

Shovers, Marc

From: Kreye, Joseph
Sent: Thursday, May 31, 2007 3:23 PM
To: Shovers, Marc
Subject: FW: park district enabling law bill LRB-0220/3

Hi Marc,

Can you take a look at this and see if it makes sense? I didn't think anything that John Vandlik and I talked about necessitated a a redraft. Is John Hogan just looking for a redraft of the analysis?

Joe

Joseph T. Kreye
Senior Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

From: Hogan, John
Sent: Thursday, May 31, 2007 3:15 PM
To: Kreye, Joseph
Subject: FW: park district enabling law bill LRB-0220/3

Instructions for /4

Hi Joe - Could we get the couple changes to the bill draft and the analysis as indicated in the email conversation below? Also, here is a summary from John Vandlik of the changes we'd like make in a /4 draft. ?

...To that end bill should be altered in manner as I had suggested in my email correspondence w/ Joe Kreye, which I cc-ed you Sen. Darling was comfortable w/ those changes. Importantly, the bill analysis should emphasize points that WPRA were concerned about too: ~~delete~~ reference that there can only be one pd in county if there's a county wide pd; add reference that pd have authority to acquire land by purchase, exchange or donation but no authority to sell park land; the transfer of land to pd would be subject to any outstanding rights or restrictions on title; at transfer employees would have protections under existing CBA's to extent allowed by law, which PD's would honor; after CBA's expire pd would negotiate new CBA's w/ existing union representation.

John Hogan
Office of Senator Alberta Darling
Room 131 South, State Capitol
(608) 266-5830

From: VANDLIK, JOHN [mailto:JOHN.VANDLIK@OGC.USDA.GOV]
Sent: Monday, May 07, 2007 1:30 PM
To: Kreye, Joseph
Cc: Shovers, Marc; Hogan, John; jim@parkpeplemke.org
Subject: RE: park district enabling law bill LRB-0220/3

Thanks for the clarification, Joe.

From: Kreye, Joseph [mailto:Joseph.Kreye@legis.wisconsin.gov]
Sent: Monday, May 07, 2007 12:30 PM
To: VANDLIK, JOHN
Cc: Shovers, Marc; Hogan, John; jim@parkpeoplemke.org
Subject: RE: park district enabling law bill LRB-0220/3

Sorry for any confusion with my responses.

The Milw. County situation was a bad example, because this bill does specifically address that issue. In short, my only point was that the park districts are required to honor the CBAs, to the extent allowed by law.

I have no other examples or other issues I can pinpoint. Specifying the employment rights for particular employees by statute would be atypical, but it could be done. Generally, these issues have been addressed through the collective bargaining process.

Joe

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 (608) 266-2263

From: VANDLIK, JOHN [mailto:JOHN.VANDLIK@OGC.USDA.GOV]
Sent: Monday, May 07, 2007 12:12 PM
To: Kreye, Joseph
Cc: Shovers, Marc; Hogan, John; jim@parkpeoplemke.org
Subject: RE: park district enabling law bill LRB-0220/3

Thanks, Joe, for the prompt reply.

RE: your response to 3(a). The example of Milw Co. employees and pension: Section 84 of bill amends Sect. 40.02(28) to add "park districts" to defn. of participating "employer" for Wisconsin Retirement System. This was done to allow park district employees to be covered under WRS. So as for CBA's for former Milw Co. park employees, the CBA provisions to the extent of the Milw Co. pension system, would not be carried over, in part due to the "extent allowed under law" language at least to that issue. But there's no ambiguity on that point is there? ie: that new park district employees (which were former Milw Co. employees) would be under WRS instead of Milw Co. pension?

RE: your response to 3(b). It has always been our intent that after the existing CBA's expire, the park district board would negotiate new CBA's with represented employees, as union representation carries on. It sound like that was the situation in the University Hospital example too. While I agree that legislature would have the ability to impose state statutory provisions relating to issues such as rehiring, severance, seniority, do you know where state has actually done that in state statutes as opposed to allowing labor-mgmt negotiation to play out? I know for teachers union QEO is one example of legislative adjustment to normal labor-mgmt negotiation process, but are there other examples on such issues that come to mind?

From: Kreye, Joseph [mailto:Joseph.Kreye@legis.wisconsin.gov]
Sent: Monday, May 07, 2007 10:22 AM
To: VANDLIK, JOHN

05/31/2007

Cc: Shovers, Marc; Hogan, John; jim@parkpeoplemke.org
Subject: RE: park district enabling law bill LRB-0220/3

John,

1. (a) Your statements are correct.
1. (b) Your statements are correct.
2. (a) Your statements are correct.
2. (b) I agree that the bill does not authorize a park district to sell park land outright.
3. (a) Correct. Please note, however, that the bill requires the district to honor the agreements to the extent allowed by law (see page 36, lines 2 and 3). The language is drafted this way because it's not clear if there will be any conflicts as a result of transferring employees. For example, with regard to Milwaukee County employees who are transferred to a park district, those employees are currently covered under the county's retirement system. It is not clear how or if the county can modify it's system to accommodate for the transfer of employees to the park district. In other words, because the collective bargaining agreements were negotiated with entities other than the park district, there will be ambiguities related to how those agreements are given effect by the park district.
3. (b) You are correct: those rights are typically found within the collective bargaining agreements. However, the legislature may determine the employment rights of the park district for future purposes. These rights would become effective after the "transition period" for which the park district is honoring the collective bargaining agreements. It is my understanding that such a situation occurred with the creation of the University Hospitals and Clinics Authority whereby state employees were acquired by the Authority and the Authority was required to honor the collective bargaining agreements, to the extent possible, until those agreements expired. The Authority then negotiated new terms with the employees. With regard to the park district, the legislature (i.e., the bill) could require certain employment provisions for the period ending after the collective bargaining agreements expire.

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From: VANDLIK, JOHN [mailto:JOHN.VANDLIK@OGC.USDA.GOV]
Sent: Friday, May 04, 2007 5:31 PM
To: Kreye, Joseph
Cc: Shovers, Marc; Hogan, John; jim@parkpeoplemke.org
Subject: park district enabling law bill LRB-0220/3

Today, Senator Darling and others met with officials of the Wisconsin Parks and Recreation Association who had questions concerning the above-subject draft. Sen. Darling asked that I get LRB's opinion on the following issues, so that we could transmit those responses to the WPRA officials on 5/7, in advance of its Board meeting next week. In Marc Shovers absence, I'm contacting you.

1. (a) Under the bill as currently written, if, for example, Milwaukee County creates a park district with the County being the sole "sponsoring political subdivision" transferring its parks and employees to the new park district, then a municipality within the county, for example the Village of Whitefish Bay, could still continue to own and run its own parks indefinitely. The Village of Whitefish Bay, if it desired, via Board of Trustee resolution or public referendum, could add its parks to the Milwaukee County Park District, provided the Milw. County Park District agreed to accept those parks and employees. In other words, after creation of a Milwaukee County Park District, the Village would have the following options: 1) maintain

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the status quo with the Village continuing to manage the parks it owns; or 2) join the Milwaukee County Park District. Are these statements correct? If not please explain your interpretation of the existing language.

(b) After the discussion today, Senator Darling is willing to revise the bill to: delete from p. 33 lines 11 and 12 [27.161(2)] the following phrase: "except that no county may contain more than one district if the county is part of the district;" and delete from p. 41, lines 22-24 [27.161(8)(a)] the following: "Except as provided in par. (d), the territory of a political subdivision may be in only one district, and no county may contain more than one district if the county itself is part of the district." With these deletions, using the same example as above, it would appear that the revised bill would provide another option, in addition, to the two options set forth in 1(a): the Village of Whitefish Bay could be a sponsoring unit of government to form a Whitefish Bay park district within its boundaries or form a park district in conjunction with another municipality. Essentially, then, the municipal-based park district could exist, within the geographic boundaries of Milwaukee County, even though there was also a County-based park district. Are these statements correct? Again, if not, please explain your interpretation.

2. a) Some WPRA members are concerned that a new park district might not honor restrictions on the title of property that was previously donated to a municipality for park purposes then transferred to a park district when the municipality acts as a sponsoring political subdivision or otherwise joins a park district. It is my understanding that the transfer of real property as mandated under the law would be made subject to any outstanding rights found on the title of the property and the park district would take title subject to those rights, if any. That is, the park district in its management of the property would also have to respect those encumbrances on title. Also, any such issues would be identified presumably by the agreement among governments contemplated on p. 35, line 5 and following [27.161(5)(b)]. Are these statements correct?

b) Also, there is some concern that a park district might sell-off parkland for revenue. While the bill gives authority for park district to acquire land (via purchase, exchange or donation) and acquire park facilities (see p. 47, lines 20 and 14), I believe that the bill does not authorize park districts to sell land outright. A land exchange would be the vehicle by which by which a park district could dispose of land it believed it was no longer needed, however, in such a scenario the park district would be acquiring land that it believed was important to be preserved as a park. Simply put, in my view the bill does not authorize park district to sell parkland outright. Do you agree?
3. a) Under the bill, all park employees who work for the municipality or county, which is a sponsoring political subdivision or which otherwise joins a park district, are transferred to and become employees of the park district. However, the park district must honor existing union representation and existing collective bargaining agreements (CBA's) of those employees. Any subsequent personnel actions taken by the park district must be made subject to and in compliance with the rights and protections afforded by the terms of those CBA's and that would include any layoff or rehiring rights that the CBA's might provide. Are these correct statements?

b) There was suggestion of having inserted in the enabling legislation statutory rights that would require full severance pay if laid off, recall rights for 5 years after the layoff, and restoration of seniority, sick leave and vacation when rehired. It's my understanding that any such rights are typically found within CBA's and do not originate in state statutory law. Is that correct and is there any precedent for such rights for local government workers being guaranteed by state statute, as opposed to labor-management bargaining process?

Call me if you have any questions on the above. Thanks for the help. --John Vandlik 414-297-3276

Shovers, Marc

From: Kreye, Joseph
Sent: Thursday, June 07, 2007 4:44 PM
To: Shovers, Marc
Subject: FW: Redraft of amendment to Parks Bill

From: Hogan, John
Sent: Thursday, June 07, 2007 4:37 PM
To: Kreye, Joseph
Subject: Redraft of amendment to Parks Bill

Joe - Just thought of something. We'll have to get a new freeze amendment drafted to the /4 draft. The amendment for the /3 draft is LRBa0333/1.

John Hogan
Office of Senator Alberta Darling
Room 131 South, State Capitol
(608) 266-5830

Shovers, Marc

From: Hogan, John
Sent: Thursday, June 07, 2007 4:54 PM
To: Shovers, Marc
Cc: Kreye, Joseph
Subject: RE: Redraft of amendment to Parks Bill

Roll it right in

From: Shovers, Marc
Sent: Thursday, June 07, 2007 4:52 PM
To: Hogan, John
Cc: Kreye, Joseph
Subject: FW: Redraft of amendment to Parks Bill

John:

Do you want a new freeze amendment drafted to the /4 or would you like me to just roll the amendment into the /4?

Marc

Marc E. Shovers

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Legislative Reference Bureau
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From: Kreye, Joseph
Sent: Thursday, June 07, 2007 4:44 PM
To: Shovers, Marc
Subject: FW: Redraft of amendment to Parks Bill

From: Hogan, John
Sent: Thursday, June 07, 2007 4:37 PM
To: Kreye, Joseph
Subject: Redraft of amendment to Parks Bill

Joe - Just thought of something. We'll have to get a new freeze amendment drafted to the /4 draft. The amendment for the /3 draft is LRBa0333/1.

John Hogan
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Shovers, Marc

From: Hogan, John
Sent: Wednesday, July 18, 2007 11:41 AM
To: Shovers, Marc
Subject: FW: LRB 07-0220/4 attached

Marc - Here are some comments from Mr. Vandlik.

1. See Vandlik's example regarding Whitefish Bay being in 2 park districts. Is language for this possible?
2. What is the possibility of stating in the analysis that retiree liabilities (pension, health care) are not transferred to PDs?
3. Leave the Governor's freeze in the bill, and draft a simple amendment with the Assembly's freeze. We'll introduce both at the same time as Conference Committee.

John

From: VANDLIK, JOHN [mailto:JOHN.VANDLIK@OGC.USDA.GOV]
Sent: Tuesday, July 17, 2007 8:52 PM
To: Hogan, John
Cc: jim@parkpeoplemke.org
Subject: RE: LRB 07-0220/4 attached

Instructions for /5

I just checked my email and again it looks like an attempted message to you didn't make it. I quickly wrote a response at 5:15pm as I had to meet someone at 5:30pm. Anyway, here's another response, in case you didn't get my 5:15 message.

The sentence still needs to be deleted. The legal option that some vocal members of WPRA want is best illustrated by example. Assume Milw Co parks are transferred to a Milw Co. PD. All residents of Milw Co are taxed by new tax district. Whitefish Bay then wants to transfer its municipally owned parks to a Whitefish Bay PD. As a result, residents of Whitefish Bay will live within two PD's and will be taxed by two different PD's. In order to allow that to happen the sentence needs to be deleted. I think the political reality is that such a "PD w/in a PD" arrangement won't ever occur, but nonetheless it's a sticking point for a few influential WPRA members. That is, they want the legislation to allow that to happen.

I read through Marc's explanation on the other issue. For MKE Co. the county annually kicks in property tax dollars to the pension fund, which funds pensions. So funding the pension commitment is based in part on discretionary annual action by County Board and County Exec. Does that change Marc's view?

Also, would Marc's same rationale apply to the payment of health care costs for retirees? For e.g., I believe those are obligations of the MKE Co. under CBA as opposed to pension fund.

To me, what's the harm in putting the statement in the bill that liability for such matters does not transfer? If nothing else, it makes clear in words intent behind the legislation, w/o having to resort to legal interpretation such as one Mark provided in his message. If he still does not want to include it in the bill, then at a minimum it should be mentioned in the "analysis" that such legacy costs for retirees do not transfer. We need the bill to be clearly understood by public and officials, ie just what effect of it will be. Inaccurate statements by some local officials are sometimes deliberately used to create confusion. If bill is clear on its face on this point, it can, by itself, rebut such inaccuracies, w/o relying on lengthy legal interp. of bill's terms susceptible to further question. We have to be able to sell this too.

Finally, on freeze issue...As I mentioned in my 4/19 email to Marc and you: "Why can't this whole issue be addressed simply by having the PD bill contain a provision that amends Sect 66.0602(1), definition of "political subdivision," to add reference to park districts. In similar way, the current PD bill at Sect. 55 amends Sect. 23.175(1)(a), definition of "political subdivision," to include park districts." Given that freeze may morph overtime during legislative session, that approach just puts PD's on equal footing as other entities, subject to the freeze w/o necessarily having PD bill

define terms of limits. That way PD bill's contents don't get caught up in that controversy. But again, I'll defer to you on how you want to handle it, as long as PD's are on equal footing in freeze's scope and duration w/ other political subdivisions to which freeze applies.

From: Hogan, John [mailto:John.Hogan@legis.wisconsin.gov]
Sent: Tuesday, July 17, 2007 4:53 PM
To: VANDLIK, JOHN
Subject: FW: LRB 07-0220/4 attached

John,

1. What are your thoughts on Marc's suggested wording below addressing the # of park districts in a county? I don't know exactly what the Wis. Park and Rec folks intended. Let me know and I'll relay immediately to the drafters so we can get a /5.
2. It seems to me the issue of retirement costs is satisfactory.
3. I had Governor Doyle's / Senate Democrat's freeze rolled into the /4 draft. I also ordered a simple amendment to reflect the Assembly GOP freeze on municipalities and counties. I think we'll leave Doyle's freeze in the bill and we reserve the ability to amend the bill accordingly as the Conference Committee negotiates a freeze.

John

From: Shovers, Marc
Sent: Tuesday, July 17, 2007 4:28 PM
To: Hogan, John
Subject: RE: LRB 07-0220/4 attached

Hi John:

With regard to John Vandlik's first concern, relating to s. 27.161 (8) (a), my redraft was based on the summary of his requests from your May 31 e-mail to Joe, which stated as follows:

"Hi Joe - Could we get the couple changes to the bill draft and the analysis as indicated in the email conversation below? Also, here is a summary from John Vandlik of the changes we'd like make in a /4 draft.

...To that end bill should be altered in manner as I had suggested in my email correspondence w/ Joe Kreye, which I cc-ed you. Sen. Darling was comfortable w/ those changes. Importantly, the bill analysis should emphasize points that WPRA were concerned about too: **delete reference that there can only be one pd in county if there's a county wide pd**; add reference that pd have authority to acquire land by purchase, exchange or donation but no authority to sell park land; the transfer of land to pd would be subject to any outstanding rights or restrictions on title; at transfer employees would have protections under existing CBA's to extent allowed by law, which PD's would honor; after CBA's expire pd would negotiate new CBA's w/ existing union representation."

I deleted the highlighted language, but did not delete the language in s. 27.161 (8) (a) stating that "Except as provided in par. (d), the territory of a political subdivision may be in only one district." I apologize for the misunderstanding, but I was going off of the summary, not the material from par (1) (b) of Mr. Vandlik's

earlier e-mail.

As I think about this issue, however, I don't think that you really want to totally delete this language. Is it your intent that parts of a city, village, or town could be in multiple districts? Isn't your concern that if several municipalities in one part of a county are in one district, and several other municipalities in that same county are in another district, the territory of the county would be in multiple districts, and that would be inconsistent with sub. (8) (a) as drafted? Shouldn't sub. (8) (a) state that "The territory of a municipality may be in only one district?" That way, cities, villages, and towns could only be in one district, but the territory of a county could be in multiple districts.

Mr. Vandlik raises another concern:

From beginning we've wanted to make sure that legacy employee costs (ie: costs associated with park employees who retired prior park districts creation) remain w/ political subdivision. We've commented on this point before to LRB. We are uncertain that this issue is addressed in bill. If it is LRB should identify it for us. If not, we suggest to make following change to 27.161(6)(a) to add underlined language.

"(a) All assets and liabilities of the political subdivision with respect to park and recreational functions become assets and liabilities of the district, except that debt related to capital expenditures for park facilities that was incurred by a political subdivision before the district's creation and all costs or liabilities associated with former park employees who retired prior to the district's creation remain the responsibility of the political subdivision."

A similar explanatory phrase should be added to the "analysis."

We feel above change is important to address now as some local officials have already said that they would seek to stick PD w/ pension and health care costs associated w/ park retirees, in order to frustrate or inhibit creation of park district.

Mr. Vandlik is correct in that he's raised this issue several times in the past. Each time we tell him the same thing. It is simply not a problem. There is absolutely no way that the "retirement costs" of, for example, a Milwaukee County parks district employee who retires before this bill is enacted could ever be "transferred" to, or become the liability of, a park district that is created under this bill. There is simply no liability to transfer. That retired employee's pension is fully funded -- it's already paid for. There is absolutely no financial or legal liability that could be transferred. In addition, it is important to realize that the retired employee has a contract with the Milwaukee County Pension Fund, which is a separate legal entity from Milwaukee County. His or her pension is fully vested, and it is the liability of the Milwaukee County Pension Fund, which is not affected by this draft.

Some "local officials" may have told Mr. Vandlik that "they would seek to stick [the] PD w/ pension and health care costs associated w/ park retirees", but there is no way that this could happen with regard to individuals who are retired from local government service before a park district is created under the bill. Again, my understanding is that such retirees have a contract with a legal entity that is a pension fund, not the political subdivision for which they worked. The retiree's pension is already fully vested and paid for; there is simply nothing to transfer, nor could anything be transferred. Also, please see s. 27.171 (6) (a). The only assets and liabilities that are transferred are assets and liabilities that relate park and recreational functions, except for certain debt related to capital expenditures for certain park facilities.

I hope that I've explained this issue adequately and that I've addressed Mr. Vandlik's concerns. Please let me know if you have any additional questions about the issue.

I'll wait until I hear from you regarding the first sentence in s. 27.161 (8) (a) and whether that sentence should be modified as I've suggested or if you really do want it deleted to allow one city, village, or town to

07/18/2007

be in multiple districts. Would you like a /5 that makes whatever change you decide on? If so, the /5 could also incorporate the new levy limit restrictions from the assembly's version of the budget.

Marc

Marc E. Shovers

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From: Hogan, John
Sent: Monday, July 16, 2007 10:55 AM
To: Shovers, Marc
Subject: FW: LRB 07-0220/4 attached

Marc - Do you recall this change?

From: VANDLIK, JOHN [mailto:JOHN.VANDLIK@OGC.USDA.GOV]
Sent: Monday, July 16, 2007 7:57 AM
To: Hogan, John
Cc: jim@parkpeoplemke.org
Subject: RE: LRB 07-0220/4 attached

Thanks for pursuing this. I checked my file at home over the weekend. The suggested change on liabilities for retired employees was a part of my comments that I made on the fax I sent you and LRB months ago (recall I had to fax the setoff comments as LRB hadn't received email version.) Also, I believe we had mentioned the issue much earlier in the drafting process. I just didn't have time to dig thru to find out when. So this is an issue that has been kicking around for awhile. Given the tactic of opposition from at least one local official that has recently surfaced, it's important that it be addressed now rather than waiting for amendments in committee.

From: Hogan, John [mailto:John.Hogan@legis.wisconsin.gov]
Sent: Friday, July 13, 2007 3:26 PM
To: Shovers, Marc
Cc: VANDLIK, JOHN
Subject: FW: LRB 07-0220/4 attached

Marc - Can you respond to these points about the bill draft?

John Hogan
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Room 131 South, State Capitol
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From: VANDLIK, JOHN [mailto:JOHN.VANDLIK@OGC.USDA.GOV]
Sent: Friday, July 13, 2007 2:05 PM
To: Hogan, John
Cc: jim@parkpeoplesmke.org
Subject: RE: LRB 07-0220/4 attached

Hi John,

Couple items weren't done correctly.

On p. 4 of analysis, it still incorrectly reads: "Under the bill...the territory of a political subdivision may be in only one district." This reflects fact that LRB failed to delete one sentence that I described in need of deletion (See paragraph 1(b) of my 5/4 email to Joe Kreye). In particular, they should have deleted first sentence on p. 42, 27.161(8)(a), which reads "Except as provided in paragraph 1(b), the territory of a political subdivision may be in only one district."

Obviously these changes are important for WPRA, so that needs to be retooled ASAP and revised version sent to Joe McLafferty of WPRA, as Joe and others will be looking for positive resolution of that issue.

Also, our working group identified another needed insertion. From beginning we've wanted to make sure that legacy employee costs (ie: costs associated with park employees who retired prior park districts creation) remain w/ political subdivision. We've commented on this point before to LRB. We are uncertain that this issue is addressed in bill. If it is LRB should identify it for us. If not, we suggest to make following change to 27.161(6)(a) to add underlined language.

"(a) All assets and liabilities of the political subdivision with respect to park and recreational functions become assets and liabilities of the district, except that debt related to capital expenditures for park facilities that was incurred by a political subdivision before the district's creation and all costs or liabilities associated with former park employees who retired prior to the district's creation remain the responsibility of the political subdivision."

A similar explanatory phrase should be added to the "analysis."

We feel above change is important to address now as some local officials have already said that they would seek to stick PD w/ pension and health care costs associated w/ park retirees, in order to frustrate or inhibit creation of park district.

From: Hogan, John [mailto:John.Hogan@legis.wisconsin.gov]
Sent: Friday, July 13, 2007 9:48 AM
To: VANDLIK, JOHN
Subject: FW: LRB 07-0220/4 attached

Here it is

From: Duerst, Christina
Sent: Friday, July 13, 2007 9:46 AM
To: Sen.Darling
Subject: LRB 07-0220/4 attached

<<07-0220/4>>