



Boardman, Suhr, Curry & Field LLP
Fourth Floor
1 South Pinckney Street
P.O. Box 927
Madison, WI 53701-0927

Phone • (608) 257-9521
Fax • (608) 283-1709

Lawrie J. Kobza
Direct Dial Number • (608) 283-1723
lkobza@boardmanlawfirm.com

MEMORANDUM

TO: City of Pewaukee
Village of Pewaukee

FROM: Boardman Law Firm
Ruekert & Mielke

DATE: August 18, 2009

RE: Update on Proposed Legislation for the Establishment of Municipal Consolidation Districts

The Village of Pewaukee and the City of Pewaukee have authorized the Boardman Law Firm and Ruekert & Mielke to seek legislation allowing the establishment of municipal consolidation districts. This authorization to proceed was conditioned upon Boardman and Ruekert & Mielke reporting back on their initial efforts so that if the prospects for successful passage of the legislation looked doubtful, the Village and City would have the opportunity to discontinue the legislative effort.

We are proceeding with the legislative efforts on two main tracks. The first track is working to have the bill drafted and readied for introduction. We have met with Legislative Council staff to discuss the legislative proposal and any legal issues that could potentially be raised by the proposal. As a result of this conversation, the legislative proposal was revised to include the following legislative findings and declarations.

- (a) The Legislature hereby finds and declares that it is in the public interest to encourage contiguous municipalities to consider consolidation as a means of insuring more efficient provision of local services, more effective public administration and more rational control of growth and development; that the existing laws of this State are inadequate to encourage local consideration of consolidation in many instances where such action might be desirable; and, that the State should encourage such consideration in those instances where it may be appropriate, and where voluntarily agreed to by the municipalities involved.
- (b) The Legislature further finds that under existing law a proposed consolidation of contiguous municipalities may disproportionately benefit the property taxpayers of one of the municipalities proposing to consolidate; that this disproportionate distribution of benefits may discourage local consideration of consolidation and result in no property taxpayers receiving the benefits of consolidation; and that in order to encourage consolidation, the State should provide those property taxpayers receiving a

disproportionate amount of benefit from consolidation a means to pay for those benefits received.

(c) The Legislature further declares that, since political and administrative consolidation of separate municipalities is an act of high public importance to which are attached many unforeseen difficulties and obstacles, the successful adoption of a municipal consolidation agreement, once approved by a vote of the residents of the municipalities involved, shall constitute a public purpose of this State; and, therefore, that the grant of powers under this act is intended to be as broad as is consistent with the Constitution of Wisconsin and with general law relating to local government.

The proposed language was also revised to make it clear that the residents located within the area making the consolidation payment would be receiving a benefit from the consolidation, and that the consolidation payment is being made to pay for that benefit. As a result, the following language was added to the proposal: "The amount of the consolidation payment shall reflect the greater benefits received by the owners of territory in the special consolidation district as compared to owners of territory located outside the district. The amount of the consolidation payment shall not exceed the amount of estimated benefits to be received by the owners of territory in the special consolidation district as measured by the reduction in general property taxes paid."

In addition, the proposed legislation was revised to require the preparation of a consolidation benefits assessment (similar to the type of assessment that is required for TIDs). The assessment is to include: (1) a comparison of the property tax rates for taxpayers with and without consolidation assuming no consolidation payment; (2) an estimate of the benefits, in the form of lower property taxes, to be received by taxpayers of each of the municipalities proposing to consolidate, assuming no consolidation payment; and (3) if a consolidation payment is proposed, an estimate of the benefits, in the form of lower property taxes, to be received by taxpayers of each of the municipalities proposing to consolidate, taking into consideration the proposed consolidation payments.

We believe that these changes have significantly improved the proposal, and have addressed some of the questions that could be raised during the legislative process.

The proposed language was sent to the Legislative Reference Bureau for drafting on July 17, 2009. We are waiting for the bill to come out of drafting. When it comes out of drafting, we would like to be prepared to seek sponsors and co-sponsors for the bill. We are confident that the proposal will be attractive to many legislators.

A question has been raised by a local newspaper reporter about how our consolidation proposal relates to the proposed constitutional amendment allowing different tax rates within a consolidated municipality. Our view, and the view of the League of Municipalities, is that both our proposal and the constitutional amendment proposal provide additional tools to municipalities considering consolidation. We do not see the proposals as conflicting with one another in any way. We believe that one significant benefit of our proposal is that it could be promulgated this legislative session and available to communities soon. In contrast, it would take several more years for the constitutional amendment to become effective.

The second track we have been following involves discussing the proposed legislation with local government organizations and others involved with local government law in order to gather support for the proposal. We have also been seeking recommendations from these groups and

individuals on legislators likely to be interested in the bill. Discussions have been held with the League of Municipalities, the Alliance of Cities, and the Local Government Institute. To date, all of these efforts have been exceedingly positive and supportive. In addition, our discussions with State staff, such as George Hall from the Department of Administration, who was the reviewer of Pewaukee's incorporation, have been very positive. Mr. Hall is entirely supportive of the proposal.