Classes of Cities

Wisconsin law divides cities into 4 classes for purposes relating to governmental administration and the exercise of corporate power. The division is based on population as determined by the last federal decennial census or a special interim census. Section 62.05(l), Stats., provides that the 4 classes of cities are as follows:

- Cities of 150,000 population and over constitute cities of the first class.
- Cities of 39,000 and less than 150,000 population constitute cities of the second class.
- Cities of 10,000 and less than 39,000 population constitute cities of the third class.
- Cities of less than 10,000 population constitute cities of the fourth class.

Altering City Classifications

A city changes from 1 class of city to another only when all of the following conditions are met:

- A federal census shows that the city's population has reached the required population
- Provisions for any necessary changes in government have been duly made
- A proclamation by the mayor (manager), declaring the change, has been published under ch. 985. Sec. 62.05(2), Stats

The city of Milwaukee is the only first class city in Wisconsin. There are 16 cities of the second class, 30 cities of the third class and 143 cities of the fourth class.

Taking Steps Toward Reclassification

There are cities, such as Madison, whose populations would permit their inclusion in a higher or lower classification but which have not taken the 2 discretionary steps necessary to alter their official classification. Indeed, sec. 9901(15), Stats., expressly provides that "[i]f a statute refers to a class of city specified under s. 62.05(1), such reference does not include any city with a population which makes the city eligible to be in that class unless the city has taken the actions necessary to pass into the class under s. 62.05(2)."

Section 9901(15), Stats., was enacted in response to City of Madison v. Town of Fitchburg, 112 Wis.2d 224, 332 N.W.2d 782 (1982), in which the court treated Madison as a first class city even though it had not taken the steps to change its classification.

Distinctions Among Classes of Cities

For the most part, few differences exist between the structures of government in the first 3 classes of cities. Moreover, since all Wisconsin cities have home rule powers, both constitutional and statutory, the basic governmental powers of all classes of cities are essentially the same.

Structure & Authority

The greatest discrepancies in structure and authority exist between first class cities and the other classes of cities. In 1921, the legislature repealed all special city charters except the City of Milwaukee's and provided that cities would subsequently operate under ch. 62 of the Wisconsin statutes. The City of Milwaukee, at its discretion, was authorized to adopt the provisions of ch. 62, Stats., by simple ordinance. However, the legislature did not refer to the City of Milwaukee by name but rather as a "city of the first class."

Over the years, special grants of authority and other provisions relating to cities of the first class have been adopted with only the City of Milwaukee in mind. These laws include ch. 119, Stats., relating to the "Milwaukee school system;" sec. 62.50, Stats., governing police and fire departments in first class cities; sec. 62.73, Stats., relating to discontinuance of streets in first class cities; secs. 74.81, 74.83 and 74.87, Stats., authorizing first class cities to sell land for nonpayment of taxes; and secs. 65.01 to 65.20, Stats., relating to municipal budget systems in first class cities.

Budget Systems

Part of the municipal budget system applicable to first class cities may be adopted by cities of the second, third and fourth class. Specifically, the common council of any second, third, and fourth class city may by ordinance adopted by three-fourths of all its members, accept the provisions of secs. 65.02, 65.03 and 65.04, Stats., relating to the creation of a board of estimates. Sec. 65.01, Stats. All cities besides the City of Milwaukee that have not adopted secs. 65.02, 65.03 and 65.04, Stats., are governed by sec. 65.90, Stats., when developing or modifying an annual budget.

Zoning Laws

Fourth class cities have extraterritorial zoning and plat approval jurisdiction for only 1.5 miles beyond their corporate boundaries as contrasted with 3 miles for other classes of cities. Secs. 62.23(7a)(a) and 236.02(s), Stats. Certain regulations with respect to firefighters also differ for fourth class cities. Secs. 62.13(lla) and 213.13, Stats.

Library Boards

Library boards in fourth class cities consist of 7 members while library boards in cities of the second or third class consist of 9 members. Sec. 43.54(1)(a), Stats. Library boards in first class cities consist of 12 members as specified in sec. 43.54(1)(am), Stats.

Shared Revenue

With respect to shared revenue and other financial provisions of the Wisconsin statutes, distinctions are based on population rather than class of city. In recent years, little use has been made of class distinctions among cities except with respect to Milwaukee, the state's only first class city. Therefore, the act of changing from 1 class of city to another, except for the change from a second to a first class city, will have a relatively minor effect on the structure or powers of city government.