

SHEBOYGAN COUNTY RESOLUTION NO. 31 (2012/13)

Re: **Requesting Legislature to Amend Wisconsin's Public Records Law to Permit a Municipality to Impose Fees for Actual Expenses Incurred in Necessary Redacting**

WHEREAS, Section 19.35 of Wisconsin's Public Records Law states in pertinent part that unless "otherwise provided by law or as authorized to be prescribed by law, an authority may impose a fee upon a requester for "locating a record, not exceeding the actual, necessary and direct cost of location, if the cost is \$50 or more" (emphasis added), and

WHEREAS, in the recent Wisconsin Supreme Court decision entitled *Milwaukee Journal Sentinel v. City of Milwaukee*, Case No. 2012 WI 65, the Court held that an authority can only charge for the four enumerated tasks set forth within § 19.35(3), the aforementioned "location cost" being one of them, and

WHEREAS, the *Milwaukee Journal Sentinel* Court further held that a "location cost" does not include the actual cost of staff time and materials expended to redact information from a voluminous open records request, specifically stating that had the legislature "intended to allow an authority to recoup all of its actual costs, it could have simply said so rather than delineate four specific tasks for which fees may be imposed in Wis. Stat. § 19.35(3)," and

WHEREAS, dicta from four of the Justices to the *Milwaukee Journal Sentinel* decision recognized that Wisconsin's Public Records Law needs legislative re-examination, and

WHEREAS, in order to maintain the underlying spirit of Wisconsin's Public Records Law, while avoiding the undue economic burden that municipalities will suffer if they are unable to recoup any of the costs associated with necessary redacting, it is imperative that the State Legislature amend Wis. Stat. § 19.35(3) to include a provision that permits an authority to impose fees for the actual labor and material costs it incurs in accommodating public records requests to inspect and/or hand-count election ballots.

NOW, THEREFORE, BE IT RESOLVED that the Sheboygan County Board of Supervisors hereby urges the Governor and the State Legislature to amend Wis. Stat. § 19.35(3) to include a provision that permits a municipality to impose fees for the actual labor and material costs it incurs in necessary redacting required to fulfill any public records request.

BE IT FURTHER RESOLVED that the County Clerk is directed to forward copies of the herein Resolution to the Governor, state legislative representatives having constituencies in

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Sheboygan County, the Wisconsin Counties Association, and such other public officials as the Clerk may deem appropriate.

Respectfully submitted this 19th day of March, 2013.

FINANCE COMMITTEE

William C. Goehring
William C. Goehring, Chairperson

Gregory Weggeman
Gregory Weggeman, Vice-Chairperson

Thomas Wegner
Thomas Wegner, Secretary

Devin LeMahieu
Devin LeMahieu

Michael J. Vandersteen
Michael J. Vandersteen

Opposed to Introduction:

ADOPTED 04.16.2013