

To: Legislative Council Special Committee on Local Service Consolidation  
From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities  
Date: October 5, 2010  
**Re: Special Committee Assignment/Recommended Legislative Changes to Pursue**

**Introduction.** Good Morning Chairperson Zepnick and members of the Special Committee. Thank you for the opportunity to appear before you.

As the Chair said, my name is Curt Witynski. I'm the Assistant Director of the League of Wisconsin Municipalities. The League is a nonprofit, non-partisan association of cities and villages that advocates on behalf of municipal government. Our membership includes all 190 cities in the state and 392 of the 404 villages in Wisconsin. The League has been in existence since 1898. I've been with the organization since 1987 and have served in various capacities, including legal counsel.

I was invited to testify today because after the Committee's first meeting, I went back to my office and wrote a memo to you recommending seven policy changes for the committee to consider supporting. These legislative changes would make it easier for local governments in Wisconsin to merge or consolidate service delivery. Several of the proposals have been introduced in the past, but failed to advance through the legislative process. Also, several were mentioned by committee members at the Committee's first meeting. A copy of my original memo, dated September 2, has been distributed to you. Also being distributed to you right now is my testimony for today, which is an expanded version of my original memo with additional background material attached.

What I'd like to do this morning is provide you with more detailed information about the recommendations I included in my memo and to answer any questions committee members may have about them.

First, let me say at the outset that I agree with the observation made by Chairperson Zepnick at the committee's first meeting – which is that if the Committee is going to accomplish anything in the relatively short period it will exist, it should focus on seeking enactment of a short list of practical, politically viable legislative proposals enhancing the ability of local governments to consolidate service delivery. In that vein, I offer the following list of specific proposals for your consideration, some of which are more politically viable than others.

## Specific Recommendations

**1. Make it Easier for Municipalities to Consolidate.** My first recommendation relates to making it easier for two or more communities to consolidate into one. There are currently two statutory methods by which communities may merge. These are ss. 66.0229 and 66.0230. However, consolidation attempts and successes using these two methods have been rare. Recent consolidation attempts have failed to either meet the statutory requirements or gain sufficient local support, usually because of the projected local property tax increase for one of the communities. The Town and Village of Rochester successfully consolidated in 2009. However, they consolidated outside of the statutory process by utilizing special legislation as part of the 2007-09 state budget act.

The number one reason consolidation efforts fail is concern by residents in one of the communities that their property taxes will increase. This is the reason that the City of Verona and Town of Verona efforts failed in a 2008 referendum. It is a big reason why the Village of Pewaukee and City of Pewaukee's consolidation efforts have stalled.

A constitutional amendment has been introduced the last two sessions that would allow local governments to address this biggest stumbling block to consolidating two neighboring communities. The amendment would create an exception to the "uniformity clause." The exception would allow a recently consolidated community to establish a different tax rate in the newly added part of the community for a period of time, such as twelve years. This would allow the newly consolidated community to blend the tax rates of the two former communities into one over a period of time.

We urge the Committee to recommend that the Joint Legislative Council reintroduce **2009 AJR 65** in the upcoming session. A copy of the joint resolution is attached. I believe the amendment would have a better chance of passing both houses if it were introduced by the bipartisan Joint Legislative Council.

**2. Allow Municipalities the Option of Combining Police and Fire Positions.** The League of Wisconsin Municipalities believes that municipalities should be allowed to organize their police and fire departments in the most efficient and cost effective manner they see fit, including consolidating both departments into one. Under current law, however, a municipality is prohibited from doing that or any of the following:

- ◆ Cross training a limited number of police officers to also respond to fire calls as fire fighters.
- ◆ Appointing a single person as chief of both the police and fire departments.
- ◆ Appointing the same person to serve as a supervisor in both departments.

This has been the case since 1989 when the Wisconsin Supreme Court issued a decision holding that the City of Eau Claire lacked the ability under its home rule powers to establish several public safety officer positions, which would have required certain police officers to respond to fire calls and assist in fire fighting. The court ruled that such an innovation

violated the spirit of state legislation requiring municipalities to maintain separate and distinct police and fire departments.

We urge the Committee to recommend enactment of legislation similar to **2009 AB 312**, allowing municipalities the option of combining their police and fire departments into a single protective services department. A copy of that bill is attached. Such legislation would give local governments the flexibility they need to more efficiently and cost effectively provide vital public safety services.

**3. Consolidation and Collective Bargaining.** Any discussion of local government consolidation and shared services raises collective bargaining and other employee and union issues. Questions may arise over whether the decision to consolidate is a mandatory subject of bargaining. If the decision primarily relates to wages, hours and working conditions rather than the formulation or management of public policy, then the Courts and WERC will deem it to be a mandatory subject of bargaining. Regardless of whether the decision to enter into a consolidation arrangement is a mandatory subject of bargaining, the impact or effect of such a decision on the employees is clearly a mandatory subject of bargaining.

To facilitate municipal consolidation and sharing of services, we urge the Committee to seek enactment of legislation amending the Municipal Employment Relations Act and other applicable statutes to provide that when municipalities consolidate operations collective bargaining agreements shall be subject to renegotiation with the newly created entity taking over the consolidated function. Moreover, in order to smooth the progress of both sharing of services and consolidation of departments between local governments, as well as the consolidation of local governments themselves, we urge the Committee to seek enactment of legislation making the decision to transfer, consolidate, or reassign bargaining unit work and the impact of the decision, a permissive rather than mandatory subject of bargaining (i.e., it is a prerogative of management).

I note that this proposal mirrors a recommendation made by the New York State Commission on Local Government Efficiency and Competitiveness, which released a comprehensive report in 2008 covering many issues relating to municipal shared services, including consolidation and collective bargaining. You can view the staff brief on consolidation and collective bargaining online:

[http://www.nyslocalgov.org/pdf/Municipal\\_Consolidation\\_&\\_Collective\\_Bargaining.pdf](http://www.nyslocalgov.org/pdf/Municipal_Consolidation_&_Collective_Bargaining.pdf). It explains in more detail how labor relation issues can stall efforts to consolidate service delivery. I've also attached a hard copy of the staff brief. You can view a copy of the Commission's full report online: [http://www.nyslocalgov.org/report\\_page.asp](http://www.nyslocalgov.org/report_page.asp)

**4. Repeal Maintenance of Effort Requirement on Emergency Services Spending.** A provision inserted into the 2009-2011 state budget (Act 28) known as the maintenance of effort on emergency services spending requirement, prohibits local governments from reducing their spending on police and fire services below 2009 levels.

Under the budget provision, starting in 2010, a city or village that wants to operate its police or fire departments more efficiently and save tax dollars will first need to get permission from the Department of Revenue. Only if the department determines that the decrease in

spending is the result of operating more efficiently and not because of a reduction in services will it be approved.

To implement this new law, last May over 1,900 local governments were required to submit 2009 police and fire expenditure reports to DOR to establish the baseline spending below which a community cannot dip without DOR approval.

Local leaders need more, not less flexibility to reorganize and streamline municipal services. The maintenance of effort requirement serves as a significant impediment to contracting with another local government for police and fire services.

We urge the Committee to seek enactment of legislation similar to **2009 AB 661**, repealing the language inserted into the 2009-2011 state budget (Act 28) prohibiting local governments from reducing their spending on police and fire services below 2009 levels. A copy of the bill is attached.

**5. Provide a Cooperation Carrot by Converting the Comprehensive Planning Grants Program to a Cooperation and Collaboration Grant Program.** The current state budget appropriates \$2 million annually for a Comprehensive Planning Grant Program to financially assist local governments in the development and adoption of comprehensive plans. Since the deadline for adopting comprehensive plans has passed (January 1, 2010), and local government applications for comprehensive planning grants are greatly reduced from past years, we urge the Committee to pursue converting the comprehensive planning grants program to a consolidation grant program.

Providing state financial assistance to local governments interested in consolidating services would undoubtedly make it easier for more communities to enter into shared service arrangements. When the State of New York created a Shared Municipal Services Incentive (SMSI) grant program in 2005 to improve the efficiency of local governments through cooperation, consolidation, dissolution or merger and funded it with \$2.75 million, the state received 266 applications which represented requests for funding of \$34.6 million. Awards were made to 22 groups of cities, towns, villages, counties and school districts. New York's SMSI program is currently funded at \$29 million.

**6. Organize, Manage, and Fund a Pilot Collaboration Effort Involving Local Government Web Services.** The Department of Administration's Division of Enterprise Technology currently offers technology services to local governments for a reasonable low cost fee, including Web site design and hosting. We urge the Committee to recommend that DOA's Division of Enterprise Technology recruit a group of local governments for a pilot program involving the creation of a Website providing citizens from multiple jurisdictions with seamless, cross-boundary government services via the web. The pilot could be modeled after a successful program created by nine local governments in Washington called the [eCityGov Alliance](#), which is a Web based effort to improve citizen access to government services, such as building permits and park reservations.

For example, under eCityGov Alliance, citizens can go to MyBuildingPermit.com to apply, pay for, and receive electrical, mechanical, plumbing, and re-roof permits from each of the

participating jurisdictions. In addition, citizens can use the site to cancel a permit, request a refund, and research permit requirements. More information about eCityGov Alliance is available online: <http://www.ecitygov.net/about/default.aspx>

## **7. Revenue Sharing and Tax Base Sharing.**

**A. Revenue Sharing.** Wisconsin state law, specifically sec. 66.0305, currently allows cities, villages, towns, counties, and American Indian tribes to voluntarily enter into revenue sharing agreements. The revenue shared may be from taxes as well as certain special charges. The law is designed to facilitate the cooperative provision of services and help resolve boundary disputes.

While the League doesn't have any data showing how often this provision has been used since it was created fifteen years ago, my sense is that it is used infrequently. Nevertheless, it is certainly a helpful, broad grant of authority that provides another tool for communities seeking to work together on a shared services arrangement. However, as Professor Brian Ohm points out in the attached article on *Understanding Tax Base Sharing*, Wisconsin's revenue sharing law does not apply to school districts, which also need to raise tax revenue and are impacted when new development locates in one community and not another. Also, the revenue sharing law is limited to communities that have contiguous borders even though intergovernmental disputes or cooperation may involve communities that are not contiguous.

We recommend the Committee consider introducing legislation broadening the scope of the revenue sharing law in the following two ways:

- ◆ Add school districts to the list of local governments that can enter into revenue sharing agreements.
- ◆ Remove the requirement that political subdivisions be contiguous with one another in order to enter into a revenue sharing agreement.

A few other states have authorized other methods of tax revenue sharing, including Maine. In Maine, legislation was passed in 1998 creating the Kennebec Regional Development Authority, which involves 24 noncontiguous municipalities that engage in the sharing of property tax revenues generated by economic development that occurs in an industrial park located in one of the participating communities. For more information see the following paper: "Regional Strategies: Interlocal Revenue Sharing and Collaboration," <http://www.doynelson.com/Regionalization.php>. A hard copy of which has been attached.

**B. Tax Base Sharing.** Property tax base sharing has not been authorized in Wisconsin. In a tax base sharing arrangement, each taxing jurisdiction in a region shares in the increase in property value that occurs in an area after a certain date. The goals and benefits of tax base sharing are:

- ◆ Reduce competition between communities for the type of economic development that increases the local tax base but needs fewer services.

- ◆ Provide for a fairer distribution of tax benefits from properties that impact on and are supported by surrounding communities.
- ◆ Reduce disparities in tax bases.
- ◆ Promote orderly urban development, regional planning, and smart growth by reducing the impact of fiscal considerations on the location of business and residential growth; of highways and mass transit facilities.

The most well known tax base sharing program in the country is the fiscal disparities program for the seven county metropolitan area of the Twin Cities. Under that program, which was created in 1971, all taxing jurisdictions in the metropolitan area (school districts, cities, counties and towns) contribute forty percent of the growth in the commercial-industrial tax base since 1971 into a regional pool. This shared growth in commercial industrial tax base is then redistributed to communities on the basis of their fiscal capacity, which is measured by their per capita equalized value.

More detailed information about Minnesota's tax base sharing program, including criticisms and shortcomings of the redistribution formula, is available from Brian Ohm's attached article and the Minnesota House Report, which is available online at:

<http://www.house.leg.state.mn.us/hrd/pubs/fiscaldis.pdf>

Developing and recommending enactment of a tax base sharing bill would be an ambitious goal for this committee to take on, comparable to developing a new shared revenue formula, especially in the limited time available. Moreover, tax base sharing speaks primarily to tax equity issues, which may be beyond the scope of this committee's focus. Nevertheless, if the Committee believes there is merit in exploring the creation of a tax base sharing program in Wisconsin, we recommend that you invite experts familiar with Minnesota's program so that we can learn from their experience how best to proceed.

**Conclusion.** Thank you for listening to my testimony and for considering our proposals. I'm happy at this time to respond to any questions that committee members might have about our ideas. Also, let me say in wrapping up that the League is willing to assist the Committee in any way it can as you determine whether and how state law can be changed to facilitate the methods by which local governments partner to efficiently and cost-effectively provide services.

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