

## MEMORANDUM

**TO:** Honorable Members of the Assembly Committee on Government Accountability and Oversight

**FROM:** Sarah Diedrick-Kasdorf, Deputy Director of Government Affairs

**DATE:** November 6, 2019

**SUBJECT:** Support for Assembly Bill 310

The Wisconsin Counties Association (WCA) supports Assembly Bill 310, which ensures local government referenda are held at the lowest possible cost to local taxpayers and results in maximum citizen participation in the election process.

Under current law, local governments have the ability to exceed levy limits via voter approval at referendum. In an odd-numbered year, a local government may call a special election to hold the referendum. In an even-numbered year, however, the referendum must be held during the spring primary or general election or partisan primary or fall general election.

Unfortunately, due to the referendum question being statutorily prescribed—and requiring net new construction numbers not available until mid-August—it is impossible for local governments to hold a referendum anytime in the spring or during the fall primary. It is also incredibly difficult to hold the referendum during the fall general election due to timelines associated with adopting local budgets and the need to mail property tax bills in mid-December. As a result, current law may force local governments to hold costly special elections, where voter participation is significantly less than a general election.

Assembly Bill 310 simply removes the statutory requirement that a referendum question include final net new construction figures and instead allows for use of a county's best estimate. This technical change will make it easier for local governments to hold referenda during regularly scheduled elections, as opposed to calling a costly special election where citizens are less likely to participate.

WCA respectfully requests your support for Assembly Bill 310.

Thank you for considering our comments.



## Office of the County Administrator

Herbert J. Tennes Government Center  
432 E. Washington Street  
P.O. Box 1986  
West Bend, WI 53095-7986  
(262) 306-2200

### **Assembly Bill 310 Testimony (For Informational Purposes Only)**

Wednesday, November 6, 2019

*Prepared by Ethan Hollenberger, Public Affairs Coordinator*

Chairman Steffen thank you for bringing this bill forward for discussion. Since levy limits have been tied to net-new construction (valuation factor) the window for having a referendum has been limited to November elections in even-years or special elections held after August in odd years.

The bill currently has an amendment introduced. Ensuring a consistent question statewide will ensure taxpayers are protected from question gamesmanship. Additionally, allowing to use the best estimate ensures voters can act well before the budget process.

Washington County leaders believe referendums should be scheduled on regularly scheduled general elections. Under current law, this is impossible in odd years. The amendment requires regular elections in even years; nonetheless, still allows for special elections in odd years. Washington County will not support the bill if special elections are allowed. The county board voted down a resolution to substantially change levy limits.

Special elections should be called when citizens are unrepresented for extended periods of time. Special elections should not be called to raise taxes.

This bill would open up the Washington County Clerk to several different election dates in an odd year. In the fall of 2018, two Washington County municipalities went to referendum to raise levy for roads. It is conceivable one of them could have requested a summer 2019 election had this bill been law.

While municipalities pay the tangible costs such as poll workers, ballot printing, election program and tabulation equipment, it is hard to reimburse for opportunity cost spent running special elections.

This committee should look at limiting special elections to urgent needs. We understand a natural disaster may cause the need for an increase in a tax levy; however, the taxpayers of should not pay more for the privilege of voting for higher taxes.

Referendums should be well thought out and planned. With the ability to use a "best estimate," a referendum could be held in February or April of an odd year giving ample time to plan for both passage and failure. Spring elections always occur in Wisconsin with general elections tending to be cheaper ballots to place a measure.

This bill, through the best estimate language, should be significantly reducing the need for special elections, instead the amendment language as drafted might encourage them in odd years.

Thank you.

## MUNICIPALITIES AND COUNTIES THAT PASSED LEVY LIMIT REFERENDUMS

Wisconsin Department of Revenue

September 2019

Year	Co-Muni Code	Municipality Name	County	Amount of Increase
2006	05106	Village of Bellevue	Brown	\$299,477
2006	05216	City of De Pere	Brown	\$343,700
2006	20022	Town of Friendship	Fond Du Lac	\$13,799
2006	37192	Village of Weston	Marathon	\$226,636
2007	05216	City of De Pere	Brown	\$760,886
2007	66166	Village of Richfield	Washington	\$398,632
2008	05216	City of De Pere	Brown	\$180,390
2008	24271	City of Princeton	Green Lake	\$378,347
2008	29036	Town of Summit	Juneau	\$536
2008	44020	Town of Grand Chute	Outagamie	\$697,000
2008	54246	City of Ladysmith	Rusk	\$12,000
2008	56181	Village of Sauk City	Sauk	\$1,780,834
2014	69146	Village of Lohrville	Waushara	\$20,000
2014	23999	County of Green	Green	\$790,000
2014	44006	Town of Buchanan	Outagamie	\$350,000
2015	66018	Town of Polk	Washington	\$216,506
2016	09128	Village of Lake Hallie	Chippewa	\$85,000
2016	17116	Village of Downing	Dunn	\$20,000
2017	40282	City of South Milwaukee	Milwaukee	\$616,641
2017	59176	Village of Random Lake	Sheboygan	\$70,204
2017	64126	Village of Fontana	Walworth	\$250,000

2018	05216	City of De Pere	Brown	\$900,000
2018	06226	City of Fountain City	Buffalo	\$33,777
2018	06251	City of Mondovi	Buffalo	\$513,908
2018	13032	Town of Madison	Dane	\$500,000
2018	23012	Town of Decatur	Green	\$104,390
2018	23151	Village of Monticello	Green	\$218,000
2018	23999	County of Green	Green	\$790,000
2018	30241	City of Kenosha	Kenosha	\$900,000
2018	40236	City of Greenfield	Milwaukee	\$973,189
2018	49999	County of Portage	Portage	\$935,801
2018	59176	Village of Random Lake	Sheboygan	\$70,204
2018	63002	Town of Arbor Vitae	Vilas	\$120,000
2018	64026	Town of Sugar Creek	Walworth	\$240,000
2018	66166	Village of Richfield	Washington	\$750,000



131 W. Wilson St., Suite 505  
Madison, Wisconsin 53703  
phone (608) 267-2380; (800) 991-5502  
fax: (608) 267-0645  
league@lwm-info.org; www.lwm-info.org

To: Assembly Committee on Government Accountability and Oversight  
From: Curt Witynski, J.D., Deputy Director, League of Wisconsin Municipalities  
Date: November 6, 2019  
Re: **AB 310, Allowing Levy Limit Referendums to be Conducted Earlier in the year than November**

The League of Wisconsin Municipalities supports AB 310, making it possible for a community to conduct a referendum to increase its property tax levy beyond the state imposed limit earlier in the year than November. Under current law, a municipality may conduct a levy limit referendum in November only, which is at the end of the municipal budget writing process. Municipal budgets operate on a calendar year. Annual budgets are usually adopted in November. Communities need to know their allowable levy increase much earlier in the year than November in order to prepare an annual budget in a timely manner.

The reason communities can't conduct a levy limit referendum earlier than November is because current law requires the referendum ballot question to refer to the community's allowable levy increase, which is based on its net new construction number. DOR doesn't publish final net new construction numbers until August 15 each year.

Partially because of this scheduling problem, relatively few local governments have chosen to go to a referendum seeking voter permission to exceed levy limits. Over 1,900 municipalities and counties are subject to levy limits. Yet, since the levy limit law took effect in 2006, only 35 referendums allowing cities, villages, towns or counties to exceed their allowable levy have passed. I don't know how many have not passed, but I'm certain the total number of levy limit referendums conducted by cities, villages, towns and counties is far, far less than those conducted by school districts during the same time period.

AB 310, which Rep. Novak (R-Dodgeville), Rep. Shankland (D-Stevens Point), and Senators Marklein (R-Spring Green) and Bewley (D-Mason) introduced at the request of the Counties Association and the League, allows a local government to use its best estimate of its net new construction number based on the most current data available in order to adopt a resolution and hold a referendum to increase its levy beyond the allowable limit. This would make it possible for a municipal governing body to conduct a levy limit referendum in the spring or summer, well in advance of the fall budget preparation time.

We urge you to recommend passage of this sensible legislation. Thanks for considering our comments.

*YOUR VOICE. YOUR WISCONSIN.*



608-328-9430  
FAX: 608-328-2835

OFFICE OF  
**GREEN COUNTY CLERK**  
**MICHAEL J.DOYLE**

1016 16TH AVENUE  
GREEN COUNTY COURTHOUSE  
MONROE, WISCONSIN 53566

ARIANNA L. VOEGELI  
DEPUTY CLERK

JUDY A. EVERSON  
OFFICE ASSOCIATE

**November 6, 2019**

**To: Committee on Government Accountability and Oversight**  
**Re: AB310**

Dear Committee Members:

Thank you for the hearing on AB310, which will provide needed language changes for Wisconsin State Statute 66.0602 relating to referendums to increase a political subdivision's levy limits. Representing Green County is Pleasant View Administrator Terry Snow, Treasurer Sherri Hawkins, and myself, Mike Doyle, Clerk.

On October 6, 2009, a special election was held at a cost of approximately \$20,000.00, in which the Green County voters approved by 74% to 26% the referendum allowing the County to exceed its levy limits by \$890,000 for five years in order to continue operating the Pleasant View Nursing Home.

Green County became painfully aware of the flawed statute in 2013, when our Corporation Counsel Brian Bucholtz, under the direction of the Green County Finance Committee, was asked to prepare the referendum question to insert into a resolution for action by the Green County Board of Supervisors authorizing the question to be put to the voters in the 2014 spring primary in February or the spring election in April.

When Mr. Bucholtz was reviewing Wis. Stats. 66.0602(4)(a), he found that it clearly authorizes levy limit referendums in the even-numbered years to be held "at the next succeeding spring primary or election or partisan primary or general election."

However, the way Wis. Stats. 66.0602(4)(c) is worded, it required a political subdivision to know exactly what its levy will be in 2015 if it wished to hold a referendum in 2014. The statute uses the words "the question shall be submitted as follows:" which does not allow for deviation. Counties do not receive the necessary levy limit information until August 15 when the numbers are released by the Department of Revenue.

We were fortunate that our Green County legislators helped to spearhead legislation that became 2013 Act 310 providing relief only to Green County for that one-time referendum. The voters once again approved the referendum by a margin of 75% to 25%.

Last year in order to not have to have a special election in 2019, the Corporation Counsel worked with the Department of Revenue to have another referendum question on the November ballot which was approved once again with a 69% to 31%.

Having levy-related referendums in November is problematic as it falls during budget season. The uncertainty of whether or not the referendum will pass requires the potentially impacted department to draft two budgets. It also requires the finance director to prepare two budgets for the county.

In the case of the nursing home, the uncertainty also creates a great deal of stress as employees question whether or not they will have jobs, and families of nursing home patients are left to wonder where their loved ones will go in the event that the nursing home is closed.

AB310 will allow a local unit of government to use its best estimate of net new construction numbers based upon the most current data available in order to write its referendum ballot question. This allows for the referendum to be included on a regularly scheduled election and will not force the need for a special election along with the cost and time that comes with holding a special election. It will allow the local units of government the ability to create one budget with the results of the referendum already in hand.

Along with our testimony we would also like to submit the testimony from our Corporation Counsel previously submitted in February of 2014 for SB513 and in August of 2019 for SB291.

We would truly appreciate your support in making this process easier for proposing the referendums to the voters of Green County and allowing them to make the decisions needed for how our county will operate.

Sincerely submitted,

Mike Doyle, Green County Clerk  
Terry Snow, Pleasant View Nursing Home Administrator  
Sherri Hawkins, Green County Treasurer

OFFICE OF  
**GREEN COUNTY CORPORATION COUNSEL**

**BRIAN D. BUCHOLTZ**  
CORPORATION COUNSEL

**ANGELA M. MacLENNAN**  
ASST. CORPORATION COUNSEL

GREEN COUNTY JUSTICE CENTER  
2841 6<sup>TH</sup> STREET  
MONROE WI 53566  
(608) 328-9377  
(608) 328-9389 - FAX

**TAMMY L. NARAMORE**  
CONF. EXEC. LEGAL SECRETARY/  
PARALEGAL

**August 20, 2019**  
**Senate Committee on Agriculture, Revenue & Financial Institutions**  
**Testimony on Senate Bill 291**

Thank you, Chair Marklein, and all the members of the Senate Committee on Agriculture, Revenue and Financial Institutions for allowing me to testify in writing in favor of Senate Bill 291 (SB 291), which amends portions of Wis. Stat. § 66.0602 relating to holding referendums to increase a political subdivision's levy limits.

I am the Green County Corporation Counsel and the individual who first brought the problem with Wis. Stat. § 66.0602(4) to the Legislature's attention in 2013. Pleasant View Nursing Home is a Green County owned and operated nursing home just outside of Monroe. On October 6, 2009, by a margin of 74% to 26%, the voters of Green County approved a referendum allowing the County to exceed its levy limits by \$890,000 for five years in order to continue operating Pleasant View Nursing Home.

With the referendum set to expire at the end of fiscal year 2014, in early November of 2013 the Green County Finance Committee determined that the County needed to exceed its levy limits by \$790,000 per year for five more years in order to continue operating the nursing home. The Finance Committee directed me to prepare the referendum question to insert into a resolution authorizing the question to be put to the voters in the spring primary in February or spring election in April of 2014.

I discovered a problem. Wis. Stat. § 66.0602(4)(a) clearly authorizes levy limit referendums in even-numbered years to be held "at the next succeeding spring primary or election or partisan primary or general election." However, the way Wis. Stat. § 66.0602(4)(c) is worded required a political subdivision to know exactly what its levy will be in 2015 if it wished to hold a referendum in 2014. The statute uses the words "the question shall be submitted as follows:" which does not allow for deviation. Counties do not receive the necessary levy limit information until August 15<sup>th</sup> when the numbers are released by the Department of Revenue each year. So I could not see any way to have a referendum until sometime after August 15<sup>th</sup> of any year, regardless of whether it is even or odd-numbered.



I contacted the Department of Revenue's legal counsel about my concerns. On December 4, 2013, Attorney John Evans sent me an email stating "Brian, I have reviewed everything that I could find. It is the Department's position that the statutory language mandates a November referendum after the August 15 values are known. The Department does not see a spring referendum as viable." So although the Legislature has clearly authorized political subdivisions to hold levy limit referendums in both spring and fall of even-numbered years, the language of the required referendum question leaves only the November general election as a viable option in even-numbered years. This means a political subdivision cannot know if a referendum passes until right in the middle of its budget consideration for the next year. In even-numbered years with a referendum in the November general election most county boards would likely be considering their budgets the following Tuesday. We were faced with creating two budgets, one if the referendum passed and one if it did not.

We contacted Senator Marklein about this problem. Through great effort he and the other Green County legislators drafted and passed 2013 Wisconsin Act 310 and carved out an exception to 66.0602(4)(c): "In preparing the ballot question for a referendum held at a partisan primary in 2014, as it relates to the allowable amount of levy rate increase and the total amount of a levy, a county with a population of at least 30,000, but no more than 40,000, that is adjacent to a county with a population exceeding 450,000, shall use the most recent data that it has and the most recent data that is available from the department of revenue." That is a long way of saying Green County could use the best data available to use for the referendum question. We were allowed to hold the referendum in the spring of 2014. Senator Ringhand also testified in favor of this bill so I am sure she can recall how much work it was to get to this problem solved for Green County.

SB 291 will eliminate this language as it is no longer needed or effective.

SB 291 as drafted and Senate Amendment 1 to SB 291 will both eliminate the major problem with Wis. Stat. § 66.0602(4) by removing the necessity of a political subdivision having the exact levy amount in order to draft the referendum question. This will allow counties to hold levy limit referendums in an even-numbered year "at the next succeeding spring primary or election." This was the Legislature's obvious intent or they would not have included the language when Wis. Stat. § 66.0602(4) was first enacted in 2005 Wisconsin Act 25.

Drafting statutes and code is extremely difficult and mistakes happen. SB 291 will allow that the Legislature's express intent will be carried out and not be thwarted by an unintended drafting mistake.

I urge you to support the passage of this legislation and I thank you for your time.

Brian D. Bucholtz  
Green County Corporation Counsel  
2841 6<sup>th</sup> Street  
Monroe, Wisconsin 53566

February 4, 2014

### Senate Bill 513 Testimony

Thank you, Chair Lazich, and all the members of the Senate Elections and Urban Affairs Committee for allowing me to testify in favor of Senate Bill 513, which amends portions of Wis. Stat. § 66.0602(4)(c) relating to the form of the referendum question required by law for Green County to exceed its levy limits.

Pleasant View Nursing Home is a Green County owned and operated nursing home just outside of Monroe. On October 6, 2009, by a margin of 74% to 26% the voters of Green County approved a referendum allowing the County to exceed its levy limits by \$890,000 for five years in order to continue operating Pleasant View Nursing Home.

With the referendum set to expire at the end of fiscal year 2014, in early November of last year the Green County Finance Committee determined that the County needed to exceed its levy limits by \$790,000 per year in order to continue operating the nursing home. The Finance Committee directed me to prepare the referendum question to insert into a resolution authorizing the question to be put to the voters in the spring primary or spring election in February or April of 2014.

I immediately discovered a problem. Wis. Stat. § 66.0602(4)(a) clearly authorizes levy limit referendums in even-numbered years to be held “at the next succeeding spring primary or election or partisan primary or general election.” However, the way Wis. Stat. § 66.0602(c) is worded requires a county to know what its levy limit will be in 2015 if it wishes to hold a referendum in 2014. Counties do not receive the necessary levy limit information until August 15<sup>th</sup> when the numbers are released by the Department of Revenue each year. The statute uses the words “the question shall be submitted as follows:” which does not allow for deviation.

I contacted the Department of Revenue’s legal counsel about my concerns. On December 4, 2013, Attorney John Evans sent me an email stating “Brian, I have reviewed everything that I could find. It is the Department's position that the statutory language mandates a November referendum after the August 15 values are known. The Department does not see a spring referendum as viable.” So although the Legislature has clearly authorized counties to hold levy limit referendums in both spring and fall of even-numbered years, the language of the required referendum question leaves only the November general election as a viable option.

This is very problematic. Green County begins our budget process in September after the levy numbers are received by the Department of Revenue on August 15<sup>th</sup>. A proposed budget is given to the County Board on the third Tuesday in October for approval on the second Tuesday in November. Because we will not know if the referendum succeeds or fails until November 4<sup>th</sup>, we will have to create two separate budgets. More importantly, the County cannot continue to operate Pleasant View Nursing Home if the referendum fails. The nursing home will have to be

either sold or closed. If we close the nursing home we are obligated to find new homes for its up to 130 residents. The County will be spending money out of its contingency fund for each day the nursing home remains open or is not sold. Every day earlier than November 4<sup>th</sup> that we know the fate of the referendum is vital.

Senate Bill 513 will allow us to put the referendum to the voters of Green County on August 12, 2014, just before we begin our budget process. The bill only affects Green County. I urge you to support the passage of this legislation and I thank you for your time. I would be happy to answer any questions the committee members may have at this time.

Brian D. Bucholtz  
Green County Corporation Counsel  
2841 6<sup>th</sup> Street  
Monroe, Wisconsin 53566

# WISCONSIN COUNTIES UTILITY TAX ASSOCIATION

PO Box 5126, Madison, Wisconsin 53705

Phone: (608) 225- 9391

## 2018-2019 Officers

President

BRAD KARGER

(715) 261-1400

Marathon County

November 6, 2019

TO: Assembly Committee on Government Accountability and Oversight

Vice President

WILLIAM GOEHRING

(920) 994-4749

Sheboygan County

From: Alice O'Connor, Executive Director Wisconsin Counties Utility Tax Association

Re: Support for AB 173, disclosure of information regarding state revenue

Secretary

Walt Christiansen

Treasurer

BOB YEOMANS

(608) 757-5540

Rock County

The Wisconsin Counties Utility Tax Association ( WCUTA) is comprised of 28 counties and guest counties who have a particular interest in the utility tax formula and how the state calculates utility aid payments. These payments are based off of revenue paid by utilities to the state, in lieu of local taxation where their facilities reside. For years, we have tried to access this data and have been unsuccessful. The Department of Revenue has never adequately explained to my board of local elected officials, why the state keeps approximately 70 percent of qualifying utility tax collections for general purpose revenue (GPR) and DOR's own program revenue. Why don't they return a larger share to communities who receive this payment in lieu of local property taxes which they would otherwise collect on those utilities. The Department of Revenue, regardless of which administration is in power, has never been willing to explain why the state keeps approximately \$174 million or more, each year, or where the money goes, or why more of it has not been returned to local communities. We wonder, why has the state kept so much, other than because they could. In this same calculation, the Dept. of Revenue 2017-2018 collections for example, were \$247.5 million. We ask year after year, why has the state collected all this money from qualifying utility properties (municipal electric companies, electric cooperatives, municipal light, heat and power companies and private light, heat and power companies), and only returned about \$74 million to local governments. We never get an answer. We believe all taxes collected need to be accountable for their intended purpose. We have never understood the wall we continue to face when we have repeatedly asked why local taxpayers in counties and municipalities who rely on the utility tax payment *in lieu of general property taxation of those utilities*, are only receiving a small fraction of utility tax collections.

Executive Director

ALICE O'CONNOR

(608) 225-9391

[aoc@constituencyservices.org](mailto:aoc@constituencyservices.org)

We are but one example of how greater transparency envisioned under AB 173 would make our government more transparent. This is why we support the efforts of Rep. Kerkman and Senator Cowles to make the Department of Revenue more accountable to its citizens so everyone understands what money is collected and where it goes. There should be reasons and explanations for the sizable dollars that are collected year after year, and specifically when the taxes collected are not used for their intended purpose. A payment in lieu of taxes should be defensibly fair. We have no way to judge what a fair payment would look like. Without access to data, we have no way to analyze and gauge what options we might wish to present to the legislature to change current law as it relates to the current methodology of disbursing utility aid payments.

## Member Counties

ASHLAND

BUFFALO

CHIPPEWA

COLUMBIA

DOUGLAS

DUNN

FOREST

GRANT

JACKSON

JEFFERSON

JUNEAU

KENOSHA

KEWAUNEE

LA CROSSE

MANITOWOC

MARATHON

MARINETTE

MARQUETTE

OCONTO

OZAUKEE

ROCK

SAUK

SHEBOYGAN

VERNON

WASHBURN

WASHINGTON

WAUSHARA

WOOD

We believe AB 173 provides great oversight and accountability of tax dollars that are both collected and spent. Our frustration by this lack of transparency has gone on for years. We hope this committee will give serious consideration to move this legislation forward. Taxpayers deserve to know how every penny of taxes collected are spent and should be available for scrutiny so informed decisions can be made in a responsible manner. Thank you for your consideration.



# TODD NOVAK

STATE REPRESENTATIVE • 51<sup>ST</sup> ASSEMBLY DISTRICT

(608) 266-7502  
Toll-Free: (888) 534-0051  
Rep.Novak@legis.wi.gov

P.O. Box 8953  
Madison, WI 53708-8953

November 6, 2019

## AB 310 Testimony

Thank you Chairman Steffen and members of the committee for holding a hearing on AB 310 which will allow a political subdivision the ability to use a best estimate of its valuation factor in order to adopt a resolution and hold a referendum to increase its levy limit beyond the allowable limit.

The intention of this legislation is to add flexibility to make it easier for a unit of local government to hold a referendum on a regularly scheduled election in an even-numbered year resulting in cost savings and improved citizen participation.

Current law requires that net new construction numbers be included in the prescribed language. This data becomes available each year on August 15, already too late to hold the referendum during spring elections. Due to the time needed to print ballots, local governments are unable to hold the referendum during the fall primary. While it is possible to hold the referendum during the fall general election, local budgets need to be passed and property tax bills need to be mailed making this option extremely difficult.

In addition, the Amendment I have introduced includes defined language for the ballot question and clarifies that if held in an even number year, a referendum must be held on a regularly scheduled election.

As mayor of small city, I know that budgets are tight and our communities are always looking for ways to save money. This bill removes the requirement that final net new construction numbers be used and allows for the substitution of a best estimate allowing for local governments to avoid costly special elections.

Thank you for your time,

Todd Novak



**Testimony in Support of Assembly Bill 310**  
**Assembly Committee on Government Accountability and Oversight**  
November 6, 2019

Chairman Steffen, Vice-Chair Brandtjen, and members of the committee, I appreciate this opportunity to testify on Assembly Bill 310. Under current law, local units of government can exceed their levy limits by passing a referendum. However, there are several statutory limitations on the process that have made it extremely difficult, if not impossible, for local governments to hold a referendum at times that are appropriate and that conserve taxpayer dollars in election costs. Instead, current law typically forces local governments to hold special elections, with reduced voter participation and higher cost to taxpayers.

This legislation requires the inclusion of net new construction numbers that are not available until mid-August. It is also very difficult for local governments to hold a referendum during a fall general election, due to the timelines associated with adopting local budgets and mailing property tax bills.

I've seen firsthand the trouble that this existing statute has caused in my own local community, which is why I authored this legislation with Rep. Novak. After attending countless meetings regarding the fate of a project in my district, I became very concerned about our county's and other local governments' ability to use referenda as they were intended, and I have been highly motivated to right this wrong in the state statutes.

Not only is the existing statute very limiting, it has also created great confusion among local government officials as to their authority to hold a referendum. Portage County spent many hours on the phone with the Department of Revenue and the Elections Commission to seek clarity on this issue.

Assembly Bill 310 tackles these problems by providing local governments the latitude to use estimates instead of net new construction numbers, easing the restrictions on the timeline for general elections. It therefore allows local governments to pose referendum questions during regularly scheduled elections, ensuring higher voter participation and saving taxpayer money by disincentivizing special elections. The new timeline would provide enough time for local governments to adopt their budgets and get their tax bills out on time, without having to wait for the August 15 numbers for the process to begin. The bill removes unnecessary hurdles and give counties the statutory certainty and respect they deserve when it comes to authorizing referenda.

I believe this is a reasonable solution that will empower governments to go to referendum during general elections instead of special elections, aligning them with our spring and fall elections. I encourage you to support this bill and to ensure that it continues to move forward through the legislature. Together we can save taxpayer money, ensure referenda occur in high turn-out elections, and provide local governments with the clarity they need in statute to use this tool responsibly.

Thank you for your consideration, and I welcome any questions you may have.



# County of Portage

## Finance Department

1462 Strongs Avenue  
Stevens Point, WI 54481  
Phone: (715) 346-1330  
Fax: (715) 346-1634

November 6, 2019

To: Members of the Committee on Government Accountability and Oversight  
From: Jennifer A. Jossie, Finance Director  
RE: Senate Bill 291

I am supportive of amendments to Wis. Stats. 66.0602 to the modify the prescribed requirements of the referendum question and to allow a political subdivision the opportunity to hold a referendum in either a spring primary or election or partisan primary or election. As the statute is written today, the timeframe for a referendum along with the deadlines to for the municipal budgeting process is difficult at best.

However, the proposed changes to amend Wis. Stats. 66.0602 do not fully resolve some of the issues with the existing language and may confuse further. I would suggest there are potentially two conflicting issues with the proposed language. The amended language includes two potentially conflicting sections as follows:

*Excerpts from 2019 Senate Bill 291 (highlighting added for emphasis):*

SECTION 2. 66.0602 (4) (a) of the statutes is amended to read:

66.0602 (4) (a) A political subdivision may exceed the levy increase limit under sub. (2) if its governing body adopts a resolution to that effect and if the resolution is approved in a referendum. **For the purposes of this paragraph, the political subdivision may use its best estimate of its valuation factor, based on the most current data available to it.** The resolution shall specify the proposed amount of increase in the levy ~~beyond the amount that is allowed under sub. (2),~~ the purpose for which the increase will be used, and whether the proposed amount of increase is for the next fiscal year only or if it will apply on an ongoing basis. ~~With regard to a referendum relating to the 2005 levy, or any levy in an odd-numbered year thereafter, the~~ The political subdivision may call a special referendum for the purpose of submitting the resolution to the electors of the political subdivision for approval or rejection. ~~With regard to a referendum relating to the 2006 levy, or any levy in an even-numbered year thereafter, the~~ **Otherwise, a referendum shall may** be held at the ~~next succeeding~~ spring primary or election or partisan primary or general election.

SECTION 4. 66.0602 (4) (c) 1. to 4. of the statutes are created to read: 66.0602 (4) (c) 1. The name of the political subdivision to which the levy increase applies.

2. The purpose for which the increase will be used.

3. **If the increase is for the next fiscal year only, the percentage increase in the levy from the previous year's levy and the amount of the increase.**

4. If the increase is on an ongoing basis, the amount of the increase for each fiscal year for which the increase applies.

I would contend you cannot ask the question to compare the increase of the proposed year's levy with the referendum amount over the previous year's levy as the language tends to suggest. The percentage increase would be inflated or deflated by other adjustments to the levy, such as debt service, or other exceptions to the levy limit. If the purpose of including the percentage increase to the referendum question is to inform the voter of the impact the increase due to the referendum amount, the percentage should reflect solely that increase, and not other increases or decreases to the levy. Considering the proposed language would include other increases and decreases to the levy as well; this might have unintentional consequences at the ballot box.

There are significant issues with requiring the question to include a percentage increase component as the language hasn't clearly defined the calculation and including the percentage increase to the question may be deceiving to the voter in the current form of the language. If the intent remains to have a political subdivision define a percentage increase, it needs to be clearly defined what is included in the percentage increase.

Under the previous language, the Wisconsin Department of Revenue (DOR) interpreted the levy as represented in the referendum question to include the increase in the levy due to the valuation factor, most adjustments to the levy for any of the exceptions listed in 66.0602 (3), and levy for the referendum amount. In Portage County's specific referendum in 2018, our levy figure as part of the question included the increase in levy resulting from the valuation factor, adjustments to the levy for debt service, rescinded taxes, and the referendum amount as approved by DOR. However, the question did not include levy for bridge & culvert aid and levy for a countywide emergency medical system.

Further, since the County was proceeding with a referendum question, DOR indicated the County could not exceed the levy amount as listed in the question once the amount was determined, meaning that if an adjustment to the levy was needed for another purpose as allowed under the levy limit exceptions, those adjustments would not be allowed. An example would be if the County in the months prior to adopting its budget decided to issue new debt, the levy necessary for this to occur, would not be allowed if it caused the amount to increase above the amount listed in the referendum question. I would contend whether a political subdivision is posing a referendum, should not limit its ability to operate under other sections of the statute as allowed otherwise.

By including the percentage increase in the referendum question, there are potentially two legitimate scenarios for what information is necessary to formulate the percentage increase. The resulting scenarios are as follows:

**Scenario 1:** The referendum question asks the amount of the referendum increase for the next fiscal year and includes the percentage increase in the levy from the previous year's levy and the amount of the referendum increase. I would suggest this be based on the previous year's apportionment which includes all levy and only calculates the increase based on the proposed referendum amount. In this scenario, **the valuation factor is not necessary** and would not need to be included in the proposed language. The question would only include the referendum amount over the previous year; therefore, not estimating the total increase to the levy for the proposed levy for upcoming year.

**Scenario 2:** The referendum question asks the amount of the increase for the next fiscal year and includes the percentage increase in the levy from the **proposed year's levy** and the amount of the increase. In this scenario, you would need the valuation factor to estimate the proposed year's levy and the amount of the increase and the corresponding percentage increase. It would not make sense to determine the percentage increase for the previous year's levy as it would result in a percentage increase not solely resulting from the referendum. This percentage increase would include other increases and decreases not resulting from the increase due to the referendum question. You would need to factor in the proposed increases to determine the estimated levy for the upcoming year and compare the proposed year's levy to the levy with an increase due the referendum to get an accurate percentage increase resulting from the referendum.

Please review the language as written and remove the ambiguity on the calculation for the levy and the percentage increase to the levy. If we are asking voters in a referendum to increase the levy, we should be clear on what we are asking them – it should be straightforward and not a complicated or convoluted math equation. Not fixing what seems like a small problem now, only results in another legislative change later on.