

**POLK COUNTY
OFFICE OF CORPORATION COUNSEL**

*Polk County Justice Center
1005 West Main Street, Suite 100
Balsam Lake, WI 54810*

*Telephone: 715-485-9210
Facsimile: 715-485-9171*

*Jeffrey B. Fuge
Malia T. Malone
Tomma Broome
Laurie Finn*

*Corporation Counsel
Assistant Corporation Counsel
Administrative Assistant
Legal Secretary*

March 24, 2008

Honorable J. B. Van Hollen
Wisconsin Attorney General
P.O. Box 7857
Madison, WI 53707-7857

RE: Request for Informal Legal Opinion – Transfer of County Clerk responsibilities to County Auditor and Supervisory Authority over County Auditor in counties without County Executive or County Administrator.

Dear Attorney General Van Hollen:

Polk County will be considering a resolution to create the office of county auditor. With respect to that resolution our office asks that your office provide an informal legal opinion that addresses the breadth in which certain statutory powers assigned to the County Clerk may be transferred to the County Auditor pursuant to Section 59.03 or 59.52(1)(b). Specifically, may the County Board of Supervisors transfer to the office of County Auditor taxation responsibilities as found in Wisconsin Statutes, Chapter 70 and specifically, Section 70.63.

Secondly, our office asks that your office consider providing a legal opinion on whether the county board of supervisors, in a county that has neither a county executive nor a county administrator, may delegate the appointment and removal authority with respect to the county office of County Auditor. Polk County is such a county.

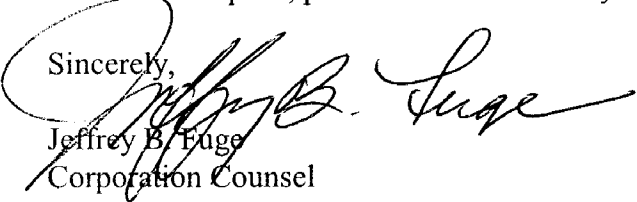
With respect to our first inquiry, our office has reviewed the cited statutory provisions. It appears that neither Section 59.03 nor Section 59.52(1)(b) is so expansive so as to authorize the transfer of responsibilities relating to taxation as may be found in Chapter 70. Certainly, the plain language of Section 59.52(1)(b) appears to authorize transfer of administrative responsibilities when a county creates the office of County Executive, County Administrator or County Auditor. With respect to taxation responsibilities set forth in Chapter 70, it would appear that those functions vested to the County Clerk are of a state-wide concern rather than local nature.

The holding and rationale of Harbick also seem to preclude such transfer. The Legislature specifically designates the County Clerk to carry-out the tax apportionment certification pursuant to Section 70.63. Certainly, defining tax apportionment responsibilities as administrative responsibilities could render such responsibilities as transferrable under Section 59.52. Our office knows of no such legislative definition and has found no Attorney General opinion on the matter.

On my second question, given the statutory language of Section 59.47 and your office's opinion found at 81 O.A.G. 145, our office is inclined to conclude that the office of County auditor may report to a standing committee of the county board of supervisors. Appointment power and removal power with respect to the county office of County Auditor must remain with the county board of supervisors. Further our office is apt to also conclude that removal of persons to the county office of County Auditor would be on just cause basis pursuant to Section 17.10(2).

Our office looks forward to your informal legal opinion. If there is additional information toward our request, please call me. Thank you.

Sincerely,



Jeffrey B. Fuge
Corporation Counsel

JBF/jbf