
2015 GAB 01
MUNICIPAL COURTS

Facts

You have requested a formal opinion on behalf of a Wisconsin Village (“Village”) seeking to withdraw from a current multi-jurisdictional municipal court arrangement with other municipalities to establish and operate its own municipal court under Wis. Stat. ch. 755.

In 2009, the Village passed a local ordinance establishing a multi-jurisdictional municipal court which serves multiple municipalities in two Wisconsin counties. In conjunction with the establishment of the multi-jurisdictional municipal court, the Village entered into an intergovernmental agreement (along with the other municipalities) with another municipality to provide the necessary resources for the newly established multi-jurisdictional municipal court. The intergovernmental agreement allows a ‘member’ municipality to withdraw from the agreement upon providing 180 days of notice to the other ‘member’ municipalities. In December 2014, the Village’s governing body voted to separate from the multi-jurisdictional municipal court; provided notice of this intent to separate to all other ‘member’ municipalities on January 2, 2015; and informed all other ‘member’ municipalities of the Village’s intent to have their own municipal court begin functioning on July 1, 2015.

Communications between the Village and the Chief Judge of the Judicial District in which the Village is located (“Chief Judge”) outlined differing opinions as to whether proper procedures were being followed by the Village in withdrawing from the multi-jurisdictional municipal court and establishing its own municipal court. In the course of the communications, the Chief Judge referenced a 2011 Government Accountability Board opinion relating to the timing of abolishing a municipal court as support for his findings. On May 1, 2015, the Chief Judge issued a letter to the Village expressly stating that the Village may not operate a municipal court separate from their participation in the multi-jurisdictional municipal court, and that anyone who attempts to operate a separate court would be subject to sanctions.

Request

Your request seeks advice on whether the municipality has followed proper procedures under Wis. Stat. ch. 755 to accomplish both the withdrawal from the multi-jurisdictional municipal court and establishment of its own separate municipal court under Wis. Stat. ch. 755. Additionally, your request seeks advice as to the applicability of a previous opinion issued by the Government Accountability Board (2011 GAB 03 – MUNICIPAL COURTS) related to the timing of municipal court abolishment.

Discussion

After a review of the materials included with the opinion request and the specific issues raised, the Board believes its statutory authority and jurisdiction only permit a narrow opinion on issues that could impact candidates, office holders and Wisconsin electors. The broad issue of whether all proper procedures contained in Wis. Stat. ch. 755 have been followed by the Village to withdraw from the multi-jurisdictional municipal court and establish its own municipal court is a question for the Chief Judge to decide, not the G.A.B. Wis. Stat. § 755.01(1).

On December 15, 2011, the Board issued opinion 2011 GAB 03 on the topic of timing for abolishment of municipal courts (“2011 opinion”).¹ While the 2011 opinion discussed Wis. Stat. ch. 755 (titled Municipal Court), the crux of the opinion was focused on the timing of an abolishment of a municipal court in relation to the Type A notice (notice of election, governed by Wis. Stat. ch. 10). For regularly scheduled Spring Elections, the Type A notice must be published by municipalities on the fourth Tuesday in November preceding the election for which the municipal judge office would appear on the ballot. The 2011 opinion concluded that a municipality must either complete the abolishment of a municipal court prior to the Type A notice being published for the next Spring election at which the office is on the ballot or ensure that any abolishment of a municipal court is not effective until the term for which the municipal judge has been elected expires.

Based on the facts provided to the Board, the 2011 opinion does not appear to be directly on point, as there is no abolishment of a municipal court proposed. It would appear that the multi-jurisdictional municipal court would remain intact once the Village terminates its intergovernmental agreement and the successful candidate would remain in office as municipal judge, thus not depriving the officeholder of the seat. Whether the Village is able to provide proper notice of the election for municipal judge to prospective candidates and electors once a new court is established is yet to be determined.

Advice

Based upon the above opinion, the Government Accountability Board advises:

Certification as to compliance with applicable statutory requirements for withdrawal from a multijurisdictional court arrangement and establishment of a single municipal court is the statutory responsibility of the Chief Judge of the Judicial District, not the Government Accountability Board. The Board advises that the Village should comply with all applicable requirements contained in Wis. Stat. ch. 755 in order to obtain certification from the Chief Judge.

¹ 2011 GAB 03 is available electronically here: http://www.gab.wi.gov/sites/default/files/opinions/31/gab_2011_03_pdf_85129.pdf