

Wisconsin Towns Association

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Legislative Update as of October 21, 2015:

Issues of particular relevance to town government.

Prepared by Lee Turonie

I. 2015-2017 State Budget: 2015 Wisconsin Act 55

A. Transportation:

1. General Transportation Aids at \$2,202 per mile for 2015-2017. **No changes made.**
 - a. WTA supported an additional increase.
2. TRI & TRI-D programs. **No changes made.**
 - a. WTA supported changing the TRI-D state-local ratio from 50-50 to 80-20.
3. Proposed \$1.3 billion in bonding.
 - a. WTA opposed this scale of bonding because of its eroding effect on future transportation funding.
 - b. WTA supports an adequate, sustainable (long term) & equitable solution to funding transportation.
 - c. State Constitutional amendment protecting the transportation fund is now law. It passed the legislature twice and then passed a state-wide referendum in fall 2014.
 - d. **Bonding cut to \$500m with the future availability of another \$350m upon the approval of the JFC.**

B. Property Tax Assessment, Assessors & Boards of Review proposed for county administration:

1. WTA opposed this proposal.
2. **The Joint Finance Committee removed this from the budget proposal.**

C. Private Onsite Wastewater Treatment Systems (POWTS) regulatory oversight to move to Dept. of Natural Resources from Dept. of Professional Services & Safety; Elimination of the Wisconsin Fund grant program for seriously deteriorated or failing POWTS.

1. Same proposal is included within AB 163/SB 119, a separate bill also adopting the reorganization of state agencies.
2. WTA opposed this proposal.

3. The Joint Finance Committee removed the transfer, keeping POWTS in DSPS. They also fully restored the Wisconsin Fund for 2015-16 and fund it at 50% of current levels for 2016-17.

4. The Governor asked for the entire agency reorganization proposal to be removed from the budget and also from any separate bills.

D. Recycling grants reduced.

1. Previous 2011-2012 state budget reduced grant levels from \$32.1m to \$19m; of remaining \$19m proposal now is for a reduction to \$15m for 2015-16 then back to \$19m for 2016-17.

2. WTA opposed this proposal.

3. The Joint Finance Committee accepted the Governor's proposal.

E. Local Government Property Insurance Fund elimination proposal.

1. 159 towns pay \$506,908 in premium for \$371m in coverage.

2. The Joint Finance Committee acted to delay elimination of the program by two years. Policies can be renewed until 1/1/18 and claims filed until 7/1/19.

3. All treatment of LGPIF in the budget was removed in caucus. No change is the result.

F. Proposed elimination of \$2m for town (\$666,000 town share) and county road aids providing access to DNR owned and managed properties.

1. WTA opposed this proposal.

2. The Joint Finance Committee voted to restore this funding but changed the funding source.

G. Broadband expansion grants.

1. \$1.5m in total per year up from \$500k.

H. Deer-kill pickup contracts elimination proposal.

1. Governor proposed elimination of DNR administered contracts to pick up roadside deer kills. Program picks up approximately 23,000 carcasses and costs \$700k per year.

2. The Joint Finance Committee acted to reinstate the money but also limited use of the money for state trunk highways only.

I. Culvert permitting reform.

1. The Joint Finance Committee acted to create the following permitting system for culverts. New culverts would still need a normal general permit from the DNR. Replacement of an existing culvert would need either a normal general permit from the DNR, or else application to the DNR for an exemption to a general permit. An exemption would possibly be for culverts that would be substantially in the same place and have the town follow best management practices in their installation and keep records that the replacement was done. For an application for an exemption to a general permit, the DNR

either has to grant the exemption or it can require the general permit process. However, if the DNR requires the general permit process, in order to create new conditions for the culvert the DNR will have to fund the costs of those new conditions instead of the applicant having to fund the costs of those new conditions.

J. Town of Windsor in Dane County and Town of Maine in Marathon County given expedited process to incorporate.

K. Managed Forest Law.

1. The Joint Finance Committee acted to distribute \$1m in each of the next two years to all local governments containing managed forest law closed acreage at the rate of 80% to the town, city or village and 20% to counties.

2. JFC also acted to eliminate DNR forester positions in favor of using accredited private foresters.

L. Local government levies and fees.

1. Limited carryover adjustment for levy limits beginning in 2015 calculated as the difference between actual and allowable levy over the past 5 years added together but not to exceed 5%. The carryover could be taken only with a 2/3 vote of the governing body and only if outstanding general obligation debt has not increased from the prior year. A local government increasing its levy in any other way negates the ability to utilize this provision.

2. Construction and repair of sidewalks, and delinquent special assessments, utility charges and sewerage charges will be recharacterized from special taxes to either special assessments or special charges for tax collection and bills.

3. Utility fire protection water charge (e.g. fire hydrant fee) charged to landowners can only be billed as one parcel charge for owners of adjacent parcels or parcels that are only divided by a roadway or waterway.

M. Room tax reform.

1. Starting 1/1/17, municipalities collecting room tax can no longer directly spend the revenue on tourism promotion and development. They would instead be required to forward the revenue to a separate tourism commission or entity for spending, which was optional under previous law.

2. New municipality reporting requirements to DOR.

3. Tourism commissions or entities must spend at least 51% of their revenue on tourism promotion and tourism development and have reporting requirements to municipalities.

4. Any municipalities grandfathered into keeping more than 30% of room tax for non-tourism promotion or development from a pre-1994 ordinance will be phased down into the maximum of either 30% or the dollar amount retained by the municipality in 2010.

N. Urban bow and crossbow hunting.

1. Ends all possible local governmental regulation of bow or crossbow hunting other than requiring being greater than 100 yards from a building on another person's land if you do not have that other person's permission to hunt within that distance and requiring that the discharge of arrows or bolts be generally towards the ground.

O. County shoreland zoning standards.

1. Refined definitions of structures to include accessory structures and not just buildings.

2. Requires that counties may not regulate specific standards set in NR 115 more restrictively, but explicitly allows counties to regulate matters not covered specifically in NR 115. Restricted matters include: vegetative buffer zones, outdoor lighting, any fees or regulations of nonconforming structures that don't alter its footprint, any inspections or upgrades before any sale or transfer, any fees or regulations on vertical expansions not exceeding 35 feet above the grade level, certain pervious surfaces and allowing footprint expansions necessary to comply with state or federal requirements.

P. Religious exemptions to the Uniform Dwelling Code for smoke and carbon monoxide alarm requirements and certain plumbing and electrical standards.

1. Persons could apply for UDC building permits including waivers for religious reasons.

2. Application is available at any time and there are no fees.

3. Waivers can be denied only for false statements or an unreasonable risk of harm to public health or safety. The Department of Safety and Professional Services has review.

Q. Prevailing Wage Rate reform.

1. Stops being applicable to towns as of 1/1/17.

R. Zoning conditional use permit treatment for both towns and counties.

1. "As part of its approval process for granting a conditional use permit ... a town may not impose on a permit applicant a requirement that is expressly preempted by federal or state law."

2. Since this is essentially how the law works anyway it is unclear if there is any practical change created by this new, more explicit language.

S. Shared Revenue – **no changes.**

T. Town of Somers in Kenosha County has new opportunities for extension of sewer and water facilities from neighboring municipalities.

U. Established a process for the dissolution of suspended drainage districts.

II. Acts – Already Enacted into Law

A. **2015 Wisconsin Act 41** – Town zoning fix regarding *Hegwood v. Town of Eagle* case:

1. Court system invalidated town administered general zoning in county shoreland zoning areas. Lack of regulation threatens orderly land uses and farmland preservation tax credits.

2. WTA and a broad coalition supported this bill.

B. 2015 Wisconsin Act 15 – Implements of Husbandry Trailer Bill:

1. Agreed upon clarifications to the original IOH bill.
2. WTA supported this bill.

C. 2015 Wisconsin Act 44 – Utility Trucks Weight Limit Exemptions:

1. Exempts utility trucks from seasonal and special weights limits per § 349.16 and from Class B Highway designations per § 349.15 when responding to service outages.
2. Draft does not include language mirroring the current septic haulers exemption for route minimization and notice to the highway maintaining authority after the fact.
3. WTA opposed this bill because it would not provide any notice requirement.

D. 2015 Wisconsin Act 59 - setoffs against tax refunds for debts related to providing ambulance services.

1. Uncollected charges from contracted ambulance services can be certified by local governments to be collected under the Dept. of Revenue's Tax Refund Intercept Program.
2. WTA supported this bill.

E. 2015 Wisconsin Act 25 - membership of boards of commissioners established for public inland lake protection and rehabilitation districts.

1. Provides greater flexibility and clarifications.
2. WTA supported this bill.

F. 2015 Wisconsin Act 39 - allows municipal clerks to register voters on election day when not on the ballot. Also allows clerks to appoint special registration deputies to work at the polling place on election day without first obtaining a governing body resolution to that effect, similar to how the clerk appoints special registration deputies to register voters before the registration cut-off (20 days before voting.)

1. WTA supported this bill.

G. 2015 Wisconsin Act 37 – making several election law changes.

1. Caucus process of candidate nominations formerly could be set for any day between the first and last Tuesday in January. Bill shortened that time to January 2 until January 21. Also ended the ability of write-in candidates to use stickers and clarified some timing issues.

H. 2015 Wisconsin Act 36 - fees for election recounts. Currently if margin is less than 0.5% recount is free; if between 0.5% and 2% there is a \$5/ward fee; if over 2% requestor pays actual cost. Change to free if with 4,000 or fewer votes the margin is 10 or less; or with over 4,000 votes the margin is under 0.25%. Greater margins would require fees of actual costs, however, if the recount changes the result then the fee is refunded to the requestor.

I. 2015 Wisconsin Act 24 - limited authorization for the town of Rome in Adams County to make cash grants or loan subsidies to owners, lessees, or developers of land located in a tax incremental district created by the town.

J. **2015 Wisconsin Act 11** - laying out, altering, or discontinuing a town line highway. Codified language from a supreme court case clarifying this issue.

K. **2015 Wisconsin Act 12** - appealing a municipal court matter after review by a circuit court.

L. **2015 Wisconsin Act 13** – rescinded a statute providing for the incorporation of the Town of Ledgeview in Brown County that had been invalidated in court.

M. **2015 Wisconsin Act 26** - an exemption from licensing requirements for certain out-of-state ambulance service providers.

1. Bill allows an ambulances licensed in other states to provide mutual aid in WI without getting a separate WI license.

N. **2015 Wisconsin Act 61** - utility aid payments for decommissioned or closed production plants.

1. WTA supported this act.

O. **2015 Wisconsin Act 8** - allows painting studios to serve alcohol.

P. **2015 Wisconsin Act 62** - temporary alcohol beverage retail licenses. Bill would legalize local chamber of commerce “wine walk” events.

1. WTA supported this act.

III. Bills

A. **AB 161/SB 118** – Reform of cumbersome highway spending limitation:

1. Much of § 82.03(2) proposed for elimination.
2. WTA supports this bill.
3. Passed the Senate; waiting for Assembly floor session.

B. **AB 199/SB 137** – Legal notices on websites for Ch. 985:

1. New option, not a new mandate, to post notice in one place and place on an internet site in situations where posting in three places is already allowed. Newspapers and associated requirements are unaffected.
2. WTA supports this bill.
3. Passed the Senate; passed the Assembly. Waiting for the Governor to sign.

C. **AB 45** - authorizing towns to participate in multijurisdictional tax incremental financing districts.

1. WTA supports this bill.
2. Passed the Assembly; passed the Senate. Waiting for the Governor to sign.

D. **AB 58/SB 47** – responding to a request for an absentee ballot.

1. Clarifies that a clerk must respond to a request by sending a ballot and that they must do so within one business day.

2. WTA supports this bill.
3. Passed the Senate; waiting for Assembly floor session.

E. **AB 198/SB 135** – making it illegal to use your cell phone, other than hands free, within any construction zone.

1. WTA supports this bill.
2. Waiting for Assembly & Senate floor sessions.

F. **AB 156/SB 134** - coverage for new participating employers under the Wisconsin Retirement System.

1. Bill would allow a new option, not a mandate, to enter the WRS program for employers by allowing for new employees to enter it without mandating that all existing employees do so.
2. WTA supports this bill.
3. Referred to 2015 Joint Survey Committee on Retirement Systems.

G. **AB 213/SB 143** – permitting the staffing of an ambulance crew to contain only one EMT or above level of training to stay with the patient together with a first responder to drive.

1. WTA supports this bill.
2. Passed the Senate; passed the Assembly. Waiting for the Governor to sign.

H. **AB 210** – proposed local referendum to approve 0.5% local sales tax to fund local highways.

1. WTA is undisclosed.
2. Assembly Public Hearing held.

I. **LRB-0669/P3** – drainage districts.

1. Expansion of current districts is limited; administration may be transferred to a county with the county's agreement; operations may be transferred to a town, city or village upon the signatures of a majority of landowners. DNR permitting requirements are streamlined and access rules codified. Agricultural, engineering or real estate special interests will recommend drainage board members. Cities and villages included in drainage district territory will automatically have a board member.

J. **LRB-2004/P3** (Rep. Edming) – Authorization of manure piping hoses in highway rights of way.

1. Clarifies both local government authority to give and operator need to acquire permits from a highway's maintaining authority in order to deploy hoses for the piping of manure in the highway right of way.
2. Issue is a WTA legislative priority this session.

K. **AB 269/SB 213** - funding postretirement health care benefits of local government employees.

1. Local governments would no longer be able to provide a fringe benefit of providing employees hired after 1/1/2016 postretirement health care benefits unless such benefits have been fully funded in advance by use of segregated funds.

2. Assembly public hearing held; referred to senate committee.

L. **SB 192** - requiring the payment of health insurance premiums, and establishing a loan program, for survivors of a law enforcement officer, emergency medical technician, or fire fighter who dies, or has died, in the line of duty and making appropriations.

1. Bill would require any local government that had been paying for health insurance premiums of law enforcement officers, firefighters and EMTs who dies, or has died, in the line of service to continue paying such costs for any surviving spouses (until either remarriage or reaching age 65) and/or children (until 18, or 26 if a student until then). However, local governments can seek reimbursement from the state. The bill will be retroactively applicable to employees who had previously died but only for insurance payments starting at the bill's enactment.

2. Referred to committee.

M. **AB 306/SB 225** - golf cart crossing points. Local government can establish these across any highways within their boundaries.

1. Waiting for Assembly and Senate floor sessions.

N. **AB 313/SB 227** - a sales and use tax exemption for building materials that become a part of a facility for a local unit of government or nonprofit organization.

1. Assembly public hearing held; waiting for Senate floor session.

O. **AB 319/SB 231** - conveying interests in local government land for construction of natural gas lines.

1. Referred to Assembly Committee on Energy and Utilities; Senate public hearing held.

P. **SB 239** - replacement, reconstruction, and transfer of an approved high capacity well.

1. Senate public hearing held.

Q. **AB 333/SB 241** - the possession of certain wild animals and providing a penalty.

1. Referred to Assembly Committee on Consumer Protection; Senate public hearing held.

R. **AB 326/SB 242** - requiring approval by a municipal governing body before construction of highway roundabouts.

1. Referred to Assembly Committee on Transportation; referred to Senate Committee on Transportation and Veterans Affairs.

S. **AB 349/SB 263** - applying financial accountability provisions that currently apply to certain tax incremental districts to all tax incremental districts created by a city or village.

1. WTA supports this bill.

2. Referred to Assembly Committee on Ways and Means; Senate public hearing held.

T. **AB 371/SB 266** - comprehensive planning and making an appropriation. Bill would allow the repeal of a comprehensive plan and only require consistency if one is maintained.

1. WTA opposes this bill.

2. Referred to Assembly Committee on State Affairs and Government Operations; Senate public hearing held.

U. **AB 350/SB 273** - state payments for municipal services. Bill would increase state payments from prorated portions up to full value over a few years.

1. Assembly executive action taken. Referred to Senate Committee on Elections and Local Government.

V. **AB 361/SB 278** - authorizing local government employees to participate in ancillary insurance coverage programs offered by the Group Insurance Board to state employees. By 1/1/18 local employees could participate in state vision and dental insurance plans.

1. Assembly public hearing held. Referred to Senate Committee on Elections and Local Government.

W. **SB 291** - approvals for high capacity wells, designation of sensitive resource areas, providing exemptions from emergency rule procedures, and granting rule-making authority.

1. Senate public hearing held.

X. **AB 388/SB 294** - reorganizing the Government Accountability Board, requiring the exercise of rule-making authority, and making appropriations.

1. Assembly executive action taken; Senate public hearing held.

Y. **AB 389/SB 295** - electronic voter registration, verification of certain registrations, proof of residence for voting in an election, authorizing Wisconsin to enter into agreements to share information related to the registration and voting of electors; election registration officials; testing election officials after training; electronic poll lists; election equipment approval; overvoted ballots; voter registration proof of residency for an individual in a residential care facility; counting of absentee ballots; witness address required for valid absentee ballot; and granting rule-making authority.

1. WTA opposes this bill because it imposes mandatory testing of all election workers.

2. Assembly public hearing held; Senate public hearing held.

Z. **SB 313** - the method used by a county clerk to notify town clerks of certain county zoning actions. Bill would allow email possibility.

1. Referred to Senate Committee on Elections and Local Government.

AA. **SB 314** - adverse possession against the state or a political subdivision. Bill would prevent road right of way adverse possession by residents.

1. Referred to Senate Committee on Government Operations and Consumer Protection.

BB. **AB 390/SB 316** - allowing the town of Freedom to create a tax incremental district in the same manner as a city or village.

1. Referred to Assembly Committee on Ways and Means; Referred to Senate Committee on Government Operations and Consumer Protection.

CC. **AB 372/SB 331** - membership of the board of commissioners of public inland lake protection and rehabilitation districts. Bill would correct an oversight in WI Act 25.

1. WTA supports this bill.
2. Assembly public hearing held; referred to Senate Committee on Natural Resources and Energy.

DD. **SB 340** - recycling grants for local governments and making an appropriation. Bill would increase recycling grants by \$2.3m in 2015-16 (Act 55 cut them by \$4m in the same period).

1. Referred to Senate Committee on Natural Resources and Energy.

EE. **AB 404** - the sale of alcohol beverages by a municipality or county in a park. Bill would widen current beer-only exemption to also include wine and liquor.

1. Referred to Assembly Committee on State Affairs and Government Operations.

FF. **AB 289/SB 210** - exempting out-of-state emergency medical services personnel from licensure requirements.

1. Assembly executive action taken; passed the Senate.

GG. **AB 290** - imposing residence restrictions on certain sex offenders, establishing conditions of release from civil commitment for certain sex offenders, and providing a criminal penalty.

1. WTA is opposed to this bill because it restricts local control.