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LOCAL REDISTRICTING READJUSTMENT

2011 Wisconsin Act 39, passed by the legislature and signed into law by Governor Scott Walker on July 25, 2011, makes a number of changes to the law regarding redistricting, especially with respect to the obligations of county and local governments.

Legislative redistricting occurs every 10 years to take into account changes in population that have occurred during the decade. Article IV, Section 3 of the Wisconsin Constitution, assigns this task to the legislature at its first session following the federal census, which occurred on April 1, 2010. In recent decades, the legislature began considering redistricting proposals after county and local governments had adjusted local political boundaries, including municipal wards, county board supervisory districts, and city aldermanic districts, based on the new census figures. The legislature then drew proposed legislative district lines using the new wards as the smallest geographic unit.

The 2011 Legislature acted on legislative and congressional redistricting prior to the completion of the local redistricting process, using census blocks as the smallest geographic unit. 2011 Senate Bills 148 and 149 created legislative and congressional district lines, respectively, and were enacted as 2011 Acts 43 and 44. Act 39 modifies the obligations of county and local governments with respect to local redistricting in order to accommodate the district lines created by Acts 43 and 44.

REVISION OF WARD PLANS

Municipal ward plans are normally created by municipal governing bodies once every 10 years and cannot be modified except

in certain specific circumstances. Act 39 requires municipalities to amend their ward plans to accommodate legislative and congressional redistricting plans enacted by the legislature. Municipalities are only authorized to amend their wards to the extent necessary to create wards where legislative or congressional district lines in the redistricting acts do not coincide with the ward boundaries in the original ward plan. The amended ward plan must designate a polling place for each new ward created in response to the legislative or congressional district plan. New wards created to accommodate legislative or congressional districts do not need to meet the minimum population requirements for municipal wards under Section 5.15 (2) (b), Wisconsin Statutes. A municipality affected by Act 39 must adopt its amended ward plan by May 15, 2012. The municipality must transmit a copy of its amended ward plan to the county clerk of each county in which the municipality is located within five days of the action.

Act 39 also includes a number of technical changes to the local redistricting process as it concerns municipal wards and amended ward plans. Newly created wards under the amended plans may be numbered with a combination of whole numbers and letters, rather than whole numbers only. Ward plans must include territory included in the municipality as of April 1, 2010, the date of the federal census. This conforms to the geography used by the U.S. Census Bureau in conducting the census, which is what was used to create legislative districts in Act 43. Territory annexed or detached from municipalities subsequent to April 1, 2010, must be included

in a new ward, which may fall below the prescribed minimum population for wards under Section 5.15 (2) (b), Wisconsin Statutes. Wards created to include annexed territory may not cross congressional district, legislative district, or county supervisory district lines. Ward populations are to be based on corrected population counts, if any corrected counts are available at the time the ward plan is adopted. If a census block is only partly contained in a municipality on April 1, 2010, the municipality must split the block in creating its municipal wards so that only territory within the municipality is included in its plan.

REVISION OF COUNTY SUPERVISORY DISTRICTS

County supervisory districts are normally created by county boards from whole, contiguous municipal wards following the creation of wards by the municipalities within the county. Act 39 requires county boards to amend their final supervisory district plans to reflect the amended ward plans enacted by their municipalities created in response to legislative or congressional redistricting. Modified districts are to remain contiguous except as specifically permitted by law and are to retain the original numbers and outline of the previously enacted final plan to the extent possible. Counties affected by the provisions of Act 39 must modify their county board district plans within 60 days of a municipality adopting a modified ward plan. The chairperson of the county board must file a certified copy of the county's amended plan with the secretary of state.

Counties are also required by Act 39 to use any corrected census data in the creation of county board districts. Act 39 specifies that county board districts are to be substantially equal in population. It also prohibits splitting census blocks unless they are divided between two municipalities or a single

block's population is so great that it will prevent the creation of county board supervisory districts of equal population.

REVISION OF ALDERMANIC DISTRICTS

Aldermanic districts are normally created by the common councils of cities from whole, contiguous wards following the common council's creation of wards. Act 39 requires cities to adopt amended aldermanic district plans taking into account new wards created to accommodate legislative or congressional districts. This must be done within 60 days of the adoption of the amended ward plan.

Act 39 requires aldermanic districts to be contiguous, unless a district includes as part of its area "island territory" completely surrounded by water or by another municipality. The common council may not split census blocks in creating aldermanic districts unless one block has such a large population that districts of equal population would be impossible without a split or, a census block is bisected by a municipal boundary. The act requires the use of any corrected census data if it is available at the time aldermanic districts are created, reflecting the population of the municipality and its census blocks on April 1, 2010.

REDISTRICTING APPEALS PROCESS

Act 39 creates a special venue for anyone challenging congressional or legislative district lines in court. Within five days of a challenge to apportionment being filed in circuit court, the clerk of court must notify the clerk of the supreme court. The supreme court must then appoint a panel of three circuit court judges, each from a different circuit. This panel is the venue for all hearings and filings in the challenge. No motions for substitution are allowed with regard to the members of the panel. The supreme court may directly hear appeals from the panel's orders or decisions.