

## WTA Budget Update

### Transportation

- General Transportation Aids: The budget increases the amount of state road aid by 8.5%. Towns that get reimbursed on a per mile basis, which will be the vast majority of towns, will see the GTA increase from \$2,202/mile to \$2,389/mile.
- Town Road Improvement Program – Discretionary increase of \$191,000 per year to \$5,923,600 annually.
- \$10,000,000 increase annually to the Local Bridge Program.
- Repeal of Implements of Husbandry Sunset Date: The current regulatory system for agricultural vehicle weight limits was set to expire in 2020.
- We did not achieve our requested change to the cost-cap distribution policy. Currently, the GTA per road mile payment money that is not used by towns due to cost caps is provided to the share of cost formula, which benefits primarily cities and villages. In other words, town money is provided to cities and villages via WisDOT policy. A change to this policy that would have distributed unused funds equally amongst towns was included in the Senate version in Joint Finance, but it hit the cutting room floor before the final transportation budget motion was provided to the full Joint Finance Committee.

### Managed Forest Law

- 2015-17 Act 358 returned a portion of the closed acreage fees to local government for a three year period and eliminated the severance and yield tax. The budget builds on these changes by returning all of the closed acreage fees to local government and making that change permanent. The state will send towns a check for the closed acreage fees, and the town will have to provide 20% of that money to the county. Under the old system, which collected severance and yield taxes, some towns collected more money. There was a provision in Act 358 that protected those towns from receiving less under the new program (i.e., hold harmless clause) through 2017. The budget extended the hold harmless clause to 2018. After 2018, those towns will lose some MFL money because the hold harmless provision is set to lapse.

## **Fire/EMS**

- Length of Service Award Program: Municipalities that utilize this program for volunteers will see an increased matching contribution from the state. Currently the state matches municipal contributions up to \$343. That amount was increased to \$390 in the budget. The changes, however, did not come with any new funding. So it is possible that there will not be a full match if the fund is depleted (i.e., payments will be prorated). Further, the budget modified vesting requirements. Volunteer fire/EMS personnel can vest in the program after 15 years of service and withdraw money at the age of 53 now, instead of 20 years of service and reaching age 60.
- Clarification on Joint Services: The budget clarifies that departments or commissions created with other municipalities offering services required under law satisfy the statutory requirement to provide that service. For example, towns must provide EMS service. If the town has a joint EMS service with another town, this language clarifies that the municipality is in fact satisfying that statutory requirement.

## **Quarries/Aggregate (Vetoed)**

- The budget originally included language pertaining to local regulation of quarries that produced aggregate material typically used for construction projects. The budget would have limited some local regulatory authority. Please see the October magazine and email communication for details.

## **Levy Limits**

- Purpose Statement in Levy Limit Referendum: Under this law change any town that goes to referendum to increase its levy must include a purpose statement on the ballot (e.g. for road a construction project).
- Covered Service Definition: Currently if a town uses a special charge for a “covered service” (garbage collection, fire protection, snow plowing, street sweeping, or storm water management) then it must reduce its levy by that amount if the levy was used to pay for that service in 2013. The budget bill refines this definition of “covered service” to exempt charges for storage, production, transmission, or delivery of water for fire protection purposes. This adds some flexibility for towns that utilize this type of special charge.
- Partial Personal Property Tax Repeal: This budget repealed the personal property tax on manufacturing equipment. To make up for this, the state will now be providing a payment to municipalities to make up for the lost value and revenue. To make sure the levy is not

impacted, there is a slight modification to the levy formula. Essentially the payment will get taken out of the levy so that money won't result in a property tax shift.

## **Condemnation**

- **Litigation Expenses for Contested Condemnations:** Under current law, when a municipality condemns property, they will have to pay litigation expenses in a lawsuit contesting the property compensation if the difference between the municipality's offer and the jury award is greater than \$700. The budget changes that threshold to \$2700 and ties it to inflation. This is good for municipalities because it allows more breathing room for condemnation offers of compensation to the property owner. In simple terms, it makes it less likely that the town will pay attorney fees.
- **Prohibition of Condemnation for Bike Paths and Recreational Trails:** Municipalities may no longer use condemnation for biking paths or recreational trails.

## **Room Tax**

- **Short-Term Residential Rentals (AirBnB):** The budget prohibits a municipality from banning rental of a residential dwelling for 7 consecutive days or longer. The town can still pass an ordinance regulating this, but it cannot be a prohibition. There are some limits. If the residential dwelling is rented between 6 and 29 consecutive days, then the town can pass an ordinance putting a limit to the total amount of rental days for that property. It must be at least 180 days. Further, the period of time may not be specified, e.g. July through December. If a person rents their property for more than 10 nights each year, they must register with the Department of Agriculture, Trade, and Consumer Protection, as well as the town if the town has an ordinance. Also, these rentals are now subject to the room tax if the town has an ordinance on short term rentals. The room tax will be paid by the lodging marketplace used to post the rentals. If there is no lodging marketplace, then the municipality collects the tax directly from the owner of the residential dwelling.

## **Broadband Expansion**

- The budget added an additional \$14 million to the rural broadband expansion grant program for 2017-18 as opposed to the \$1.5 million that was currently available. This grant program is overseen by the Public Service Commission. Currently, 43% of state residents in rural census blocks lack access to at least one 25 Mbps download/3 Mbps upload. This grant program allows an organization operated for profit or not for profit, a telecommunication utility, or a city, village, or town who has entered into a partnership with an eligible organization or telecommunications utility to provide broadband in its

community, to apply. Eligible areas are those considered “underserved” which means they are served by fewer than 2 providers offering broadband service of 25 Mbps down/3 Mbps up. Applications are due June 30<sup>th</sup> of each year. More information may be obtained from the Wisconsin Broadband Office at <http://www.link.wisconsin.gov/>.

**Soda License:** The budget eliminated the ability of local governments to issue soda licenses.

---

**Wisconsin Towns Association**  
**Town and Village Workshop Legislative Update**

---

- A. AB24-SB3**  
Prohibits state and local governments from using project labor agreements.  
Status: Signed into law by Governor
- B. AB59-SB24 (Act 12)**  
Changes EMT terminology to bring internal consistency to statutes and external consistency with federal terminology.  
Status: Enacted into law
- C. AB78-SB48 Lead Water Pipe Replacement**  
Allows water utility to aid in replacing water lines containing lead.  
Status: Assembly – passed committee; Senate – Passed committee, awaiting scheduling
- D. AB81-SB51 TIF Technical Changes (Act 15)**  
Makes minor changes to TIF laws. Changes date for filing certification request to April 15<sup>th</sup>. Puts cap on penalties for failure to file reports with DOR. Excludes municipal property from base determination of TIF.  
Status: Enacted into Law.
- E. AB85-SB66 Local Officials as Election Workers**  
Would allow elected officials to serve as election workers if they are not on the ballot.  
Status: Assembly – Committee approved; Senate - Committee
- F. AB106-SB80 Requiring Local Approval for Roundabout Placement**  
Status: Assembly - Committee ; Senate-Committee
- G. AB109 Dane County Zoning Opt Out Changes**  
Makes changes to the process required for towns in Dane county to withdraw from county zoning.  
Status: Assembly – Passed, sent to Senate (no bill number yet)
- H. AB119 Website Meeting Notice Changes**  
Website would need an easily identifiable link if meeting notices are posted electronically.  
Status: Assembly – Committee
- I. AB120 Class 2 and 3 Legal Notice Changes**  
After one publication the municipality could publish a summary instead of all text

required for class 2 and 3 legal notices.

Status: Assembly - Committee

**J. AB123-SB49 Broadband Expansion**

Increases the amount of money available for broadband grants and eliminates the cap on funds allocated for broadband expansion. Municipalities may apply for grants in conjunction with a telecommunications provider.

See summary under **Broadband Expansion** noted above.

Status: Assembly – passed; Senate – passed; wrapped into the budget

**K. AB140-SB89 Tax Policy and Alcohol Changes (Act 17)**

Makes technical changes to statutes relating to taxes. Refines the definition of restaurant due to confusion of definition last session and allows any establishment that serves food to be considered a restaurant even if serving food is not the predominant focus of their business.

Status: Enacted into law

**L. AB151-SB149 Community Para-medicine Certification**

The bill establishes criteria for an approval as a community paramedic or community emergency medical technician, including completion of a training program approved by DHS. An individual may provide services as a community paramedic or community emergency medical technician only if he or she is a volunteer for or an employee of an ambulance service provider or non-transporting emergency medical technician provider that has approval as a community emergency medical services provider or if he or she is an employee of or under contract with a hospital, clinic, or physician. A community paramedic or community emergency medical technician may perform services 1) for which he or she is trained under the training program; 2) that are not duplicative of services already being provided to a patient; and 3) that are either approved by the hospital, clinic, or physician for which he or she is an employee or contractor or that are incorporated in the patient care protocol submitted by the community emergency medical services provider.

Status: Assembly – passed; Senate: committee

**M. AB153-SB102 Election Recount Changes**

Restricts when a candidate may request a recount. For an election with 4,000 or fewer votes cast, the count must be within 40 votes of the winner. For elections with more than 4,000 votes, the candidate must be within 1 percent of the winner.

Status: Assembly – Passed; Senate – passed committee, available for scheduling

- N. AB169-SB123 Municipal Treasurer Bonding (Act 52)**  
This bill provides that, unless the municipality enacts an ordinance obligating the payment of state and county property taxes to the county, a municipal treasurer must execute a surety bond that guarantees the payment of the taxes to the county treasurer. The amount of the bond must be no less than the full amount of the taxes due to the state and county.  
Status: Enacted into law
- O. AB218 Expand Dog License Exemption**  
Dogs that provide therapeutic or physical functions would be exempt from the dog license tax. The local government would provide a dog license free of cost.  
Status: Assembly – committee
- P. AB219-SB160 Sale of Surplus Items to Government Employees**  
Creates exceptions to the general prohibition that a town may not sell any item to an employee. Sales that fall under the exceptions are a sale of an item at a price regularly available to the public and a sale of a surplus or discarded item that is no longer needed if similar items are publicly available for sale.  
Status: Assembly – Passed committee; Senate – passed
- Q. AB226-SB168 Well Loan Program/ Special Charges-Assessments**  
This bill provides that a city, village, town, or county may remediate a contaminated private well, fill and seal a contaminated well, or rehabilitate, replace, or abandon a failing private on-site wastewater treatment system, in agreement with the owner of the well or wastewater treatment system, or may make a low-interest or interest-free loan to the owner of a contaminated well or failing wastewater treatment system for these purposes. Under the bill, if a city, village, town, or county takes any of these actions or provides a loan for these purposes, the city, village, town, or county may recover the costs of the action or collect the loan repayment as a special charge or special assessment.  
Status: Assembly – passed; Senate – passed committee, available for scheduling
- R. AB229 – SB170 Certificate of Deposit Maturity Date**  
Eliminates the cap on the maturity date for municipal investments in CDs. Previously, towns could only use CDs that matured within 3 years.  
Status: Assembly – passed; Senate – committee
- S. AB246 – SB177 Drainage District Bill**  
This bill makes numerous changes to drainage districts. The changes relevant to towns include when a court may disband a drainage district, and mandatory positions on the board for villages and cities located within the district.

Status: Assembly – committee; Senate – committee

**T. AB272 – SB198 IRT and Natural Gas Technology Exemption**

Vehicles with idle reducing technology or run on natural gas have their own weight limits. Vehicles may exceed weight limits by 550 pounds (currently 400 pounds) or up to 2,000 pounds respectively.

Status: Assembly – passed committee; Senate – passed

**U. AB277-SB218 Personal Property Tax Exemption**

Would repeal the state personal property tax and have yearly payments from the state to municipalities in exchange for the lost revenue. However, payments would be set in statute and not tied to inflation.

See partial personal property tax repeal on manufacturing under **Levy Limits** summary above.

Status: Assembly –committee, public hearing held; Senate – committee, public hearing held

**V. AB291 – SB223 TID Expenditures**

Can include TID costs for projects outside the municipal boundaries within ½ mile of the TID and other municipality consents.

Status: Assembly – passed committee; Senate – committee

**W. AB303 Create BCPL as State Building Landlord**

Would allow the BCPL to purchase land and lease it back to the state. WTA has concerns with this bill because towns in Wisconsin rely heavily on BCPL for loans.

Status: Assembly – committee, public hearing held.

**X. AB307-SB236 Bidding Threshold Change**

Changes bid requirements from \$25,000 to \$75,000. Add new definition for road projects which would still fall under the \$25,000 limit.

Status: Assembly – committee; Senate -- committee

**Y. AB311-SB239 Ambulance Service Upgrade Flexibility**

This bill allows a rural ambulance service provider to upgrade its service level to the highest level of license of any emergency medical technician that is staffing that ambulance if the medical director approves a proposal submitted to him or her by the rural ambulance service provider. The bill allows a rural ambulance service provider that upgrades its service to advertise only for the level of service the provider is able to

provide 24 hours per day.

Status: Assembly – committee; Senate – committee

**Z. AB 312 Placement of Sexually Violent Persons**

Would require DHS to notify pertinent local government units in the county of intended placement that a sexually violent person is being placed on supervised released. And, upon request, DHS must consult with the local governmental unit containing the prospective residential option.

**LRB-3274/P9** –Prevents sexually violent persons from being relocated to another county upon release unless good cause exists. When court orders these persons released from confinement, the county of residence prepares a report on an appropriate residence for the person. Eliminates the 1,500 foot distance requirement, and makes distance to vulnerable populations a factor for the county committee to consider.

Status: Assembly – committee (voted into budget by Joint Finance Committee) (Vetoed by Governor)

**AA. AB 338-SB 270 Allows BCPL to Sell all Lands to the State**

BCPL could sell all of its land to the state. WTA has concerns with this bill. Could have negative impacts on funds for towns.

Status: Assembly—committee; Senate—committee

**BB. AB 348 Placement of Small Cell Wireless Facilities**

Allows for placement of small-cell wireless facilities in the right of way and on government poles. Currently being negotiated. Original proposal would not have allowed any regulation of wireless facilities or structures within the town right-of-way. WTA has worked on protecting the ability of towns to impose uniform conditions and ensure fair compensation for wireless facilities in the town.

Status: Assembly—passed

**CC. AB 361 Requiring a Referendum to Impose a Wheel Tax**

Requires a municipality to have wheel taxes approved by electors at a referendum.

Status: Assembly—committee

**DD. AB 386-SB 292 Closing Dark Store Loophole**

Prevents commercial property from using the “dark store” theory to challenge assessments.

Status: Assembly—committee, public hearing held; Senate—committee, public hearing held

- EE. AB 387-SB 291 Closing Walgreens Loophole**  
Uses contract lease rates above market rates for valuing properties. Walgreens and others have exploited current laws to reduce their assessments and pass tax burden to residential landowners.  
Status: Assembly—committee, public hearing held; Senate—committee, public hearing held
- FF. AB 399-SB309 Zoning in Lower St. Croix**  
State is intruding on local government jurisdiction and performing a rezone of property. Applies in only a small area.  
Status: Assembly—committee, public hearing held; Senate—committee, public hearing held.
- GG. AB 442: ATV Signing**  
Clarifies rules that municipalities must follow for signing ATV routes.  
Status: Assembly-Public Hearing Held
- HH. AB 433-SB311 Winery Hour Expansion**  
Under a “Class B” license a winery could sell until midnight unless a local ordinance is more restrictive.  
Assembly—committee; Senate—public hearing held
- II. AB 484-SB391: Sanitary District Commissioners**  
Would remove residency requirement for a district composed of summer resort property. Would only need to own property in the district to be a commissioner.  
Status: Assembly-committee; Senate-Committee
- JJ. AB 485-SB392: ATV Routes**  
This bill would authorize a municipality to open up state highways within the municipality to ATVs if the speed limit is less than 35 mph.  
Status: Assembly—committee; Senate--Committee
- KK. SB27 IV Tech Endorsement**  
Creates an additional level of EMT that is intended to create the availability of additional life saving techniques during an emergency.  
Status: Senate – committee;
- LL. SB28 First Responder, EMT, Paramedic License Renewal**  
Extends the license renewal period from 2 years to 4 years.  
Status: Senate - committee

**MM. SB29-AB310-SB238 EMS Funding Assistance Program**

Expands permitted uses of FAP funding from EMT Basic to First Responder training and continuing education.

Status: Senate - committee

**NN. SB31 LOSAP**

Increases state contribution (there must be a local contribution) up to \$500 from \$343.77. Currently, the state must match 50-50 with the local government. The bill would require the state to double the local contribution up to the \$500. The total amount of money available in the state would remain the same at \$2.5M. If the money expires, the awards are prorated. There are also vesting changes resulting in full vesting at 15 years (instead of 20) and an ability to collect at age 53 (instead of 60).

Status: Senate – committee; the change in age was adopted in the budget; an increase to in the state match to \$390 was also adopted in the budget. See **Fire/EMS** summary above.

**OO. SB32 Volunteer Tax Credit - \$1000**

\$1,000 tax credit for volunteers. Could get a credit valued at \$20/hour up to \$1,000 per year for service time on active duty or live training exercises and class time in person or online.

Status: Senate - committee

**PP. SB33 Volunteer Tax Credit - \$400**

\$400 reimbursable credit for unreimbursed expenses for gear, education, and mileage

Status: Senate - committee

**QQ. SB158-AB 211 Assessment BOR Prohibition**

Allows property owner to challenge assessment even if they refuse a viewing of their property. The assessor must send out a mailing to every property owner requesting permission to view the interior. The assessor would not be able to view the interior unless the property owner sends the mailing back granting permission. See the *Milewski* case description below for a further assessment update.

Status: Senate- committee, public hearing held; Assembly- committee

**RR. SB 386-AB 475 Lighting Requirements for Horse Drawn Carriages**

This bill requires that horse drawn vehicles must have certain lighting requirements for night and inclement weather.

Status: Assembly – committee; Senate - committee

**SS. SB 387-AB 479: Property Bill of Rights**

Makes drastic changes to conditional use permitting (CUP) and regulatory takings. Would require towns to put all possible conditions for a CUP in the actual ordinance. The bill also requires the town to hold a public hearing, but states public testimony cannot be used to deny a CUP. The legislation also makes changes to what ordinance provisions would be allowed, meaning they must be “measurable”. The bill also impacts regulatory takings. Would make it much easier for a property owner to challenge town ordinances that potentially reduce property value.

Status: Assembly-Committee; Senate-Committee

**Case Law Update:**

**1. *AllEnergy v. Trempealeau County Environment and Land Use Committee***

Case dealt with a conditional use permit for a sand mine that the county denied. Company sued and tried to completely change zoning laws in Wisconsin. Would have eliminated the role of the public comments in making zoning decisions and treated conditional uses akin to permitted uses. WTA filed a brief to the Wisconsin Supreme Court in support of the county. The Court ruled in favor of the County, and essentially upheld current zoning laws in Wisconsin.

**2. *Milewski v. Town of Dover***

Property owners refused to let the assessor view the interior of their home. They tried to challenge the assessment at BOR and the circuit court, which statutes prohibited. They sued saying the statute was unconstitutional. The Wisconsin Supreme Court agreed with the property owners. The court found the statute, as it applied to the landowners, put them in an unconstitutional position because they were either forced to allow an unreasonable search of their home or lose their due process rights for challenging their assessment.

**3. *Murr v. State of Wisconsin***

This is a regulatory takings case that made it all the way to the U.S. Supreme Court. The issue dealt with a land-division ordinance that stated two non-conforming properties held under common ownership created one parcel. The landowners in this case met that criteria, but wanted to sell one of the lots. The county forbade the sale. The Supreme Court took this case up to decide the “base” as it relates to a regulatory taking claim. In other words, should courts look at the individual parcels or the combined parcels to evaluate if the government regulation made the land worthless. The court ruled in favor of the county. It created a three part test to determine how to treat the “denominator” in takings law. Courts will look at [1] the treatment of the land under state and local law; [2] the physical characteristics of the land; and [3] the prospective value of the regulated land.

**4. *Samz v. Town of Argonne***

Company challenged constitutionality of Wis. Stat. § 86.105 that allows towns to plow private driveways. The company argued the law allows municipalities to compete with private business, and that local government has no role in snow plowing private driveways. The court of appeals ruled in favor of the town. This means towns may still plow private driveways.

**5. *Krueger v. Appleton Area School District Board of Education and Communication Arts I Materials Review Committee***

This case dealt with meetings held by a group of people that looked at content for the Communications Arts program in the Appleton school district. The facts are somewhat complicated. A parent made a request for the district to look at the content. The district originally denied the request. Two district officials, however, then decided to go through the process of evaluating the material in accordance with the district's handbook. They formed a committee of 17 volunteers, as the handbook required, and followed other procedures laid out in the handbook. The school board never officially created the committee. The committee did hold several meetings, but never gave notice or had them open to the public. The Wisconsin Supreme Court stated this was an open meeting violation. It labeled this committee as a governmental body that was created by rule, meaning it fell under the open meetings law. The rule in this case was created in the handbook. Although the school board did not create the committee, the rule created it in accordance with the procedures laid out in the handbook. Further, the board received updates from the officials, implying a tacit approval of the committee. This serves as a reminder to check your rules or handbooks to see if this court could implicate. Further, this leaves the door open for open meeting laws to apply to committees created by high ranking officials.