint public library agreement include provisions necessary to own and operate the library facility or facilities, they do not require that the agreement address the issue of ownership of other library assets. (See Issue Paper #5 on Joint Libraries for background information.)

15. **Provide that the 70% minimum reimbursement responsibility for counties be extended to use of libraries in adjacent counties including adjacent counties across system borders (excluding the Milwaukee County Federated Library System).**

Current law:
One of the statutory requirements for a library's membership in a public library system is that the library agrees to provide to any resident of the system area the same services, on the same terms, that are provided to members of the municipality, municipalities, and/or county that established the library. [Section 43.15(4)(c)(4)] Therefore, within a library system area, any resident may use any system member library, regardless of municipal or county boundaries.

Under the county library planning section of the law as revised by 1997 Act 150 (Section 43.11), county library plans must provide for reimbursement to public libraries for non-resident service within the system area. This means that if a county has residents that do not maintain a public library, and those residents use libraries outside the county but within the system area, the county library plan must provide for reimbursement for that use. However, because the statutes provide no required minimum level of support, this statutory provision has generally not resulted in meaningful reimbursement levels.

Wisconsin Statutes Sections 43.17(10) and (11) require that libraries offer service to residents of adjacent library systems (if they hold a valid library card from a public library in that system), but can refuse service if the library receives less than "adjusted cost"[1] of that service from the other library system, and from the counties and municipalities in that system. The Milwaukee County Federated Library System is exempt from this requirement.

Proposed change:
Provide that the 70% minimum reimbursement responsibility for counties (of Section 43.12) be extended to use of libraries in adjacent counties including adjacent counties across system borders (excluding the Milwaukee County Federated Library System). Under this proposal, the county reimbursement responsibility only applies to library use by county residents that do not maintain a public library.

Explanation:
Counties in Wisconsin have a statutory responsibility to provide for library service to county residents who do not maintain their own library. This proposal requires a minimum level of cost reimbursement if the county does not operate a library and county

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[1] Defined as the cost of the number of circulations provided to residents of the adjacent system, less the cost of 500 circulations. Cost per circulation is the library's previous year's total nonfederal operational expenditures (not including capital expenditures) divided by its total circulation. By this statutory definition, any library lending fewer than 500 items to residents of an adjacent library system is receiving "adequate reimbursement".

residents use libraries in other counties. (See Issue Paper #4 on Library Usage Across County Borders for background information.)

6. Allow county library plans to require crossover library use reimbursements.

Current law:
One of the statutory requirements for a library's membership in a public library system is that the library agrees to provide to any resident of the system area the same services, on the same terms, that are provided to members of the municipality, municipalities, and/or county that established the library. Libraries may give preference to local community residents for library programs if the library limits program attendance. [Section 43.15(4)(c)(4)] Therefore, within a library system area, any resident may use any system member library and almost any of their services, regardless of municipal or county boundaries.

"Crossover library use" occurs when residents of a community with a library use a library in a different community. "Library use" is defined as the use of any library service by an individual walking into a library (borrowing materials, reference service, attending library programs, browsing materials, using computers in the library, etc.).

Possible change:
Allow county library plans to require crossover library use reimbursements. A county library plan could include a provision requiring that a municipality located in whole or part within the county that operates a public library compensate libraries in other municipalities located in whole or part within the county for crossover lending of library materials. The per-transaction level of compensation required under the plan could not exceed the actual costs of providing the services. A municipality would be required to provide the compensation for crossover lending of library materials according to the formula in the county library plan in order to exempt itself from the county library tax.

Explanation:
Under current law, there are few effective tools to resolve crossover disputes. Counties do not have the legal authority to require crossover reimbursements. Under Section 43.11(3)(d), counties do have the authority to establish minimum standards for libraries located in the county. However, it has not yet been proven that county standards reduce crossover usage imbalances. This proposal provides an additional tool which can be used to help resolve crossover usage issues within a county. (See Issue Paper #10 on Crossover Library Usage for background information.)

2003

Date (time) needed _____

BILL

LRB – 0385, P₁

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Use the appropriate components and routines developed for bills.

AN ACT ... [generate catalog] *to repeal ...; to renumber ...; to consolidate and renumber ...; to renumber and amend ...; to consolidate, renumber and amend ...; to amend ...; to repeal and recreate ...;* and *to create ...* of the statutes; **relating to:** ...*the organization and funding of public libraries and public library systems; and granting rule-making authority.*

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:
  For the main heading, execute: .... **create → anal: → title: → head**
  For the subheading, execute: .... **create → anal: → title: → sub**
  For the sub–subheading, execute: .... **create → anal: → title: → sub–sub**
For the analysis text, in the component bar:
  For the text paragraph, execute: .... **create → anal: → text**

This is a preliminary draft. An analysis will be provided on a later version.

FE - SL

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

SECTION #.

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

1 AN ACT *to amend* 43.64 (2m); and *to create* 43.11 (3) (cm), 43.15 (4) (c) 7. and

2 43.17 (12) of the statutes; **relating to:** compensation plans for intermunicipal

3 lending of library materials and granting rule–making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

4 SECTION 1. 43.11 (3) (cm) of the statutes is created to read:

5 43.11 **(3)** (cm) The plan of library service for a county may require a

6 municipality located in whole or in part within the county that operates a public

7 library to compensate other municipalities located in whole or in part within that

8 county for intermunicipal lending of library materials. The plan's compensation for

9 a loan may not exceed the actual cost of the loan, as defined by the department by

10 rule.

Section #. 43.12 (1) of the statutes is amended to read:

43.12 **(1)** By March 1 of each year, a county that does not maintain a consolidated public library for the county under s. 43.57 and that contains residents who are not residents of a municipality that maintains a public library under s. 43.52 or 43.53 shall pay to each public library in the county an amount that is equal to at least 70% of the amount computed by multiplying the number of loans reported under sub. (2) by the amount that results from dividing the total operational expenditures of the library during the calendar year for which the number of loans are reported, not including capital expenditures or expenditures of federal funds, by the total number of loans of material made by the public library during the calendar year for which the loans are reported.

History: 1997 a. 150.

, and to each public library in an adjacent county,

Section #. 43.12 (2) of the statutes is amended to read:

and to the county clerk of each adjacent county, other than a county with a population of at least 500,000,

43.12 **(2)** By July 1 of each year, each public library lying in whole or in part in a county shall provide a statement to the county clerk of that county that reports the number of loans of material made by that library during the prior calendar year to residents of the county who are not residents of a municipality that maintains a public library under s. 43.52 or 43.53 and the total number of loans of material made by that library during the previous calendar year.

History: 1997 a. 150.

, or adjacent county,

Section #. 43.15 (1) (a) of the statutes is amended to read:

43.15 **(1)** (a) Have a population of 100,000 or more. If, because of the withdrawal or realignment of participating municipalities or counties, a public library system has a population under ~~100,000~~ *200,000* the remaining parts of the system shall realign with an existing system within 2 years after the date on which the population falls below ~~100,000~~. *200,000*

History: 1971 c. 152; 1981 c. 197; 1985 a. 29, 177; 1987 a. 399; 1989 a. 286; 1991 a. 269; 1995 a. 27 s. 9145 (1); 1995 a. 270; 1997 a. 27, 150.

1

Section #. 43.15 (4) (a) of the statutes is amended to read:

43.15 **(4)** (a) A public library system may be organized as a single–county federated public library system, a multicounty federated public library system, or a single–county consolidated public library system. Two public library systems may merge with the approval of ~~each public library system board,~~ the county boards of the participating counties ~~and 51% of the participating public libraries in the system~~.

History: 1971 c. 152; 1981 c. 197; 1985 a. 29, 177; 1987 a. 399; 1989 a. 286; 1991 a. 269; 1995 a. 27 s. 9145 (1); 1995 a. 270; 1997 a. 27, 150.

1

Section #. 43.15 (4) (c) 6. of the statutes is amended to read:

43.15 **(4)** (c) 6. Employs a head librarian ~~holding current public library certification from~~ who is certified as a public librarian by the department ~~of public instruction~~ and whose employment requires that he or she be present in the library for at least 10 hours each week that the library is open to the public

History: 1971 c. 152; 1981 c. 197; 1985 a. 29, 177; 1987 a. 399; 1989 a. 286; 1991 a. 269; 1995 a. 27 s. 9145 (1); 1995 a. 270; 1997 a. 27, 150.

1

sec. CR. 43.15(4)(c)7.

43.15(4)(c)7. Beginning in 2006, annually is open to the public an average of at least 25 hours each week.

sec. CR. 43.15(4)(c)8.

43.15(4)(c)8. Beginning in 2006, spends annually at least on library materials one-third of the amount recommended ~~by~~ ~~the department~~ in Wisconsin Public Library Standards, 3rd edition, published by the department.

——→ Ins. KA1 ←——

SEC. CR. 43.15 (5)

43.15 (5) LIMIT. ~~The number of~~ A public

library system may not ~~exceed the number~~

be established if its establishment ~~would increase~~

would cause

the number of public library systems ~~would~~

To exceed the number in existence on the

effective date of this subsection .... [revdate].

⟶ Ins. KA2 ⟵

Section #. 43.24 (6) of the statutes is amended to read:

43.24 **(6)** In submitting information under s. 16.42 for purposes of the biennial budget bill, the department shall include an amount for ~~the appropriation under s. 20.255 (3) (e)~~ for each fiscal year of the fiscal biennium equal to 13% of the total operating expenditures for public library services, in territories anticipated to be within all systems in the state, from local and county sources in the calendar year immediately preceding the calendar year for which aid under this section is to be paid.

History: 1971 c. 152; 1971 c. 211 s. 126; 1971 c. 336; 1973 c. 243 s. 82; 1977 c. 29; 1979 c. 34, 347; 1981 c. 20; 1983 a. 27 s. 2202 (42); 1985 a. 29, 177; 1989 a. 21, 286; 1991 a. 272; 1993 a. 16, 490; 1995 a. 27, 225; 1997 a. 150; 1999 a. 9, 99.

The amount shall include a recommendation for the appropriation under s. 20.255 (3) (e) and recommendations for the funding of the public library services (, as determined by the department in conjunction with public libraries and public library systems.

1

SEE. RN: 43.52 (1m), 43.52 (1m)(a)
(b)

Section #. 43.52 (1m) of the statutes is created to read:

Any city or village that is entirely
located in a county that operates
and maintains a county
library, and that desires

(b) 1.

43.52 (1m) On and after April 10, 1986, any town desiring to establish a new public library or

participate in a joint library under s. 43.53 shall in addition to the requirement under sub. (1) obtain do all
of the following: 1. Obtain
the approval of the county library board, if one exists, and the county board of supervisors before

final action is taken. The county library board and the county board of supervisors shall render deci-

The common council or village board
sions within 90 days of the request being received. A town may appeal to the state superintendent

a decision of the county library board or the county board of supervisors that disapproves the partici-

city or village
pation by the town in a joint library with a municipality located in another county. The state superin-

tendent shall hold a public hearing on the appeal within 60 days after receiving notice of the appeal.

The state superintendent shall publish a class 1 notice under ch. 985 of the hearing and shall also

common council or village
provide notice of the hearing to the town board, the county board of supervisors, and the county

library board. The state superintendent shall decide the appeal within 30 days after the adjournment

of the public hearing.

History: 1971 c. 152 s. 16; 1977 c. 418; 1985 a. 177 ss. 26 to 28, 47; 1989 a. 286; 1997 a. 150.

2. Obtain a written opinion by the public library
system regarding the feasibility and desirability of establishing
the public library before final action is taken.
board
The public library system shall render its opinion
after receiving
within 30 days of the time the request is received,

board of the public library system that the public
library would be affiliated with

1

pgrant(lrbunx11)   Tue–Oct–8–2002   2:28 pm

Section #. 43.53 (2) of the statutes is renumbered 43.53(2)(intro.) and amended to read:

43.53 **(2)** (intro.) Joint library agreements under sub. (1) shall contain provisions necessary to establish a library board under s. 43.54, perform the duties under s. 43.58 and own and operate the physical facilities.
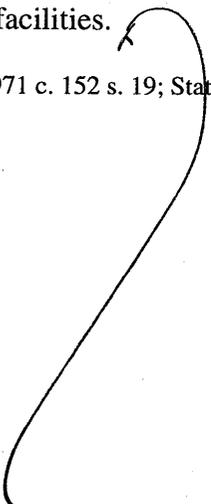
A joint library agreement shall also do all of the following :

SEC.   CR, 43.53 (2)(a) to (c)

43.53 (2)(a) Name one of the participants as the library's fiscal agent, who is responsible for the payroll, benefit administration, insurance, and financial recordkeeping and auditing for the library. The costs of providing the services under this paragraph count toward the financial support required of the participant under s. 43.15 (2)(b)(4)(b) 2. or (c) 5.

STATE OF WISCONSIN – LEGISLATIVE REFERENCE BUREAU – LEGAL SECTION
(608–266–3561)

~~and auditing for the library~~

~~SEC. CR. 43.53 (6)~~

~~SEC CR. 43.53 (2) (b) and (c)~~

(43.53 (2) (b) Include a procedure for the
distribution of a joint library's assets and
liabilities if the joint library is dissolved.

(c) Include a procedure for
changing the uniform ~~levy~~ levy rate under
sub. (4) and specify how ~~often~~ often the rate
may be changed. No agreement may prohibit
changes to the rate for a period longer than
3 consecutive years.

SEC. CR; 43.53 (4)

43.53 (4) Each [municipality and county] participating in a joint

library shall levy a tax for public library service

at the same rate. ~~which may be adjusted~~

~~by the~~ The agreement under sub. (1) ~~may~~ shall provide

~~for~~ a procedure for adjusting the rate ~~The~~ and

shall specify how often ~~the~~ rate may be changed.

No agreement may prohibit ~~changing~~ changes to

the rate for ~~more~~ [a period longer] than 3 consecutive years.

SEC. CR; 43.53 (5)

43.53 (5) The agreement under sub. (1) shall

name one of the participants as the fiscal

agent for the library. The fiscal agent ~~shall~~ is

~~library~~ staff

responsible for the [payroll and benefit administration,

~~library~~ insurance, and ~~library~~ financial record-keeping

SEC. RN. 43.64 (2m); 43.64 (2m)(a)

→ Ins. KA3 ←

SEC. CR. 43.64 (2m)(b)

43.64 (2m)(b) No city or village is
exempt from the tax levy under sub. (2)

43.64 (2m)(b) A county board of
                              not
supervisors may ~~determine~~ elect/ to exempt
a city or village from the tax levy
under sub. (2).

2003

Nonstat File Sequence: **E E E**

INITIAL APPLICABILITY

---

1. In the component bar:
   For the action phrase, execute: . . . . **create → action: → *NS: → inappl**
   For the budget action phrase, execute: . . . . **create → action: → *NS: → 93XX**
   For the text, execute: . . . . **create → text: → *NS: → inappl**
2. Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the **9300** department code.

SECTION # ___ [**93** _____]. **Initial applicability** . . . .

. . . .
(#1) (a) . . . .

. . . . The treatment of sections . .
. . . 43.15 (1) (a) are (. .)
. . . .

. . . . of the statutes
first applies to . . . Any withdrawal or realignment that . . . . . .
. . . occurs on the effective date of this state paragraph.
. . . .

---

1. In the component bar:
   For the action phrase, execute: . . . . **create → action: → *NS: → inappl**
   For the text, execute: . . . . **create → text: → *NS: → inapplA**
2. Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed.

SECTION # ___ . **Initial applicability;** . . . .

. . . .
(#1) ( ) . . . . This act first
applies to . . . .

. . . .

2003

Nonstat File Sequence: **E E E**

INITIAL APPLICABILITY

1. In the component bar:
   For the action phrase, execute: .... **create → action: → *NS: → inappl**
   For the budget action phrase, execute: .... **create → action: → *NS: → 93XX**
   For the text, execute: .... **create → text: → *NS: → inappl**
2. Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the **9300** department code.

SECTION # ___ [93___]. Initial applicability; ....

NEW (6#) ....

.... The treatment of section# ..

43.15 (4)(a)

....

.... of the statutes

first applies to ... mergers occurring on the effective
date of this paragraph.
....

1. In the component bar:
   For the action phrase, execute: .... **create → action: → *NS: → inappl**
   For the text, execute: .... **create → text: → *NS: → inapplA**
2. Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed.

SECTION # ___ . Initial applicability; ....

....

(#1) ( ) .... This act first
applies to ....

....

2003

Nonstat File Sequence: **E E E**

INITIAL APPLICABILITY

1. In the component bar:
   For the action phrase, execute: .... create → action: → *NS: → **inappl**
   For the budget action phrase, execute: .... create → action: → *NS: → **93XX**
   For the text, execute: .... create → text: → *NS: → **inappl**
2. Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the **9300** department code.

SECTION # ___ **[93** _____ **].** Initial applicability; ....

#14 (# C) ....

43.15 (4)(c) 6. .... The treatment of section ..

.... of the statutes

first applies to ... *employment contracts entered into*
...... *on the effective date of this paragraph.* ....
....

1. In the component bar:
   For the action phrase, execute: .... create → action: → *NS: → **inappl**
   For the text, execute: .... create → text: → *NS: → **inapplA**
2. Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed.

SECTION # ___ **.** Initial applicability; ....

(#1) ( ) .... This act first

applies to ....
....

2003

Nonstat File Sequence: **E E E**

INITIAL APPLICABILITY

1. In the component bar:
   For the action phrase, execute: .... **create → action: → *NS: → inappl**
   For the budget action phrase, execute: .... **create → action: → *NS: → 93XX**
   For the text, execute: .... **create → text: → *NS: → inappl**
2. Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the **9300** department code.

SECTION # ___ **[93** _____ **].** Initial applicability; ....

(#1) (*d*) .... (renumbering)

of the statutes .... The treatment of section
43.52 (1m) *and the creation of section*
43.52 (1m) (b)

(apply) .... of the statutes
first applies to *final action on the establishment of a new
public library or on participation in a joint library
that is taken on the effective date of this paragraph.*

1. In the component bar:
   For the action phrase, execute: .... **create → action: → *NS: → inappl**
   For the text, execute: .... **create → text: → *NS: → inapplA**
2. Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed.

SECTION # ___ . Initial applicability; ....

(#1) ( ) .... This act first
applies to ....

2003

INITIAL APPLICABILITY

1. In the component bar:
   For the action phrase, execute: .... **create → action: → *NS: → inappl**
   For the budget action phrase, execute: .... **create → action: → *NS: → 93XX**
   For the text, execute: .... **create → text: → *NS: → inappl**
2. Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the **9300** department code.

SECTION # ____ **[93** ____ **].** Initial applicability; ....

.... *(#1) (e)* ....

renumbering and amendment

.... The treatment of section

...*43.52 (2)*... *of the statutes and the creation of*

...section 43.52 (2)(a) ~~~~~ (c) to 0 ....

.... of the statutes

first applies to ...*joint library agreements entered into on*

...the effective date of this paragraph.............

1. In the component bar:
   For the action phrase, execute: .... **create → action: → *NS: → inappl**
   For the text, execute: .... **create → text: → *NS: → inapplA**
2. Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed.

SECTION # ____ . Initial applicability; ....

....

(#1) ( ) .... This act first

applies to ....

....

2003

Nonstat File Sequence: **E E E**

INITIAL APPLICABILITY

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1. In the component bar:
   For the action phrase, execute: .... **create → action: → *NS: → inappl**
   For the budget action phrase, execute: .... **create → action: → *NS: → 93XX**
   For the text, execute: .... **create → text: → *NS: → inappl**
2. Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the **9300** department code.

SECTION # ___ [**93**___ ___]. Initial applicability; ....

....

∀#₁N (#f) ....

.... #............................ The ~~treatment~~ of sections ..

.... 43.53 (4) and 43.64 (2m) (b) .... stet .

....

.... of the statutes

first applies to .... property taxes levied on the
effective date of this paragraph. ....

....

---

1. In the component bar:
   For the action phrase, execute: .... **create → action: → *NS: → inappl**
   For the text, execute: .... **create → text: → *NS: → inapplA**
2. Nonstatutory subunits are numbered automatically. Fill in the Section # or subsection # only if a "frozen" number is needed.

SECTION # ___ Initial applicability; ....

....

(#1) ( ) .... This act first

applies to ....

....

2003

Nonstat File Sequence: **F F F**

LRB _____ /_____

_____ . ___ : _____

EFFECTIVE DATE

1. In the component bar: For the action phrase, execute: ... **create → action: → *NS: → effdate**
   For the text, execute: .... **create → text: → *NS: → effdateA**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # _____ . Effective date.

(#1) ( ) .... This act takes effect

on ....

1. In the component bar: For the action phrase, execute: .. **create → action: → *NS: → effdateE**
   For the text, execute: .... **create → text: → *NS: → effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

SECTION # _____ . Effective date (S.) ....

.... This act takes effect on the day after publication, except as follows:

(#1) *M̶g̶* .... The treatment of

sections ..43.12(1) and (2)..

of the statutes takes effect on ..July 1, 2004 ....

(End)

1. In the component bar: For the budget action phrase, execute:..**create → action: → *NS: → 94XX**
   For the text, execute: .... **create → text: → *NS: → effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9400 department code.

SECTION 94 _____ _____ . Effective dates; ....

....

(#1) ( ) .... The treatment of

sections ..43.12(1) and (2)...

of the statutes takes effect on ....July 1, 2004 ....

....

SECTION 2. 43.15 (4) (c) 9. of the statutes is created to read:

43.15 **(4)** (c) 9. If the public library system board has adopted a plan under s. 43.17 (12), participates in that plan.

SECTION 3. 43.17 (12) of the statutes is created to read:

43.17 **(12)** COMPENSATION PLAN FOR INTERMUNICIPAL LENDING. A public library system board may adopt a plan requiring participating public libraries to compensate other participating public libraries for intermunicipal lending of library materials. The plan's compensation for each loan may not exceed the actual cost of the loan, as defined by the department by rule. If a public library system board adopts a plan under this subsection, it shall incorporate the plan into the written agreement under s. 43.24 (2) (a).

renumbered 43.64 (2m) (a) and

SECTION 4. 43.64 (2m) of the statutes is amended to read:

43.64 **(2m)** (a) No city, village, town, or school district is exempt from the tax levy under sub. (2) for any year if, by September 1 of the year preceding the year for which the tax is levied, the county board determines that the public library of the city, village, town, or school district that is a member of the public library system has not complied with standards approved under s. 43.11 (3) (d) <u>or the requirements of the plan under s. 43.11 (3) (cm)</u>.

(END)

(DN)

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 minimums populations 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

(2m) (b)

s. 43.64 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 ~~grant or~~ 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 determining adjusting the uniform rate.

There may also be a violation of that part of
the public purpose doctrine

June 29, 2001

Please note that, if the department of revenue does not return to the professional baseball district the sales tax money to fund the district's special debt service reserve fund requirement under s. 229.74 (5), then the legislature, under s. 229.74 (7), is "morally obligated" to appropriate sufficient moneys to fund this requirement. If the legislature chooses to carry out this "moral obligation" and fund the special debt service reserve fund requirement from general purpose revenue, then this amendment would not result in any general purpose revenue savings.

This drafter's note is to alert you to the possibility that, should this amendment become law, it could be challenged as 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 amendment, the tax imposed by one local level of government, the professional baseball park district, will be spent by another level of government, the state.

Certainly, the principle that a tax must be spent at the level at which it is raised "does not mean that one unit of government may not collect tax revenue, commingle it with other funds, and then make payments to other units of government" as the state annually does by distributing "billions of dollars in aid to other units of government." See Jack Stark, *The Authority to Tax in Wisconsin*, in Vol. 77, number 3 of the *Marquette Law Review*, 457, 467. Money is fungible, and as the state distributes aid to local units of governments it "cannot plausibly be argued that aid programs violate the principle that the taxing unit and the spending unit must be identical" *Id.* In this case, however, although the tax money from the district is comingled with other money in the general fund, the tax money from the district is designated to offset GPR for the purpose of funding the choice program.

[handwritten annotations: "bill", "a participant in the joint library", "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.

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 <u>because of certain events</u>, 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.