



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

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October 15, 1993

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I-10-93

Mr. Paul E. Bucher
District Attorney
Waukesha County Courthouse
515 West Moreland Boulevard, Room G-72
Waukesha, Wisconsin 53188-2486

Dear Mr. Bucher:

You have asked my opinion on whether the Wisconsin open meetings law applies to a consortium of school districts in Waukesha County that have signed a contract of cooperation pursuant to section 66.30, Stats. This group, known as the Arrowhead Area Curriculum Consortium, consists of eight school districts within Waukesha County. Their purpose is to assist the member school districts to develop a long-range curriculum and improvement plan. A general plan will be recommended to the school districts, but each individual school district will adopt its own specific plan or policy. From time to time the consortium applies for grants; and, when money is received from these grants, it is distributed to the various participating school districts.

Whether an organization is subject to the open meetings law depends on whether it is a governmental body as the term is defined in section 19.82(1), which provides:

"Governmental body" means a state or local agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order; a governmental or quasi-governmental corporation except for the Bradley center sports and entertainment corporation created under ch. 232; any public purpose corporation, as defined in s. 181.79(1); a nonprofit corporation operating an ice rink which is owned by the state; or a formally constituted subunit of any of the foregoing, but excludes any such body or committee or subunit of such body which is formed for or meeting for the purpose of collective bargaining under subch. IV or V of ch. 111.

You correctly note in your request that section 66.30 does not create any particular organization but merely authorizes local government entities to contract for cooperative services or the joint exercise of any power or duty of the participating

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governmental units. You note that the Arrowhead Area Curriculum Consortium was created in 1987 by a contract and that contract was recently extended to 1996.

Even though the Arrowhead Area Curriculum Consortium exists under a contract pursuant to section 66.30, each of the individual school districts must approve, authorize or ratify the contract which actually creates the consortium. The courts generally have held that actions of governmental units which are calculated to bind those units to contracts are ordinances or orders of that governmental unit whether they are termed resolutions, ordinances or motions. They represent an exercise of the legislative power of the governmental unit. See Keigley v. Bench, 90 Utah 569, 63 P.2d 262, 265 (1936); Boyer Fire Apparatus Co. v. Town of Bruceton, 16 Tenn. App. 143, 66 S.W.2d 210, 214 (1932). Other cases have held that a resolution is an order of a city. Certain Lots, etc. v. Town of Monticello, 159 Fla. 134, 31 So. 2d 905, 911 (1947); City of Pensacola v. Southern Bell Telephone Company, 49 Fla. 161, 37 S. 820, 824 (1905). It is my opinion that, under the reasoning of these cases, the Arrowhead Area Curriculum Consortium has been created by an order of the participating school districts. It is therefore a "council" which was created by "order" and meets the statutory definition for governmental body.

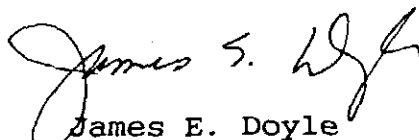
My predecessor determined similar contractual and/or cooperative ventures to be covered by the open meetings law. In an informal opinion to Fox and Johnson dated January 14, 1988 (copy enclosed), my predecessor opined that a side agreement to a collective bargaining agreement approved by a school board created a committee within the meaning of section 19.81(2). In an informal opinion to Meekma dated May 20, 1988 (copy enclosed), my predecessor opined that the Kenosha County Controlled Substances Unit, a consortium of law enforcement agencies formed to receive federal anti-drug abuse money, was created by the local governments because it was approved by resolution of the governing bodies of the units of government, and it was therefore a governmental body in its own right.

Although a contract entered into under section 66.30 for cooperative services or joint exercise of power may not always result in the creation of a governmental body, I conclude that in

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the case of the Arrowhead Area Curriculum Consortium a governmental body has been created within the meaning of section 19.81(2).

Sincerely,


James E. Doyle
Attorney General

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Enclosures

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