

# **SECTION IV**

## **THE MASSACHUSETTS EXAMPLE**



Previous discussion of a possible new government structure in Milwaukee County often has focused on the notion of combining the governments of the City of Milwaukee and Milwaukee County. Two of the most commonly referenced examples of city-county consolidations are Indianapolis and Marion County, Indiana, which merged in 1969; and Louisville and Jefferson County, Kentucky, which merged in 2003.

It is important, however, not to confuse consolidation with the concept that is now being discussed by business leaders and the county executive in Milwaukee County. In Indianapolis and Louisville, city and county governments merged to form a larger government that provides both traditional municipal and traditional county services to a county-wide population of citizens. Efficiencies and dollar savings were pursued by merging administrative functions, eliminating one of two chief executive officers and consolidating legislative boards. Nevertheless, the same functions previously provided by each level of government still are provided at the local level, only by a single, unified entity.

As the adjacent text box indicates, another alternative governance approach – employed most notably in the Minneapolis-St. Paul region – is metro governance. That approach involves creating an additional level of government across an entire region that governs certain services as an alternative to counties or municipalities, but does not replace them.

Here in Milwaukee, the concept under discussion would have the county transfer some of its existing services to the state, some to its various

### **ALTERNATIVE OPTIONS FOR GOVERNANCE REFORM**

Shedding or diminishing a layer of local government can take one of several forms. The two most common methods are consolidation and metro governance. Consolidation focuses on eliminating duplication by sharing services. Metro government focuses on sharing governance across a region in order to balance disparities in service. The method being debated and researched here in Milwaukee is neither consolidation nor metro governance.

Consolidation reduces the number of governmental units active in a geographic area and is best exemplified by the case of Indianapolis. The 1970 merger of governments in Marion County, Indiana combined 57 local governments (22 cities and towns, 9 townships, 11 school districts, and 15 special-purpose districts) and one county government into one unit, Unigov, headed by the mayor of Indianapolis and a city-county council. Voters in Marion County never voted whether to merge with the city of Indianapolis; the merger was a result of state legislation, which provides for automatic consolidation of first-class cities and their counties. As a result, all residents of Marion County vote for the mayor and the city-county council, who provide all services and governmental responsibilities normally mandated to county governments in Indiana. These services are funded by county-wide property tax revenues.

The prime example of metro governance is in the Minneapolis-St. Paul metro area, with its Twin Cities Metropolitan Council providing regional governance. The Council was created in 1967. Its members are appointed by the governor and confirmed by the state senate. It has the ability to levy property taxes and issue bonds and performs governance functions and services of a regional nature, such as land use and transportation planning, transit services, economic development, storm water management and affordable housing, as well as facilitating shared services on the local level. While the creation of the Council did not eliminate any other level of government in the region, the statutory powers of the Council do supersede the powers of the municipal and county governments within its boundaries, allowing for enhanced regional decision-making and cooperation.

municipalities, and others to newly formed authorities or districts. In addition, according to a proposal put forward by the current county executive in the summer of 2009, the duties of constitutional officers such as the sheriff and register of deeds would remain with those offices, which would function independently from any other government. Rather than creating one large government – such as Indianapolis’ UniGov – to provide both municipal and county services to residents of the county, the concept being discussed in Milwaukee County would create additional “mini” governments while turning back human services and courts to the state.

In searching for examples of similar approaches elsewhere in the country, the closest and most recent we could find was Massachusetts, which in the late 1990s eliminated several of its county governments. The Massachusetts example does not provide an exact parallel with the concept suggested for Milwaukee County because its counties had far fewer responsibilities to begin with, making elimination a far less complicated endeavor. Nevertheless, this example does offer several important insights into how a significant level of government can be made to disappear.

## **RATIONALE FOR ACTION**

County governments have never played a prominent role in Massachusetts, nor in other New England states. As the Massachusetts Secretary of State’s web site puts it:

“Generally speaking, New England states do not have as active a county government system as compared to the rest of the nation. In Massachusetts for example, state roads (usually numbered routes) are cared for by the state highway department (MassHighway), while individual communities care for non-state roads within their borders. This can cause some confusion for folks who move here from other parts of the nation as the opposite appears true in their former home state.”

Massachusetts has 14 counties, which according to the Massachusetts League of Women Voters (LWV) web site were “regional administrative districts before the Revolutionary War.” The primary role of counties from that time until the 1970s primarily was to administer jails, health facilities, agricultural schools, registries of deeds and probate, county courts and courthouses, county roads and extension services.

In 1978, the role of counties in Massachusetts was further diminished with enactment of legislation creating the Massachusetts Trial Court to administer trial courts statewide. Before that time, all trial courts in the state either were county courts or local courts funded through the counties. With adoption of this legislation, all trial court judges became state judges and received their salary and benefits from the state. Also, a newly created state Administrative Office of the Trial Court took responsibility for a wide range of centralized functions, including budget development, central accounting and procurement systems and personnel policies. The only remaining role for counties was ownership of the court buildings.

Consideration of completely eliminating county governments in Massachusetts began in earnest shortly thereafter. The LWV notes that “for many years, there was criticism of county governments as wasteful and inefficient.” In addition to being seen as duplicative, some county

governments also developed reputations for “cronyism and corruption, with a parade of veteran county officials caught on the take,” according to the *Boston Globe*.<sup>35</sup>

This criticism accelerated as several counties experienced fiscal problems and turned to the state for emergency assistance in the early 1990s. One county in particular – Middlesex County, the state’s largest with 1.4 million citizens – became the subject of public ridicule after defaulting on \$4.6 million of hospital loans and teetering on the brink of bankruptcy.

The push to eliminate county governments also was fueled by the state’s governor, William Weld, who was elected in 1990 and re-elected in 1994 in part on promises to rein in “big government” and eliminate unneeded layers of bureaucracy. Weld began pushing to abolish some counties in his first term, and he first introduced legislation to abolish all counties in January 1996. While the legislation initially did not fare well, by late 1996 momentum had built in support of it, driven largely by the chaos surrounding Middlesex County. As the *Globe* editorialized in December 1996:

“The coming bankruptcy of (Middlesex) county...will force the Legislature to consider something it should have done decades ago: abolish all the existing county governments so cities and towns can decide the shape of any future regional governments...Even though the counties are controlled by elected officials, few voters pay attention to county races, with the occasional exception of contests for sheriff and district attorney. The few people who do care about county elections are the candidates’ friends and relatives and job applicants. The result is government that caters to the needs of the few at the expense of the common good...Governor Weld is ready to abolish the counties; it’s time for the Legislature to send him a bill to do so.”<sup>36</sup>

## LEGISLATIVE ACTION

On January 7, 1997, Governor Weld and his Lieutenant Governor, Paul Cellucci, re-introduced legislation to abolish county governments.

“Rather than learning to control spending within their means, the counties have developed kind of a chronic addiction to state bailouts,” Weld told the *Globe*. “I think we’ve reached a consensus at the state level that this is a fifth wheel...that has outlived its usefulness, if it ever had one.”<sup>37</sup>

The *Globe* noted that county government had become “costly for the state, which pays between 85 percent and 90 percent of the costs of the 14 county governments,” and which had been forced to pay “an additional \$25 million to bail out county governments 22 times over the past six years.” It reported further that county governments had accumulated \$45 million in debt and \$125 million in unfunded pension liabilities despite the bailouts.

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<sup>35</sup> “State’s Counties are Failing Throughout Massachusetts”, *Boston Globe*, December 24, 1996.

<sup>36</sup> “The Woeful Counties”, *Boston Globe*, December 27, 1996.

<sup>37</sup> “Weld Bill Would Phase Out County Government”, *Boston Globe*, January 8, 1997.

Weld's bill called for the following:

- Abolition of county taxes as of July 1, 1998, unless the state auditor determined that a county's liabilities exceeded its assets, in which case a county tax could be continued for up to 20 years to pay off the debt.
- Transfer of the registries of deeds to the secretary of state's office.
- Retain elected sheriffs but move them under the State Executive Office of Public Safety, and convert Sheriff's employees to state employees.

Weld's initial proposal in 1996 had been the subject of acrimonious debate in the Massachusetts Legislature, with several legislators contesting the notion that it would produce long-term cost savings. Some county officials also opposed the transfer of county employees to the state health care plan, arguing that the state plan was "less flexible and more expensive than the one now in use."<sup>38</sup> While the new version enjoyed greater support, the House Ways and Means Committee "ultimately decided that the financial crisis in Middlesex County demands immediate attention, while there are too many unanswered questions about the other 13 counties."<sup>39</sup>

On July 11, 1997, Governor Weld signed legislation that immediately abolished Middlesex County, eliminated two more counties within one year, and put into place a series of mechanisms designed to lead to the abolishment of all county governments within two years. While not as far-reaching as he would have liked, Weld declared that "the legislation that we are signing today is a good first step in eliminating a vestige of Massachusetts colonial government."<sup>40</sup>

Under the legislation, the state agreed to pay off \$24.6 million in Middlesex County debt and assumed responsibility for its estimated \$38 million in unfunded pension liabilities. The legislation also empowered state officials to levy an annual assessment upon the property taxpayers of Middlesex County to pay off costs incurred by the state over a 30-year period (see the subsection below for more information about the mechanics of the legislation).

Over the next two years, Massachusetts eliminated half of its 14 county governments. Those eliminated were north and west of Boston, while those spared were south of Boston, including four small counties on Cape Cod. The *Globe* pointed out in a 1999 article that "there was relatively little resistance" to the elimination of the seven to the north and west, as "some were facing financial crises, while others were discredited by scandal. Many local officials in the central and western counties were eyeing forming new regional governments anyway to provide services in rural communities."<sup>41</sup>

Weld's successor as governor, Cellucci, introduced a plan to eliminate two additional counties in 1999, but the plan was successfully resisted by the Legislature. The *Globe* pointed out that in contrast to the counties that had been eliminated previously, those counties "have been largely free of scandal and have not had any severe financial problems in recent years. They offer a

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<sup>38</sup> "Massachusetts Governor Proposes Eliminating Counties," *County News*, National Association of Counties, February 19, 1996.

<sup>39</sup> "Panel OK's Bill to Abolish Middlesex County", *Boston Globe*, June 12, 1997.

<sup>40</sup> "Weld Signs Law Ending all County Government", *Boston Herald*, July 12, 1997.

<sup>41</sup> "Proposal to Scrap Counties Resisted", *Boston Globe*, February 7, 1999.

number of locally popular programs, from agricultural extension services to mosquito spraying to forest firefighting units.”<sup>42</sup>

While talk has surfaced occasionally since then of reviving the movement to eliminate county governments, no formal action has been taken. When a candidate for the Legislature proposed abolishing Norfolk County – one of the largest remaining in the state – in 2006, the co-chairman of the Legislature’s Committee on Municipalities and Regional Government cited its “highway engineering and public safety dispatch systems as valuable services” and called it a “well-run regional government that provides benefits that towns otherwise couldn’t provide.”<sup>43</sup>

## **MECHANICS OF MASSACHUSETTS LEGISLATION**

The process for abolishing counties is laid out in Chapter 34B of the General Laws of Massachusetts. Of specific relevance to the discussion of abolishing Milwaukee County government are the following provisions:

- All abolished counties’ functions, duties and responsibilities are transferred to the state, including operation and management of jails and houses of correction, registries of deeds and courthouses. The law also stipulates that all employees whose work involves the operation and maintenance of county courthouses are transferred to the state “with no impairment of employment rights...without interruption of service, without loss of earned vacation and sick time, without reduction in compensation or salary grade, and without impairment of seniority, retirement or other rights of employees.”
- For the most part, all “valid” liabilities and debts of an abolished county as of the date of abolishment are transferred to the state, while all assets (including revenue received immediately before the transfer date) also are transferred to the state. Some specific exceptions are cited in the statute (e.g. the state agreed to allow one county to retain an historic courthouse for use by its regional council of government).
- Included in the transfer of assets is “all rights, title and interest in real and personal property owned or held by an abolished county immediately before the transfer date.” This includes county roads, but the law stipulates that those are then transferred back to the successor council of governments (if one exists) or to the town in which the road (or road segment) is located.
- All “valid leases and contracts” held by the abolished county are transferred to the state, which also has authority to exercise all rights “and enjoy all interests” associated with such leases and contracts.
- The Massachusetts Secretary of Administration and Finance is empowered to “establish a plan” for the state to recover “amounts expended...for the liabilities and other debts assumed and paid for” by the state on behalf of an abolished county. The plan involves the following stipulations:

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<sup>42</sup> Ibid.

<sup>43</sup> “Push to Scrap County System Revives Debate”, *Boston Globe*, June 1, 2006

- The secretary shall determine “said amounts by comparing the gross liabilities of an abolished county assumed by the commonwealth with the gross assets received by the commonwealth from said county and recovering the difference from the member municipalities of said counties.”
  - Liabilities shall specifically include, but not be limited to, the salary of the county treasurer, bonded debt and unfunded pension liabilities.
  - Specific assets include cash on hand at the time of transfer and the value of real estate transferred to the state (net any state dollars previously provided for the asset and state payments for debt service).
  - Real estate value is determined as 75% of the assessed value as of the transfer date, subject to adjustment if the state appraises the real estate at a higher value within four years. Also, if the state sells any of the transferred property and realizes a greater sum than the value at which the property was assessed, then the difference is credited against the net liabilities of the county.
  - The secretary is charged with establishing an amortization schedule to recover any amounts expended by the state that reflect the difference between the gross liabilities and assets of the county. The state treasurer is then empowered to assess upon each city and town of the abolished county a tax up to or equal to the county tax paid by each city or town in the year immediately preceding the county’s abolishment.
- County treasurers are allowed to remain in office for the duration of their existing term, and then their positions are eliminated.
  - Registers of deeds are immediately transferred to the payroll of state government under the supervision of the secretary of state, but the position remains an elected position on a countywide basis. Budgets for the registries are to be determined by the secretary of state (subject to appropriations). Employees of register of deeds offices are immediately transferred to state employment with no change in union representation.
  - Sheriffs also are immediately transferred to the state payroll and continue to be elected by the citizens of the county in which they preside. Unlike the registers of deeds, sheriffs retain administrative and operational control of their office and jail/house of correction. All deputies, jailers, superintendents and other employees are transferred to the state payroll with “no impairment of employment rights” held immediately preceding the transfer.
  - An abolished county’s retirees and inactive members as of the date of abolishment become members of the regional retirement system, which is responsible for any unfunded liabilities attributable to the service of such individuals. In Massachusetts, a primary responsibility of counties previously had been to administer a regional retirement system for their employees and municipal employees from within their counties. The legislation stipulates that those regional retirement systems remain in existence, though they are no longer part of county

government and instead are managed by a new retirement board, whose membership is specified in the legislation.

- Employees of an abolished county who become state employees join the state retirement system. The state system picks up all liabilities associated with those employees, but those liabilities are then subject to recovery from county taxpayers per the mechanisms described above. Also, the accumulated deductions and employer contribution (including interest) credited to the accounts of members who switch from a county system to the state system are credited to members' accounts in the state system. Finally, there are provisions to assure that the amount of assets transferred between the two systems maintains a funded ratio for active employees in the regional retirement system that is no less than the funded ratio prior to the transfer. The law further stipulates that any calculations performed to carry out these provisions be performed by the actuary that performed the most recent valuation of the regional retirement system using the same assumptions previously utilized.
- Cities and towns within or contiguous to abolished counties are authorized to vote to join a regional charter commission. Each such city and town can then send a representative to the commission, which is empowered to design a charter proposal recommending establishment of a regional council of government. That charter must then be placed before the voters of each individual city or town whose leaders wish it to join the regional council of government.
- The regional council of government is envisioned as an entity that would provide certain government services on a regional basis, somewhat similar to the role counties previously played. However, the voters of each city and town would have to vote to take part in the council, and each represented municipality that did so would then elect one individual to serve as its representative on the council. The council would decide on an annual budget, including assessment of fees or assessments, acceptance of grants, and other revenue sources. The council is authorized to provide any government services it so chooses – whether previously provided by the county government or not – with the exception of services specifically transferred from counties to the state. Also, the council is forbidden from levying a county-wide tax.

## **INSIGHTS FOR MILWAUKEE COUNTY**

As noted at the beginning of this section, any comparison between Massachusetts' efforts to eliminate its county governments and a potential effort to eliminate Milwaukee County government must be tempered by the realization that Milwaukee County provides far more services, has many more employees and retirees, owns much more real estate and property, and possesses much larger liabilities than any Massachusetts county. Consequently, in terms of both logistics and legal/political issues, the challenges faced by those desiring to undertake such an endeavor in Milwaukee would be far more daunting and take considerably more time to address.

Nevertheless, the Massachusetts approach includes some interesting elements that could be relevant not only to the discussion of abolishing Milwaukee County government, but also to discussion about removing only some of its functions or leaving it largely as is. The remainder

of this section discusses those elements of the Massachusetts example that are deemed most relevant to the discussion of downsizing or eliminating Milwaukee County government.

## **TREATMENT OF CONSTITUTIONAL OFFICERS**

Massachusetts utilized three different approaches for three positions that are constitutional officers in Wisconsin: it transferred the register of deeds and that office's employees to the state payroll, and specified that while the position still would be elected on a countywide basis, it would be part of the secretary of state's office and under the domain of the secretary; it transferred the sheriff and that office's employees to the state payroll, also specified that the position would be elected on a countywide basis, but allowed the sheriff to retain full administrative control of his operations (with appropriations established by legislators as part of the state budget); and it allowed the treasurer to remain in office for the remainder of his term to tend to fiscal matters still impacting the county, but then abolished the position.

Each of those approaches could have applicability to Milwaukee County's constitutional officers, which also include the clerk of circuit court, district attorney (who is already a state employee) and county clerk. If policymakers decided to remove the positions from county government (either because county government was being eliminated or for other reasons), it would be fiscally prudent to avoid requiring each office to establish its own internal services apparatus to provide human resources, accounting, information technology, etc. Housing each office in a state government department could accomplish that goal.

In terms of budgetary control, if the constitutional officers were to remain as freestanding independent offices, it likely would be necessary to grant each with some form of taxation authority or a dedicated revenue source (e.g. the register of deeds office could be funded with some of the proceeds from the real estate transfer fee). However, if each instead was assigned to a state government department, budgets and revenue sources would be established as part of the state budget process, which could ensure greater fiscal oversight and accountability.

Some may argue that while placing the constitutional officers in state departments would be appropriate from a fiscal perspective, it would be inappropriate to have some or all of these officers relinquish programmatic autonomy to state officials. If that were the case, then for those positions in which administrative autonomy was deemed programmatically and/or legally necessary and appropriate, administrative control over operations could be granted to the constitutional officer similar to the manner in which sheriffs are granted such authority in Massachusetts.

Finally, similar to Massachusetts' approach with the treasurer position, Wisconsin policymakers could consider eliminating certain constitutional officers after a transition period should Milwaukee County government be eliminated. In particular, as discussed elsewhere in this report, the treasurer and county clerk positions would appear to be unnecessary under such a scenario. If the state took over all court functions in the county, then it also might be logical to abolish the clerk of circuit court position, or simply to make it an unelected state position. Under each of those scenarios, of course, the Wisconsin Constitution likely would need to be amended.

## TREATMENT OF ASSETS AND LIABILITIES

As discussed throughout this report, the determination of how to value assets and liabilities that would be shifted to other governments – and the corresponding determination of who would pay for differences between the two – poses one of the most challenging aspects of any move to downsize or eliminate Milwaukee County government. In Massachusetts, the solution was to lay out a relatively prescriptive process in state statutes and then entrust the state director of administration to carry out the process in an impartial manner.

The prescriptive process – as described above – essentially called for creation of a balance sheet in which liabilities of the former county government would be listed and valued on one side, and assets on the other. A methodology for valuing real estate assets was established in the legislation, as was an approach for determining pension-related liabilities. Upon determining the net cost to the state (i.e. the value of liabilities incurred in excess of assets obtained), the secretary of administration was empowered to develop a schedule under which the state would be fully reimbursed over a period of several years via an assessment on taxpayers of the former county. The length of the reimbursement period was to be determined by the secretary with the stipulation that county taxpayers would never pay an annual assessment that was greater than the amount they had been taxed by the county government in its last year of existence.

The adoption of such an approach in Milwaukee County could be considerably more contentious than it was in Massachusetts, as county elected officials and citizens would need to place considerable faith in state government to treat it equitably. In light of the acrimony that has characterized the state-county relationship in Milwaukee over the years, this leap of faith could be bitterly contested at the local level.

There is precedence for such an approach on a smaller scale, however, with the state takeover of child welfare services early in the decade and its more recent takeover of income maintenance services. In both cases, financial agreements on matters such as the county's continuing property tax levy contributions to the programs were not subject to negotiation, but instead were largely dictated by the state. If attempted on a larger scale, it would be similarly difficult to imagine a true negotiation between the state and county given the multitude of complicated issues that would be involved and the unlikely prospect that those could be successfully negotiated on a timely basis without one party being in charge. A key question is whether such an approach would be accepted by citizens and local policymakers in Milwaukee County and, if not, whether they and their elected representatives at the state level could successfully oppose it.

Notwithstanding the policy and political issues involved, an approach in which the state would tally assets and liabilities of the county and attempt to reimburse itself for any net costs incurred could produce benefits to county taxpayers. For example, while Milwaukee County obviously is saddled with huge retirement liabilities, it also possesses significant real estate assets that might be leveraged by the state to pay down those costs if county government ceased to exist.

In particular, the elimination of central administrative staff and transfer of parks, public works and social services personnel to other entities could free up considerable county office space. While most of the former county functions still would be provided by other entities that would have space needs of their own, there still could be considerable opportunity for significant

consolidation at the courthouse (which presumably still would be the appropriate location for circuit court functions) and at county-owned buildings that have the least re-sale value (e.g. the Marcia P. Coggs Human Services Building). That, in turn, could free up more valuable real estate on the County Grounds (e.g. Children's Court, Parks Administration or excess Mental Health Complex space) for possible sale or lease.

Other potential sale or lease opportunities include parking structures (e.g. O'Donnell Park and 6<sup>th</sup> and State), cultural facilities (e.g. the Milwaukee Public Museum and Marcus Center for the Performing Arts to the non-profit organizations that currently run them) and, of course, General Mitchell International Airport.

The appropriate ownership of these facilities should county government cease to exist obviously is a complex question. What is clear, however, is that while the county board has shown little disposition to consider sale or lease strategies on its own despite its fiscal challenges, state government officials would have less reason to retain control of such assets if they ended up in the state's hands as part of an elimination plan, and they would have significant incentive to sell or lease parcels that hold the most value in order to reduce the assessment burden on county taxpayers.

## **TREATMENT OF PENSION BENEFITS AND FUNDING**

Massachusetts implemented dual strategies for addressing the pension-related issues created by elimination of counties: it moved those employees transferred to the state payroll to the state retirement system, and left the regional retirement system in place to continue to serve retirees and inactive members. Both strategies hold relevance for the Milwaukee County discussion.

With regard to active Milwaukee County employees who are transferred to the state, new regional authorities, or municipal governments other than the City of Milwaukee, it may be most logical for those employees simply to become part of the state retirement system (which currently houses all county and municipal workers in the state except those working for Milwaukee County and the City, both of which administer their own systems). County workers who are transferred to the City of Milwaukee logically would become part of that system.

Like the Commonwealth of Massachusetts, the State of Wisconsin and City of Milwaukee undoubtedly would want to be held harmless for any unfunded pension liabilities associated with former county workers. Consequently, a calculation similar to that prescribed in the Massachusetts legislation could be established, under which the cost of the liability for transferred workers could be calculated by the county's pension fund actuary and county taxpayers would be assessed for that cost over a period of years. In the case of those transferred to the state, the liability would be added to the overall calculation of county liabilities performed by the secretary of administration. In the case of those transferred to the city, a separate arrangement would need to be worked out.

The treatment of Milwaukee County retirees and inactive vested employees could be more difficult to reconcile given the even more significant dollar amounts involved and the lack of a logical home for their pension earnings and liabilities. In Massachusetts, the solution to retain the former county pension system and transform it into a regional system was simplified by the fact

that the system included municipal workers – as well as county workers – and therefore needed to exist in some form after elimination of the county government.

While that is not the case in Milwaukee County, it still might be logical and desirable simply to maintain the existing county retirement system and have it professionally managed by an appointed board until such time as it is no longer needed because all members and their dependents are deceased. Under such an approach, the board could be appointed by the state and/or former constitutional officers and municipal officials. It could be empowered to oversee fund investments and levy an assessment on county taxpayers for any annual actuarially determined unfunded liability payment and/or debt service payment on existing pension obligation bonds (POBs). The liability could be reduced from the sale or lease of county assets, which could be credited both to the system and to the net liability calculated by the secretary of administration based on a ratio of the size of the pension fund liability to the total net liability.

This overall approach is one that county and/or state officials may wish to contemplate regardless of whether Milwaukee County government is abolished. After the county pension scandal emerged in 2002, some policymakers discussed ending the county retirement system and moving all county employees and retirees into the state system. While this idea was not embraced at the time by either the state or county, its reconsideration may be in order in light of the size of the unfunded liability and the extent to which it is negatively impacting every county service.

Indeed, there may be logic to the notion of *immediately* closing the county retirement system to new members and additional employee earnings, turning it over to a group of appointed managers to administer, and empowering them to assess county taxpayers for any liability/POB payments as a separate line item on the annual property tax bill. In this manner, the cost of this liability would be removed from county government per se, thereby allowing county services to be managed free from the crushing weight of pension liabilities. While county taxpayers still would be required to fund the liability, they would do so with the knowledge that it would gradually be eliminated over time.

In the meantime, under such an approach, all existing county employees would become members of the state retirement system and any future benefits earned would be at the reduced (but still generous) level enjoyed by state employees. Previously accrued pension earnings and liabilities for these active workers could be transferred to the state (though this may be subject to legal challenge), which could be empowered to deduct any annual cost associated with the net liability from shared revenue payments or other state aids.

## **REGIONAL COUNCIL OF GOVERNMENT**

Another intriguing component of the Massachusetts approach was its mechanism to allow the cities and towns of counties whose governments had been eliminated to form regional councils of government to provide shared services. According to a Massachusetts state senator interviewed for this report, this mechanism reflected a belief by many who supported eliminating county governments that regional service delivery still made sense in many instances. Their objection was to having a county government with its own elected officials, political bureaucracy and taxing authority to administer those services.

The key differences between a regional council of governments and a county government, as laid out by the Massachusetts Legislature and later implemented in some regions, are as follows:

1. Each municipality within the former county (or other municipalities contiguous to it) could “opt in” per a vote of their citizens, but was not required to have services performed by the regional council.
2. The council consists of one member from each participating municipality voted in by the citizens of that municipality, as opposed to county commissioners voted in countywide. These council members presumably would not have staff and would not constitute a legislative branch of government that required legislative support services, etc.
3. The council would decide for itself what services it wished to provide (as opposed to having certain services mandated by the state) and would determine how to pay for those services, but only could assess citizens from municipalities that had opted in, as opposed to all of the county’s citizens.
4. Mechanisms were established whereby a participating municipality could “opt out” if it was not satisfied with its participation.

It is critical to note that in practice, the only regional councils formed in Massachusetts to succeed county governments have been in rural areas of the state, as more densely populated municipalities in urban counties opted to provide services on their own. This might call into question whether such an approach would be attractive to Milwaukee County municipalities, which already provide a wide range of municipal services and may elect to keep things that way even if required to adopt some former county services (such as county trunk highway maintenance) should the county cease to exist.

However, it is clear that there are a broad range of municipal services for which such an approach might be warranted, such as public health, general road and street maintenance, housing, economic development, local parks maintenance and even special public safety services. The combination of the county’s elimination and the need to identify efficiencies in the face of significant budget challenges of their own could spur some Milwaukee County municipalities to consider a regional council approach, particularly given the existence of an Intergovernmental Cooperation Council that already has spearheaded some shared service initiatives.

## **CONCLUSION**

Despite the much smaller scope of county governments in Massachusetts, the Massachusetts experience demonstrates that the daunting logistical challenges associated with eliminating a significant level of government can be met successfully if the political resolve exists to do so. It is critical to recognize, however, that in Massachusetts, that resolve came from the governor and state legislative leaders, who not only led the push to abolish counties, but also established a framework that put the state firmly in charge of the mechanics of the dissolution. While ensuring that the process of dismantling counties would not be bogged down by state-local

conflict, that approach left state policymakers accountable for any potential political backlash from county taxpayers and added another set of complicated and contentious issues to state government's agenda.

Elimination of counties in Massachusetts did remain a controversial issue well after adoption of the 1997 legislation. For example, according to the *Boston Globe*, when the Legislature considered a bill to finalize the elimination of Essex County in 1998, the Senate reversed course from the earlier legislation and favored having the state assume the retirement costs of county retirees.<sup>44</sup> After the House rejected that approach, the two bodies agreed on a compromise under which the state would foot the initial bill and assess the county communities for reimbursement over a 30-year period (similar to the original framework established the previous year). Governor Cellucci then vetoed the compromise, creating panic among the county's 34 cities and towns that they would have to assume immediate responsibility for the liability. After some significant additional legislative tussling, the original compromise was adopted.

Not only did the details of eliminating county governments remain contentious for months, but the overall wisdom of the approach also continues to be debated. A *Globe* op ed piece penned by a state university professor in 2006 argued that elimination of counties had placed Massachusetts outside of the mainstream of government reform.

“It (is) hard to explain why Massachusetts has pretty much dismantled county government as another wasteful example of too much government. What continues to dominate the governing scene in Massachusetts are cities and small towns – 351 of them, in fact – with a full range of services and people to run those services...not surprisingly, the cost of keeping small-size government with all these services continues to rise, in large part because regionalization and consolidation have little support. While the corporate world is awash in mergers and cost efficiency brought about by consolidation, Massachusetts holds true to local government operations.”<sup>45</sup>

While it is beyond the scope of this paper to determine whether elimination of counties in Massachusetts turned out to be a success or failure, **a primary lesson learned is that undertaking a government reform that is so complex and contentious requires resolute leadership from state government and a willingness by the state to devote considerable human resources and an up-front financial investment to the endeavor.** In Milwaukee County, the current county executive has expressed support for abolishing county government, but the governor and legislative leaders thus far have been largely absent from any discussion about significant downsizing or outright elimination. The Massachusetts example teaches us that state elected officials not only would have to be *in* on the discussion, but they would have to *lead it*.

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<sup>44</sup> “County Pension Issue is a Nagging Concern for 19 Towns in Essex”, *Boston Globe*, March 21, 1999.

<sup>45</sup> Kryzanek, Michael, “Could County System Work Here”, *Boston Globe*, May 11, 2006.