

In the long history of humankind...those who learned to collaborate and improvise most effectively have prevailed.

Charles Darwin.

Collaboration and Consolidation in the Provision of County Services in Wisconsin

-Phillips Borowski, S.C.

The Current Political Climate Encourages Collaboration & Consolidation

The task of funding county government services has become more and more challenging as counties are being forced to do more with less. The “three legged stool” of sources of county revenue has become unstable. The crash of the real estate market has resulted in slumping property values and lower property tax bases. State governments are facing multi-billion dollar budgetary deficits resulting in less available shared revenue. The economic crisis has resulted in lower sales tax collections, further reducing available revenues to counties.

At the same time, the cost of providing services is on the rise. The nation’s economic crisis and rising unemployment rates have increased the demand for county government programs. The costs associated with providing the personnel to administer these programs and services also continue to escalate. In fact, salary and benefit packages for county employees constitute the largest dollar items in county budgets and there is no relief on the horizon.

With the crises in funding, the traditional parochial model of local government has come under greater scrutiny. Many taxpayers no longer tolerate local forms of governance which result in duplicative tiers of services. The November 2010 elections saw candidates prevail nationwide on platforms of eliminating redundant and unnecessary government spending. In light of the financial situations facing counties and pressure from taxpayers, there is little question that those involved in county government will be tasked to pursue collaboration and consolidation of services with other local governments.

Consolidation & Collaboration of County Services Feasible

Studies on consolidation and collaboration conducted by the Local Government Institute of Wisconsin and similar organizations nationwide have demonstrated the economic benefits of consolidation, particularly at the county level. Regionalization of services beyond county boundaries has been shown to facilitate downsizing and cost savings in traditionally parochial areas such as medical examiners, sheriff’s departments, highway construction and maintenance and court services.

Likewise, information and web-based technologies have advanced to the point of allowing regionalization of services in areas that were traditionally provided at only a local level. County and other local governments are now able to effectively collaborate and consolidate to purchase and provide services on a regional basis in areas such as health services, tax administration and revenue collection, utility metering, building department activities, development and maintenance of information networks and office systems, local planning and geographic mapping, emergency services and public safety communications.

Successful regionalization of these types of services demonstrates that utilizing tax dollars at each level of government to maintain and support separate personnel, equipment and technology systems to provide them is no longer cost-effective or efficient. Regionalization and standardization of the technology necessary to provide these services offers local governments greater purchasing power, a lower cost alternative and access to more capable and complete systems than individual local governments can purchase and support on their own.

Counties are Authorized to Collaborate & Consolidate in the Provision of Services Under Wisconsin Law

Statutory Authorization for Collaboration

Wisconsin law permits counties to collaborate with other counties in the provision of services. There are two primary sources of

collaborative authority for counties under Wisconsin law. Statutes related to specific service areas may authorize counties to collaborate with other local governments to perform those services. For example, *Wis. Stats.* 51.42 authorizes county boards in two or more contiguous counties to establish multi-county departments to administer community mental health, developmental disabilities, alcoholism and drug abuse programs.

In addition to express statutory provisions authorizing cooperation in specific subject matter areas, counties and other local governments are provided with broad authority to cooperate and collaborate with one another under *Wis. Stats.* 66.0301(2).¹ This statutory section authorizes counties and other local governments to contract with other municipalities for the “receipt or furnishing of services or the joint exercise of any power or duty required or authorized by law.” If municipal parties to a contract have varying powers or duties under the law, each may act under the contract “to the extent of its lawful powers and duties.” Any contract between counties and other local governments may “provide a plan for administration of the function or project, which may include but is not limited to provisions as to proration of the expenses involved, deposit and disbursement of funds appropriated, submission and approval of budgets, creation of a commission, selection and removal of commissioners, and formation and letting of contracts.”

Effecting Consolidation and Collaboration

While the specific statutes and the general provisions of *Wis. Stats.* 66.0301(2) authorize consolidation and collaboration, they offer little guidance or details on the mechanisms for collaborating or how a collaborative authority will ultimately look and operate once formed. It is critical when considering collaboration and consolidation that counties take careful steps to ensure that their collaborative efforts are conducted in accordance with Wisconsin law and adequately address county interests.

Some of the practical considerations that should be addressed when forming a collaborative agreement or entity are as follows:

- Does the county have legal authority under specific services statutes or *Wis. Stats.* 66.0301(2) to enter a collaborate agreement or create a collaborative entity for the provision of a service?
- If the county has the authority to enter a collaborative agreement or create a collaborative entity under more than one statute, under what statute should the county proceed?
- How much authority is the county willing to cede to a collaborative authority?
- How will the collaborative entity be organized and governed and how will the services provided by the collaborative entity be shared?
- What will be the county's role, responsibilities and liabilities in connection with the collaborative agreement or entity?
- How will the collaborative entity be funded?

- Will the collaborative agreement or entity have any potential impact on a county's existing collective bargaining agreements?
- Will the collaborative authority own, lease or furnish any real estate, equipment, labor, supplies and/or insurance in connection with its provision of services?
- How can local governments be added or removed from the authority?
- What is the term of the collaborative agreement and what are the rights of the participating members to terminate it?
- What is the method for dissolving the collaborative authority and how are the remaining assets of the collaborative authority distributed upon dissolution?

The answers to these questions are not easy and will depend upon the services at issue and the particular interests of the local governments involved. Counties seeking to engage in collaborative efforts should therefore consult with professionals with knowledge and experience in the creation of collaborative authorities before embarking on collaborative efforts. Organizing a collaborative effort consistent with Wisconsin law and in accordance with a county's goals in participating in collaboration will go a long way to avoiding future legal challenges and maximizing the savings of consolidated services. 🗣️

Wis. Stats. Section 59.03(2) provides county boards with broad authority to provide a variety of local government services to cities, villages and towns within the county that request the services. These services include water, sewers, streets and highways, fire, police and health. It is questionable whether counties that provide these services to municipalities can collaborate with other counties to provide these services on a multicounty basis under Wis. Stats. 59.03(2) or Wis. Stats. 66.0301(2).