

2003 SENATE BILL 97

April 9, 2003 – Introduced by Senators REYNOLDS, LAZICH and DARLING, cosponsored by Representatives STONE, GROTHMAN, VRAKAS, GUNDRUM, SINICKI, HINES, BIES, HAHN and POCAN. Referred to Committee on Homeland Security, Veterans and Military Affairs and Government Reform.

1 **AN ACT** *to renumber and amend* 174.06 (3), 174.08 and 174.11 (2); *to amend*
2 20.115 (2) (j), 174.052, 174.065 (1), 174.07 (3) (b), 174.09, 174.11 (1), 174.11 (4),
3 174.12 (1) and 174.12 (2); *to repeal and recreate* 20.115 (2) (j); and *to create*
4 174.001 (2j), 174.052 (3), 174.06 (3) (b), 174.07 (2) (e), 174.07 (3) (bm), 174.08
5 (2), 174.09 (3), 174.10 and 174.11 (2) (c) of the statutes; **relating to:** dog
6 licensing and claims for damage that is caused by dogs in certain populous
7 counties.

Analysis by the Legislative Reference Bureau

Under current law, cities, villages, and towns (municipalities) are responsible for licensing dogs. Counties also have responsibilities related to dog licensing, such as distributing tags to the municipalities and maintaining a fund consisting of license fee revenues to pay for administering the dog licensing law, to pay for caring for stray and unwanted dogs, and to pay claims for damages caused by dogs to domestic animals.

Under this bill, if all of the municipalities in a county with a population of 500,000 or more (Milwaukee County) form an intergovernmental commission for the purpose of providing animal control services, the county and the intergovernmental commission may enter into an agreement under which the intergovernmental commission assumes the county's responsibilities related to dog licensing. The bill

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also allows the intergovernmental commission to issue dog licenses for any municipality that authorizes the intergovernmental commission to do so.

Under current law, if on March 1 of any year, there is a surplus in excess of \$1,000 in the dog license fund from the license payments of the previous year, the county must pay the excess over \$1,000 to an organization providing a pound for the county or, if there is no such organization, must return the excess to the municipalities.

Under this bill, if an intergovernmental commission has assumed Milwaukee County's responsibilities related to dog licensing, and if on March 1 of any year there is a surplus in the dog license fund from the license payments of the previous year in excess of 5% of the amount of those payments, the intergovernmental commission must return the excess over 5% to the municipalities.

For further information see the *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.** 20.115 (2) (j) of the statutes is amended to read:

2 20.115 (2) (j) *Dog licenses, rabies control, and related services.* The amounts
3 in the schedule to provide dog license tags and forms under s. 174.07 (2), to perform
4 other program responsibilities under ch. 174, to administer the rabies control
5 program under s. 95.21, to help administer the rabies control media campaign, and
6 to carry out humane activities under s. 93.07 (11) and ch. 173. All moneys received
7 under ss. 95.21 (9) (c), 173.27, and 174.09 (1) and (3) shall be credited to this
8 appropriation.

9 **SECTION 2.** 20.115 (2) (j) of the statutes, as affected by 2001 Wisconsin Act 16
10 and 2003 Wisconsin Act (this act), is repealed and recreated to read:

11 20.115 (2) (j) *Dog licenses, rabies control, and related services.* All moneys
12 received under ss. 95.21 (9) (c), 173.27, 173.40, and 174.09 (1) and (3), to provide dog
13 license tags and forms under s. 174.07 (2), to perform other program responsibilities
14 under ch. 174, to administer the rabies control program under s. 95.21, to help

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1 administer the rabies control media campaign, and to carry out activities under s.
2 93.07 (11) and ch. 173.

3 **SECTION 3.** 174.001 (2j) of the statutes is created to read:

4 174.001 (2j) “Intergovernmental commission” means an intergovernmental
5 commission formed by contract under s. 66.0301 (2) by all of the municipalities in a
6 county with a population of 500,000 or more for the purpose of providing animal
7 control services.

8 **SECTION 4.** 174.052 of the statutes is amended to read:

9 **174.052 Publication of the dog license requirement and rabies**
10 **vaccination requirement. (1) JANUARY NOTICE.** ~~The Except as provided in sub.~~
11 ~~(3), the~~ county board of each county shall cause a class 1 notice under ch. 985 to be
12 published between January 1 and January 15 of each year in a newspaper having
13 general circulation in the county notifying the public that rabies vaccinations and
14 dog licenses are required under the statutes.

15 **(2) MARCH NOTICE.** ~~The Except as provided in sub. (3), the~~ county board of each
16 county shall cause a class 1 notice under ch. 985 to be published between March 1
17 and March 15 of each year in a newspaper having general circulation in the county
18 notifying the public that rabies vaccinations and dog licenses are required under the
19 statutes and that late fees may be assessed after April 1.

20 **SECTION 5.** 174.052 (3) of the statutes is created to read:

21 174.052 (3) NOTICE IN CERTAIN POPULOUS COUNTIES. In a county in which an
22 agreement under s. 174.10 (2) is in effect, the intergovernmental commission shall
23 cause the notices under subs. (1) and (2) to be published.

24 **SECTION 6.** 174.06 (3) of the statutes is renumbered 174.06 (3) (a) and amended
25 to read:

SENATE BILL 97**SECTION 6**

1 174.06 (3) (a) ~~A~~ Except as provided in par. (b), a listing official who is not a
2 full-time, salaried municipal employee shall receive as compensation 50 cents for
3 each dog listed, or a greater amount established by the county board by ordinance
4 or resolution, to be audited and allowed by the county board as other claims against
5 the county and to be paid out of the dog license fund. A listing official who is a
6 full-time, salaried municipal employee shall receive this compensation from the
7 county board but shall be required to pay the compensation into the town, village,
8 or city treasury.

9 **SECTION 7.** 174.06 (3) (b) of the statutes is created to read:

10 174.06 (3) (b) In a county in which an agreement under s. 174.10 (2) is in effect,
11 the intergovernmental commission shall pay the compensation required under par.
12 (a).

13 **SECTION 8.** 174.065 (1) of the statutes is amended to read:

14 174.065 (1) COLLECTING OFFICIAL. The collecting official is any city, village, or
15 town treasurer or other tax collecting officer or any person deputized by the treasurer
16 or tax collecting official, unless the common council or village or town board provides
17 by ordinance or resolution for the appointment of a different person. Veterinarians
18 and humane societies may voluntarily become collecting officials for a city, village,
19 or town if the governing body of the city, village, or town by resolution or ordinance
20 provides that veterinarians and humane societies may be collecting officials for the
21 city, village, or town. In a county in which an agreement under s. 174.10 (2) is in
22 effect, the intergovernmental commission is also a collecting official for a city, village,
23 or town if the governing body of the city, village, or town by resolution or ordinance
24 provides that the intergovernmental commission is a collecting official.

25 **SECTION 9.** 174.07 (2) (e) of the statutes is created to read:

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1 174.07 (2) (e) Notwithstanding pars. (a) to (d), in a county in which an
2 agreement under s. 174.10 (2) is in effect, all of the following apply:

3 1. The department shall provide tags and, upon request, license forms to the
4 intergovernmental commission, rather than to the county clerk.

5 2. The intergovernmental commission shall pay the costs out of the dog license
6 fund.

7 3. The intergovernmental commission shall distribute tags and license blanks
8 to the other collecting officials.

9 **SECTION 10.** 174.07 (3) (b) of the statutes is amended to read:

10 174.07 (3) (b) *Return of tags and licenses.* ~~The Except as provided in par. (bm).~~
11 ~~the~~ collecting official shall annually by December 31 return to the county clerk all
12 unused tags of the current license year, together with license books and all duplicate
13 licenses of the current year. The county clerk shall carefully check the returned tags,
14 duplicate licenses, and license forms to ascertain whether all tags and license forms
15 that were furnished by the county clerk have been accounted for, ~~and to.~~ To enable
16 the county clerk to do that, the county clerk shall charge each collecting official with
17 all tags and license forms furnished or delivered and credit those returned. In case
18 of discrepancy, the county clerk shall notify the department.

19 **SECTION 11.** 174.07 (3) (bm) of the statutes is created to read:

20 174.07 (3) (bm) *Certain populous counties.* In a county in which an agreement
21 under s. 174.10 (2) is in effect, a collecting official who is not the intergovernmental
22 commission shall return unused tags, license books, and duplicate licenses to the
23 intergovernmental commission.

24 **SECTION 12.** 174.08 of the statutes is renumbered 174.08 (1) and amended to
25 read:

SENATE BILL 97**SECTION 12**

1 174.08 (1) ~~Every~~ Except as provided in sub. (2), every collecting official shall
2 pay all dog license taxes to the town, village, or city treasurer or other tax collecting
3 officer who shall deduct any additional tax ~~which~~ that may have been levied by the
4 municipal governing body and pay the remainder to the county treasurer at the time
5 settlement is made with the county treasurer for collections of personal property
6 taxes, and shall at the same time report in writing to the county clerk the licenses
7 issued. The report shall be in the form prescribed by the department, and the forms
8 shall be furnished by the county clerks.

9 **SECTION 13.** 174.08 (2) of the statutes is created to read:

10 174.08 (2) In a county in which an agreement under s. 174.10 (2) is in effect,
11 a collecting official who is not the intergovernmental commission shall pay all dog
12 license taxes to the intergovernmental commission and shall report the licenses
13 issued to the intergovernmental commission.

14 **SECTION 14.** 174.09 of the statutes is amended to read:

15 **174.09 Dog license fund; how disposed of and accounted for. (1)** The
16 Except as provided in sub. (3), the dog license taxes so paid to the county treasurer
17 shall be kept in a separate account and shall be known as the “dog license fund” and
18 shall be appropriated and disbursed for the purposes and in the manner following:
19 Within 30 days after receipt of the same, the county treasurer shall pay into the state
20 treasury 5% of the minimum tax as provided for under s. 174.05 (2) of all dog license
21 taxes which shall have been received by the county treasurer.

22 **(2)** ~~Expenses~~ Except as provided in sub. (3), expenses necessarily incurred by
23 the county in purchasing and providing books, forms, and other supplies required in
24 the administering of the dog license law, expenses incurred by the county under s.
25 95.21 (4) (b) and (8) and expenses incurred by the county pound or by a humane

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1 society or other organization designated to provide a pound for collecting, caring for,
2 and disposing of dogs may be paid out of the dog license fund. The amount remaining
3 in the fund after deducting these expenses shall be available for and may be used as
4 far as necessary for paying claims allowed by the county to the owners of domestic
5 animals because of damages done by dogs during the license year for which the taxes
6 were paid. Any surplus in excess of \$1,000 which may remain from the dog license
7 taxes of any license year shall on March 1 of the succeeding year be paid by the county
8 treasurer to the county humane society or other organization designated by the
9 county board to provide a pound. If there is no humane society or other organization
10 designated to provide a pound, these funds shall be paid to the towns, villages, and
11 cities of the county for their use in the proportion in which the towns, villages, and
12 cities contributed to the fund out of which the surplus arises.

13 **SECTION 15.** 174.09 (3) of the statutes is created to read:

14 174.09 (3) In a county in which an agreement under s. 174.10 (2) is in effect,
15 the intergovernmental commission shall maintain the dog license fund, consisting
16 of the dog license taxes. The intergovernmental commission shall pay 5% of the
17 minimum dog license tax provided for under s. 174.05 (2) to the department and shall
18 expend the remainder of the dog license fund for the purposes of administering the
19 dog license law, providing a pound for dogs, and paying claims allowed under s.
20 174.11. If on March 1 there is remaining in the dog license fund a surplus from the
21 dog license taxes of the previous license year that exceeds 5% of the dog license taxes
22 collected in that license year, the intergovernmental commission shall return the
23 excess to the towns, villages, and cities of the county in the proportion in which the
24 towns, villages, and cities contributed to the fund in that license year.

25 **SECTION 16.** 174.10 of the statutes is created to read:

SENATE BILL 97**SECTION 16**

1 **174.10 Dog licensing in populous counties. (1)** In this section,
2 “municipality” means a city, village, or town.

3 **(2)** If all of the municipalities in a county with a population of 500,000 or more
4 form an intergovernmental commission by contract under s. 66.0301 (2) for the
5 purpose of providing animal control services, the county and the intergovernmental
6 commission may enter into an agreement under which the intergovernmental
7 commission assumes the county’s responsibility for activities related to dog
8 licensing.

9 **(3)** If a county and an intergovernmental commission enter into an agreement
10 under sub. (2), the intergovernmental commission shall provide a copy of the
11 agreement to the department.

12 **SECTION 17.** 174.11 (1) of the statutes is amended to read:

13 **174.11 (1)** The owner of any domestic animal, including a ranch mink, when
14 it is proven that a dog forcibly entered an enclosure in which the mink was kept,
15 which is attacked, chased, injured, or killed by a dog may, within 3 days after the
16 owner has knowledge or notice thereof, file a written claim for damages with the
17 clerk of the town, village, or city in which the damage occurred or, if it occurred in
18 a town or village, with the chairperson of such town or the president of such village.
19 The form of the claim may be prescribed by the department of agriculture, trade and
20 consumer protection. Upon presentation of a claim the supervisors of the town, the
21 board of trustees of the village, or the common council of the city, or a committee
22 appointed for that purpose by the supervisors, the board of trustees, or the common
23 council shall promptly investigate the claim and may subpoena witnesses,
24 administer oaths, and take testimony relative to the claim and shall within 30 days
25 after the filing of the claim make, certify, and return to the county clerk or, in a county

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1 in which an agreement under s. 174.10 (2) is in effect, to the intergovernmental
2 commission the claim, a report of the investigation, the testimony taken, and the
3 amount of damages suffered by the owner of the domestic animal.

4 **SECTION 18.** 174.11 (2) of the statutes is renumbered 174.11 (2) (a) and
5 amended to read:

6 174.11 (2) (a) The form of the report and certification under sub. (1) may be
7 prescribed by the department of agriculture, trade and consumer protection, and
8 shall be subscribed by the supervisors, board, or committee making the report and
9 certification. The

10 (b) Except as provided in par. (c), the county clerk shall submit to the county
11 board at its first meeting, following the receipt of any such claim, all claims filed and
12 reported, and the claims shall be acted upon and determined by the county board as
13 other claims are determined and acted upon. The Except as provided in par. (c), the
14 amount of damages filed and reported to the county clerk shall be prima facie proof
15 of the actual damages sustained, but evidence may be taken before the county board
16 relative to the claims as in other cases, and appeals from the action of the county
17 board shall lie as in other cases.

18 (d) On appeal from the action of the county board or, in a county in which an
19 agreement under s. 174.10 (2) is in effect, from the action of the intergovernmental
20 commission, the trial shall be by the court without a jury.

21 **SECTION 19.** 174.11 (2) (c) of the statutes is created to read:

22 174.11 (2) (c) In a county in which an agreement under s. 174.10 (2) is in effect,
23 the intergovernmental commission shall act upon and determine all claims filed and
24 reported under sub. (1).

25 **SECTION 20.** 174.11 (4) of the statutes is amended to read:

SENATE BILL 97**SECTION 20**

1 174.11 (4) Subject to sub. (5), the county board or, in a county in which an
2 agreement under s. 174.10 (2) is in effect, the intergovernmental commission shall
3 allow, as the amount of a claim for a domestic animal, including a ranch mink, killed
4 by a dog, the amount determined to be the fair market value of the domestic animal,
5 including a ranch mink, on the date the death occurred. Subject to sub. (5), the
6 county board or, in a county in which an agreement under s. 174.10 (2) is in effect,
7 the intergovernmental commission shall allow, as the amount of a claim for a
8 domestic animal, including a ranch mink, injured by a dog, the amount determined
9 to be the total of the costs resulting from the injury including a loss in fair market
10 value but the total amount of the claim may not exceed the fair market value. No
11 claim may be paid to any person who has failed to pay a dog tax on an assessable dog.

12 **SECTION 21.** 174.12 (1) of the statutes is amended to read:

13 174.12 (1) The allowance by ~~the~~ a county of any claim for damages done by dogs
14 ~~shall work~~ constitutes an assignment to the county of the cause of the action of the
15 claimant for which the claim is filed, and the county may sue and recover from the
16 owner of the dog or dogs doing the damages the full amount thereof and which shall
17 not be limited to the sum paid the claimant by the county. The allowance under s.
18 174.11 (2) (c) by an intergovernmental commission of any claim for damages done by
19 dogs constitutes an assignment to the intergovernmental commission of the cause
20 of the action of the claimant for which the claim is filed, and the intergovernmental
21 commission may sue and recover from the owner of the dog or dogs doing the damages
22 the full amount thereof and which shall not be limited to the sum paid the claimant
23 by the intergovernmental commission. Before any claim shall be allowed by ~~the~~ a
24 county or an intergovernmental commission on account of damages done by dogs, the

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1 claimant shall furnish satisfactory proof that the damage was not done in whole or
2 in part by any dog owned, kept, or harbored by the claimant.

3 **SECTION 22.** 174.12 (2) of the statutes is amended to read:

4 174.12 (2) No claim shall be allowed by ~~the~~ a county board or an
5 intergovernmental commission at less than the amount so certified and reported,
6 unless the claimant shall first be notified that such action is contemplated and shall
7 have been given a reasonable opportunity to be heard and to offer further evidence
8 in support of the claimant's claim.

9 **SECTION 23. Effective dates.** This act takes effect on January 1, 2004, except
10 as follows:

11 (1) The repeal and recreation of section 20.115 (2) (j) of the statutes takes effect
12 on February 1, 2004.

13 (END)