



DAN FEYEN

STATE SENATOR

20th Senate District
(608) 266-5300, (888) 736-8720
Sen.Feyen@legis.wi.gov

PO Box 7882, Madison, WI 53707-7882
www.SenatorFeyen.com

To: The Senate Committee on Judiciary and Public Safety
From: Sen. Dan Feyen
Re: Senate Bill 188

Hello members of the committee, thank you for taking the time to hear testimony on SB 188.

This bill was brought to our attention by the Wisconsin Counties Association

Counties use civil forfeiture as a tool to get compliance with county ordinances. Often counties will leverage multiple day forfeitures in order to get a desired result. For example, if I was in violation of a permitting ordinance, the county could charge me x dollars a day until my property was brought into compliance. Once there is a satisfactory resolution, the county has the option waive or reduce these fines. Unfortunately, they are not able to waive or reduce the surcharge.

Under current law, counties must place a surcharge of 26% on each fine. This can become quite costly when multiple day forfeitures are involved, because each fine is treated with its own individual 26% surcharge. Once a resolution is reached, counties are unable to amend the surcharge. So, even if the county had eliminated the daily fines, the accumulated surcharges would still be owed. This can lead to costly litigation when the surcharge is often much larger than the fines themselves.

Currently, the court system has the ability to reduce surcharges in proportion to suspended fines or forfeitures. SB 188 simply allows the counties to do this as well. This allows counties to maintain the tools to achieve compliance, while giving them flexibility once a resolution has been reached. SB 188 requires surcharges to be reduced in proportion to any reduction in the fine or forfeiture.

Lastly, I just want to note that the surcharges, once collected, head to the state. Lowering the surcharges collected will not impact county budgets in any way.

Thank you again for taking the time to hold a hearing on this bill.



ROBERT BROOKS

STATE REPRESENTATIVE • 60TH ASSEMBLY DISTRICT

Hearing Testimony

Senate Committee on Judiciary and Public Safety

Wednesday, April 30, 2025

Chairman Wanggaard and members of the Senate Committee on Judiciary and Public Safety, thank you for affording the opportunity to register in favor of Senate Bill 188.

Senate Bill 188 makes important changes to the court surcharges for forfeiture actions process. When a county issues a forfeiture, a surcharge is applied under Wis. Stat 814.80. Of note is the "Penalty Surcharge" under Wis. Stat. 814.80(9), which is calculated as twenty-six percent of the forfeiture. For example, a one-day surcharge on a \$500 forfeiture is \$130. A ten-day violation would result in a \$1,300 penalty surcharge, which is excessive.

Counties use a civil forfeiture to obtain compliance with county ordinances. Examples of violations counties pursue a remedy for are failure to file Private Onsite Wastewater Treatment maintenance reports and actions in Shoreland/floodplain areas in violation of permitting requirements. Counties need to be able to leverage the multiple day forfeiture to obtain compliance.

In many cases, a resolution is found with those who are in violation, however, counties are often forced to reduce forfeitures down to as low as \$10 each day just because the surcharges are so substantial. This becomes a revenue-raising device for courts, which, by law, is unacceptable. Thus, the forfeiture for ordinance violations cannot be so high as to serve as a revenue producing device; at least, its primary purpose cannot be the raising of revenue in lieu of taxation. Counties are not made whole for the cost of enforcing the ordinance when they must reduce forfeitures to a paltry sum to avoid imposing outrageous penalty surcharges.

Under current law, when a court imposes a fine or forfeiture for certain violations of state law or municipal or county ordinances, a penalty surcharge in the amount of twenty-six percent of the amount of the fine or forfeiture is also imposed. Furthermore, current law provides that when a fine or forfeiture is suspended in whole or in part, the penalty surcharge must be reduced in proportion to the suspension.

Senate Bill 188, quite simply requires the aforementioned rule to be applied for reduction of a fine or forfeiture. For example, when a fine or forfeiture to which the penalty surcharge applies is reduced, the penalty surcharge must also be reduced in proportion to the reduction.