

## 2011-2013 State Budget Update

On Thursday, June 16, 2011 the State Senate passed the state budget bill (AB 40), one day after the State Assembly had acted. It is believed that as of the writing of this magazine article on Thursday, June 23, 2011, that Governor Walker will sign the bill before June 30, 2011. The Secretary of State is expected to have the bill published about ten days later. The state budget bill would be effective as law the day after the publication in the state designated official newspaper. More about the importance of this date under the prevailing wage law as described below.

It is important to note that on Tuesday, June 14, 2011, the Wisconsin Supreme Court ruled in a split decision as to some aspects, that the budget repair bill (2011 Wis. Act 10) should be published and lifted the Dane County Judge's injunction preventing the Secretary of State from publishing the bill. The Secretary of State indicated that 2011 Wis. Act 10 (which deals with the public employee collective bargaining rights and state retirement contributions) would be published on Tuesday, June 28, 2011 and thus be effective the next day.

This article will describe the budget bill and significant provisions of Act 10 as we know them as of June 23, 2011, prior to possible vetoes by the Governor. Upon final signing and publication we will update any issues that may change as a result of the Governor's vetoes on our website (the address is on the front cover of this magazine). We will also post the exact date the budget bill is effective as law.

### **Prevailing Wage Law Threshold Changes**

The Governor's original budget bill (AB 40) as introduced did not propose any

changes in the prevailing wage rate law as to the threshold of \$25,000 that was established in the state budget two years ago for all public construction projects.

The Joint Finance Committee amended the state budget bill to include changes to the prevailing wage law as follows: (1) For all towns for all construction projects (both highway and building) the threshold would be raised to \$234,000 before the prevailing wage law applies. (2) For villages and cities under 2,500 in population the threshold was also raised to \$234,000. (3) For all cities and villages over 2,500 in population and all counties the threshold was raised to \$100,000 before the prevailing wage rate law applied to public projects. The final budget bill as passed by both houses and sent to the Governor clarified that this new threshold becomes effective upon publication of the bill.

Therefore, for all towns and for those villages and cities under 2,500 in population a public construction project is estimated to exceed \$234,000 and bids are let after the effective date of the budget bill, the towns, and villages or cities (under 2,500 in population) do not need to obtain a prevailing wage determination from the Dept. of Workforce Development and the contractors are not required to pay prevailing wage rates on these projects. If a public construction project for towns and these villages and cities (under 2,500) exceeds a projected total cost of \$234,000 the project will be subject to the prevailing wage rate law and a determination must be obtained from the Dept. of Workforce development and the bid notices must indicate that the contractors must pay prevailing wage rates. This issue was a priority for our Association. We are pleased

that this change was made in law for all towns and those villages and cities under 2,500 in population.

### **Transportation Aids and TRIP-D**

The Governor's original budget bill as introduced in March, 2011 proposed cutting the per mile General Transportation Aids from the current \$2,117 per mile in 2011 by 3% to \$2,053 per mile in 2012 and 2013. The Joint Finance Committee by motion restored the per mile to \$2,117 per mile in 2012 and 2013. This means that about 1230 towns and about 50 villages receive their transportation aids under the per mile minimum. This means their transportation aids will not be cut in 2012 unless they filed their annual Form C report late and are penalized or are capped out at 85% of their three year expenditure.

In addition to restoring the per mile GTA (General Transportation Aids) to \$2,117 per mile, the Joint Finance Committee increased the Town Road Improvement Program-Discretionary (TRIP-D) by \$5 million per year for the next two years. This is an increase from the current amount of about \$1.5 million for two years for TRIP-D.

This will mean that there will be \$11.5 million available for town highway improvements under TRIP-D. These are projects over \$100,000 in estimated costs and awarded on a statewide competitive basis. The committee of town officers selected by the Secretary of Transportation makes recommendations based upon such criteria as highway safety, heavy vehicle use, joint projects and more.

Clearly this increase was intended to help a larger number of towns with highways that have heavy vehicle impacts from agriculture, forestry, and other industries. We will provide more information on the TRIP-D program for the next two years as it is developed by DOT. We would encourage towns with potential reconstruction projects to town highways to handle heavy vehicles to

consider applying later in 2011 through the Town Road Improvement Process for TRIP-D funds. We expect to hold a workshop at the WTA Annual Convention in late October, 2011 to provide more information.

Our Association Board of Directors and lobbying staff are very pleased that both the restoration of the per mile to \$2,117 and the additional \$10 million in TRIP-D funds were included by the Joint Finance Committee and passed by both houses in the final bill. We have asked the Governor not to veto either of these provisions.

### **Municipal Aid**

#### **(also known as Shared Revenue)**

The Governor's original budget bill proposed cutting Municipal Aid (also known as Shared Revenue) to towns, villages, and cities a total of \$59.5 million, an 8.8% cut statewide. Due to the fact that re-estimates for state revenues for the next two years were made in mid-May, an additional \$636 million dollars were available to balance the budget. The Joint Finance Committee applied \$11.84 million of these re-estimates to reduce the cuts in shared revenue for towns, villages, and cities. The Joint Finance Committee motion reduced the maximum cut from up to 50% of the 2011 shared revenue payment (based on the population formula) to a maximum of not more than 25% cut of the 2011 shared revenue payment. This amendment benefited about 285 towns, whose cut in shared revenue for 2012 and after was reduce to no more than the maximum 25% cut of the 2011 payment amount. The types of towns that received this reduction tended to be towns over 1,500 in population who had not been receiving much in shared revenue in the past. Towns under 1,000 in population had generally been cut less than 10% under the Governor's original proposal. Therefore, better than 20% of the towns had the cuts in proposed shared revenue cuts in 2012 reduced as much as 50% (for the maximum 50% to 25% of the 2011

payment). We are very pleased that no town will lose more than 25% of their shared revenue compared to the original budget bill proposal as much as a 50% cut. If you want to see the proposed cuts under the budget bill as passed by the legislature, you can link to the Legislative Fiscal Bureau projections through the Wisconsin Towns Association website. The actual shared revenue payments will be noticed by the Dept. of Revenue about September 15, 2011 in time for preparing the 2012 local budgets. {Note Transportation Aids are noticed by Dept. of Transportation on October 1<sup>st</sup> each year.}

### **Levy Limits for Local Governments**

Governor Walker's original budget proposal proposed that levy limits for towns, villages, cities, and counties be the greater of zero percent increase or percentage of net new construction applied to the last year's actual levy, with no allowable carryover as was created two years ago. The budget bill as passed by the legislature will not change this maximum levy limit except to allow up to a half percent (0.5%) increase if the local government did not use the maximum allowable levy in the past year. The budget bill also applies the zero percent limit for 2012 levies, and makes the levy limit for 2013 and after the greater of 1.5% or percentage of net new construction. The budget bill states that levy limits will be permanent.

While the budget bill tightens the limits and includes legislative language to make them "permanent," the budget bill still retains the procedure for towns under 2,000 in population to exceed the levy limits by having a board resolution to approve an increase beyond the levy limits and a town meeting vote of the electors to both exceed the levy limit and approve the final levy adopted. This procedure is much easier than the towns over 2,000 in population, villages, cities and counties must follow, which includes having a daylong referendum to exceed the levy limits.

While the legislative language indicates levy limits are to be "permanent" another legislature in future years can obviously change the levy limits or even end them. We urge every town and village to follow the levy limit worksheet for this next year that will be sent out by the Dept. of Revenue in mid-September or so. We also will have training on this in the September fall budget workshops that are announced later in this magazine. The key thing for any town and village is to carefully follow the levy limit worksheet and not exceed the levy limit without proper elector approval at a town meeting (if the town is under 2,000 in population) or at a daylong referendum if the town is over 2,000 in population or you are village.

### **Recycling Grants Restored**

The Governor's original budget proposed eliminating the recycling grant program to local government, but did not eliminate the requirement that the general public must keep the banned products (newspaper, cardboard, aluminum, etc.) from placing them in the solid waste stream. The Governor indicated his desire was to try to reduce costs and responsibilities for local governments in the face of shared revenue cuts and elimination of the recycling grants. However, many legislators felt that the general public supported keeping local government responsible units and their recycling programs as a means of disposing of the products banned from landfills. Early on in the budget process key legislators indicated their intent to restore recycling grants at least in part.

The Joint Finance Committee by motion adopted and passed in the final budget bill restore \$19 million of the recycling grants (the past year appropriation was approximately \$32 million per year, but was reduced by the state by 40%). There will also be an additional amount of about \$1 million

available for those responsible units who consolidate with other units. The projected amount of \$19 million in grants for 2012 basically reflects the amounts that were received in 2011 after the DNR cut the payments back by 40%. We will be providing more information on what local governments need to do to receive continued recycling grants as the DNR releases more information on implementation of the revised recycling grant program.

### **PILT payments**

Since the 1930's or 40's the State of Wisconsin has been making payments to local governments for state lands purchased and taken off the local property tax roll. The formula for such payment in lieu of taxes (known as PILT payments) has varied from as low as 50 cents an acre to approximately 90 cents and acre to since January 1, 1992 land purchased after that date being the local equivalent property tax. The Governor's original budget proposed eliminating any PILT payments for state lands (primarily Stewardship land purchases in the name of the state) purchased after July 1, 2011. This would have meant that there would have been at least four different levels of PILT payments depending upon when the land was purchased by the state, but that future state land purchases would not have made any PILT payments. This would have dramatically impacted those towns that had future state purchases, but especially those towns that already had large tax exempt areas from past state land purchases, state and national forest, county forests, and national wildlife areas. We know of several towns that have 50% to 75% of their town is already tax-exempt. In fact there are some towns with well over 85% of their land area being tax exempt. Potential future state land purchases without PILT payments in these towns would have a devastating impact.

The Joint Finance Committee modified the Governor's budget to provide that PILT payments will continue on lands purchased by the state after July 1, 2011. The payments will be modified from the formula since January 1, 1992 to moderate the amount of payments made by using a lower amount of value of the land than was used in recent years. The formula since January 1, 1992 was providing some towns and local governments more in PILT payments than if the land had been taxed in the normal tax roll. This Joint Finance Committee motion, as passed in the final budget, will be more equitable to the state, and may become the formula in future years for past year purchases prior to January 1, 1992, which have been as low as 50 cents per acre. Our Association is pleased to see that the Governor's proposal on PILT was changed and that PILT payments on future state land purchases will continue.

### **2011 Act 10 Upheld by Supreme Court**

As most people know by now, on Tuesday, June 14, 2011, the Wisconsin Supreme Court on a split decision upheld the enactment of 2011 Wisconsin Act 10, which had been enjoined by the Dane County court. The Republican legislative leaders had been prepared to roll the original bill (Act 10) into the state budget, however, as a result of the Wisconsin Supreme Court decision, this action was not necessary.

2011 Wis. Act 10 requires all public employees in Wisconsin Retirement to pay one half of the contribution to their retirement at the expiration of any existing contract which currently provides the employer pays more than one half of the contribution. The Secretary of DOA has indicated that this will first be applied to state employees as of payroll paid after August 1<sup>st</sup>. There are approximately 235 towns that are in the Wisconsin Retirement System for their employees working more than 600 hours in a year. We encourage these towns to follow the

instructions from the Wisconsin Retirement System as to details in implementing these new statutory requirements.

Another significant provision in 2011 Wis. Act 10 that affects every town, village, city, and county that does not have a civil service system in place is a requirement that by October 1, 2011 these local units of government must have adopted a grievance procedure. The grievance procedure shall contain at least all of the following provisions: (a) a grievance procedure that addresses employee terminations; (b) Employee discipline; and (c) Workplace safety. The new law goes on to say that the grievance procedure shall contain at least all of the following elements: (1) A written document specifying the process that a grievant and an employer must follow; (2) A hearing before an impartial hearing officer; and (3) An appeal process in which the highest level of appeal is the governing body of the governmental unit.

We expressed our concern for the many small towns and villages that have fewer than three employees that this new requirement would place an unnecessary burden on them. Our concern was that currently employee issues are handled one on one by the town chairperson in many cases, but now a more formal written procedure must be followed with an impartial hearing officer to hear the matter before a possible appeal to the town board or village board.

We will be working with other organizations to develop sample grievance procedures for towns and villages. We will also have a designated segment at the Fall Financial and Budget workshops (noticed later in this magazine) on this topic.

Again this requirement applies to all local unit of governments that have even only part-time employees. It is not limited to those units of government that had collective bargaining agreements. We urge all towns and villages to follow this issue and be prepared

to adopt their grievance procedures by October 1, 2011.

### **National Association of Towns and Townships Annual Convention**

Later in this magazine, we have included the notice and information on the annual convention of the National Association of Towns and Townships (NATaT) being held in Washington, D.C., September 6-8, 2011. Our state was the featured state last year, and Minnesota will be the featured state at the conference this year. This may be the last year of a fall conference as NATaT is considering changing to a spring type fly-in for only two days. We would suggest that those who may be interested in making a trip to Washington, D.C. consider attending this NATaT convention. For more details see the notice later in this magazine as well as the NATaT website. If you have other questions please feel free to call the WTA office in Shawano at (715) 526-3157. It is a trip well worth your time and money!

### **WTA Annual Convention**

The 2011 Wisconsin Towns Association Annual convention will be held in Green Bay Wisconsin, Sunday, October 23, 2011 through Wednesday noon, October 26, 2011. We will be putting a complete convention announcement with registration information in the August WTA magazine. We would urge as many town and village officers to consider attending, as there will be many valuable educational workshops and enjoyable entertainment for all that attend.

### **2011-2012 WTA Dues Reminder**

**Just a friendly reminder to the less than 30 towns and villages who have not sent in their 2011-2012 dues for the next year which are due July 1, 2011. This will be the last magazine sent to those towns and villages that have not renewed their annual membership!**