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To: Senate Committee on Agriculture, Revenue, and Financial Institutions
From: Curt Witynski, J.D., Deputy Director, League of Wisconsin Municipalities
Date: August 20, 2019
Re: **SB 291, Allowing Levy Limit Referendums to be Conducted Earlier than November**

The League of Wisconsin Municipalities supports SB 291, 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, for all practical purposes, a municipality may conduct a levy limit referendum in November only, which is typically 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. Since the levy limit law took effect in 2006, only 30 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.

SB 291 allows a community to use its best estimate of its allowable levy increase (i.e., its net new construction number) based on the most current data available. 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.



HOWARD MARKLEIN

STATE SENATOR • 17TH SENATE DISTRICT

August 20, 2019

Senate Committee on Agriculture, Revenue & Financial Institutions Testimony on Senate Bill (SB) 291

Thank you committee members for hearing Senate Bill 291 (SB 291), which allows local units of government to use its best estimate of its valuation factor in order to adopt a resolution and hold a referendum to increase its levy beyond the allowable limit. Thank you Sen. Testin and Sen. Bernier for co-authoring this legislation.

The idea for this legislation originally came from Green County, a portion of which I represent. In 2014, Green County wanted to pass a referendum to exceed its levy limit. However, it was unable to do so because of the net new construction information that was required to write the statutorily prescribed ballot question. 2013 Wisconsin Act 310 fixed this problem for Green County, but not for any other local units of government in the state.

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

Current law prescribes the way that the ballot question must be worded. For example, the question requires that a local government know its net new construction numbers prior to submitting the referendum question to the voters. Unfortunately, net new construction numbers are not available until mid-August. This means that in an even-numbered year it is impossible to hold the referendum on either spring election date. In addition, it is very hard, if not impossible, to hold the referendum during the fall elections due to timelines associated with adopting local budgets in October and November and the need to mail property tax bills in mid-December.

For example, under current law, 2018 could have looked like this for local units of government wanting to exceed its levy limit for 2019:

August 9 – Net New Construction numbers are released

August 14 – August Primary (Not enough time to prepare ballots with accurate numbers)

October – November – Local unit of government develops budget for the following year

November 6 – Fall Election (Not enough time to prepare and pass a budget)

Mid-December – Property tax bills mailed to residents

SB 291, an expansion of 2013 Wisconsin Act 310, allows all local units of government in Wisconsin to use its best estimate of its net new construction numbers, based on the most current data available to it, to write its ballot question. This means that in an even-numbered year, local governments will have the opportunity to hold a referendum at the fall primary. This will ensure certainty for governments as they are creating budgets for subsequent years.

Additionally, under an amendment I have introduced with Representative Novak, the ballot question remains statutorily defined, while still giving local units of government the flexibility to use estimated numbers. The amendment also clarifies that special elections may not be called in even-numbered years and must be held on regularly scheduled elections.

Under the bill and amendment, 2018 could have looked like this:

August 9 – Net New Construction numbers are released

August 14 – August Primary with the ballot question for exceeding levy limits using estimated net new construction numbers

October – November – Local unit of government develops budget for the following year knowing if the referendum passed

November 6 – Fall Election

Mid-December – Property tax bills mailed to residents

SB 291 is supported by the Wisconsin Counties Association, the League of Wisconsin Municipalities, and the Wisconsin Towns Association. Thank you again to the committee for hearing this proposal, and your timely action on the bill.

OFFICE OF
GREEN COUNTY CORPORATION COUNSEL

BRIAN D. BUCHOLTZ
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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 15th 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 15th 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.

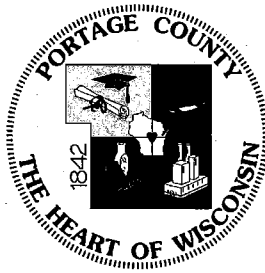
SB 291 will eliminate this language as it is no longer needed or effective.

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 6th Street
Monroe, Wisconsin 53566



To: Committee on Agriculture, Revenue, and Financial Institutions
Re: **Senate Bill 291**

August 19th, 2019

Members of the Committee,

I want to thank you for taking up this important issue, and I hope there will be more opportunities to speak to potential changes that aim to facilitate the referendum process. In 2018, the Health Care Center Committee for Portage County motioned to move ahead with plans to hold a referendum to exceed the levy limit in the November election, and the process was anything but straightforward. It's in that spirit that I write you today, as I think that posing the question to voters and taxpayers about whether or not they want to increase their own taxes for a particular reason should be much easier to get to the ballot box.

As I understand the situation, the lone statutory exemption was written into statutes in 2014 so that Green County could hold a referendum using tax figures from the previous year. That exemption acknowledged the reasons behind this bill coming forward, but that one-time solution was not enough. Given the various statutory checkpoints that, under current statute, compress the time frame available to perform all needed tax processes, it makes a lot of sense to revisit that language and change it so that a solution is available to all jurisdictions with capped levies. We are all trying to maintain an unsustainable status quo and with very few tools at our disposal. So, if a referendum can be held at all, it's important that the path is clear.

The Green County exemption made particular sense to Portage County because we perform tax work on behalf of a majority of our municipalities, and we also have a County Executive form of government, which further complicates things given the mandated wait period involved with any potential veto.

Portage County staff put an incredible amount of time into trying to understand how to thread the needle and make the referendum happen. We contacted state agencies, other counties, and others to gain what insight could be had. Legal opinions on current statute language also changed over the course of our effort, as this challenge had not been taken on by other counties aside from Green County. Our questions, it seemed, only led to more questions and few answers. Even as we devised a plan that had a chance at working, the situation was convoluted enough that it led to the resignation of our County Treasurer and we were still getting inconsistent information hours before the County Board was to take it up for a vote.

If anything can be done to make this a more straightforward endeavor, future county administrations will be very thankful for your efforts. Though we could not make it to the hearing today due to the timing—we are in the busiest time of year for budget planning—we hope this conversation will continue. If you have any questions or would like to discuss this further, we are more than happy to do so with the committee as a whole or with any of its members. Thank you for taking this issue up and for your willingness to consider a change in how the referendum process can be carried out.

Chris Holman
Portage County Executive

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 currently serve on and chair the Pleasant View Nursing Committee. This specific referendum issue has been a challenge for Green County for a decade. Brian Bucholtz, (Green County Corp, Counsel) and Mike Doyle (Green County Clerk) are two county officials who have worked long and hard to bring 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 Brian Bucholtz 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.

Our Corp Counsel discovered a flaw in our statute. As Brian has reported, "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 15th 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 15th of any year, regardless of whether it is even or odd-numbered."

Mr. Bucholtz contacted the Department of Revenue's legal counsel about his concerns. As Brian reports back on that contact: "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.”

Senator Marklein’s office was apprised of 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.

As our County Clerk has pointed out to me, IF we don’t allow for this legislative AND we would be required to hold “special elections”, at a minimum, the special elections will cost the tax payers of Green County a minimum of \$25,000 in election costs. Since Mike Doyle is responsible for running our election processes, I have extreme confidence in his assessment of these costs.

I urge you to support the passage of this legislation and I thank you for your time. I thank you for your understanding that much of this note of support is taken from others (Brian Buchholtz, Mike Doyle and the attempted experiences of other Counties.) But plagiarism is said to be the sincerest form of flattery. In addition, Senator Marklein’s work almost a decade ago, speaks to its need and we were grateful for his actions then and we simply note.... In the long term the need still exists.

Herbert D. Hanson
Dist. 31 Green County Supervisor
Pleasant View Nursing Home Committee Chair



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MEMORANDUM

TO: Honorable Members of the Senate Committee on Agriculture, Revenue and Financial Institutions

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

DATE: August 20, 2019

SUBJECT: Support for Senate Bill 291

The Wisconsin Counties Association (WCA) supports Senate Bill 291, 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.

SB 291 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 Senate Bill 291.

Thank you for considering our comments.



Office of the County Administrator

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Senate Bill 291 Testimony (For Informational Purposes Only)

Tuesday, August 20, 2019

Prepared by Ethan Hollenberger, Public Affairs Coordinator

Chairman Marklein 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.

Thank you for amending the bill. 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 language as drafted might encourage them in odd years.

Thank you.

Meleesa Johnson
Portage County Supervisor-3rd District
Chairperson-Portage County Health Care Center Committee
President-Stevens Point Common Council
Alder-5th District
1703 Division Street, Stevens Point, WI 54481

Date: August 20, 2019

Dear Members of the Committee on Agriculture, Revenue and Financial Institutions

Thank you for this opportunity to submit testimony in support of SB291 and thank you to the sponsors and co-sponsors of this bill.

In 2018 the voters of Portage County made history by approving a referendum to increase the operational levy by \$1.4 million. But because of the complex, convoluted and intricate mix of laws, regulation and guidance related to levy increase referenda, these voters' voices were almost left unheard.

As chair of the Portage County Health Care Center Committee (HCC), I led the way to that successful referendum as a means of "saving" the HCC. This skilled nursing facility has served central Wisconsin with high-quality care for seniors and the disabled since the 1930s. However, over the year the HCC annually realized operational losses. Despite those financial challenges, support for the HCC has remained strong, as was witnessed by a March 2018 St. Norbert's, where 93% of respondents viewed the HCC as an important public service and 72% supported using tax dollars to run the facility.

Even with that support, Portage County faced budgetary constraints which left the HCC facing closure, as tax dollars were funneled to departments such as the Sheriff Department and Health and Human Services. Given these budgetary challenges, it seemed the only pathway to save the HCC would be to ask the voters for permission to increase their taxes.

However, the pathway to referendum was extremely challenging and fraught with great anxiety about meeting statutory deadlines, terms of various guidance/regulatory documents and the jump-through-hoops logistics at not only the county treasurer's office, but also each one of the towns, villages and cities. It took scores of hours of dialog, discussion, investigations, evaluation, conference calls, expert opinions, collaboration with treasurers from across the county and too many meetings to count. As well, the HCC Committee enjoyed the insightful shepherding from Representative Katrina Shankland, connecting us to the incredibly valuable resources at the Department of Revenue and the Elections Commission. Ultimately, when the voters cast their ballot 62% did so by voting yes.

There is no question that democracy is a messy, arduous journey. There is no question that we, as elected officials, have an obligation to be good stewards of tax dollars. There is no question that setting priorities, of each of the dozens of programs counties provide its customers (tax payers), is one of the most challenging things we do. But within all of this, going to the voters to ask for increases in supportive funding, should not be as complicated as it is. This is why I support the changes in SB291.

With sincere regards,

Meleesa Johnson
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STATE REPRESENTATIVE
Katrina Shankland

71st ASSEMBLY DISTRICT

Testimony in Support of Senate Bill 291
Senate Committee on Agriculture, Revenue and Financial Institutions

August 20, 2019

Chairman Marklein, Vice-Chair Petrowski, and members of the committee, I appreciate this opportunity to submit testimony on Senate Bill 291. 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.

Firstly, the referendum question itself is statutorily prescribed, and secondly, it 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.

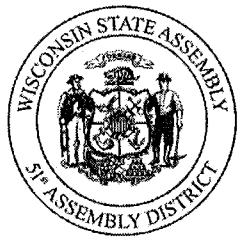
I've seen firsthand the trouble that this existing statute has caused in my own local community, which is why I am proud to co-author this legislation. After attending countless meetings regarding the fate of a project in my district, I became very concerned about our county's and other local governments' 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 overly prescriptive and 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.

Senate Bill 291 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.

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



TODD NOVAK

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

August 20, 2019

SB 291/AB 310 Testimony

Thank you Chairman Marklein 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.

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

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GREEN COUNTY CORPORATION COUNSEL

BRIAN D. BUCHOLTZ
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ANGELA M. MacLENNAN
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August 20, 2019
Senate Committee on Agriculture, Revenue & Financial Institutions
Testimony on Senate Bill 291

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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 15th 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 15th 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 6th Street
Monroe, Wisconsin 53566

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 currently serve on and chair the Pleasant View Nursing Committee. This specific referendum issue has been a challenge for Green County for a decade. Brian Bucholtz, (Green County Corp, Counsel) and Mike Doyle (Green County Clerk) are two county officials who have worked long and hard to bring 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 Brian Bucholtz 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.

Our Corp Counsel discovered a flaw in our statute. As Brian has reported, "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 15th 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 15th of any year, regardless of whether it is even or odd-numbered."

Mr. Bucholtz contacted the Department of Revenue's legal counsel about his concerns. As Brian reports back on that contact: "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.”

Senator Marklein’s office was apprised of 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.

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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.

As our County Clerk has pointed out to me, IF we don’t allow for this legislative AND we would be required to hold “special elections”, at a minimum, the special elections will cost the tax payers of Green County a minimum of \$25,000 in election costs. Since Mike Doyle is responsible for running our election processes, I have extreme confidence in his assessment of these costs.

I urge you to support the passage of this legislation and I thank you for your time. I thank you for your understanding that much of this note of support is taken from others (Brian Buchholtz, Mike Doyle and the attempted experiences of other Counties.) But plagiarism is said to be the sincerest form of flattery. In addition, Senator Marklein’s work almost a decade ago, speaks to its need and we were grateful for his actions then and we simply note.... In the long term the need still exists.

Herbert D. Hanson
Dist. 31 Green County Supervisor
Pleasant View Nursing Home Committee Chair