

THE MUNICIPALITY

May 2016, Vol. 111, No. 5

Your Voice. Your Wisconsin.

2015-16 LEGISLATIVE SESSION TURNED OUT WELL



IN THIS ISSUE:

*The 2015–2016 Legislative Session Re-Cap
Champions in the Legislature*

Fraud in Government

Beware the Liability Boogeyman

Wisconsin's Recreational Immunity Statute

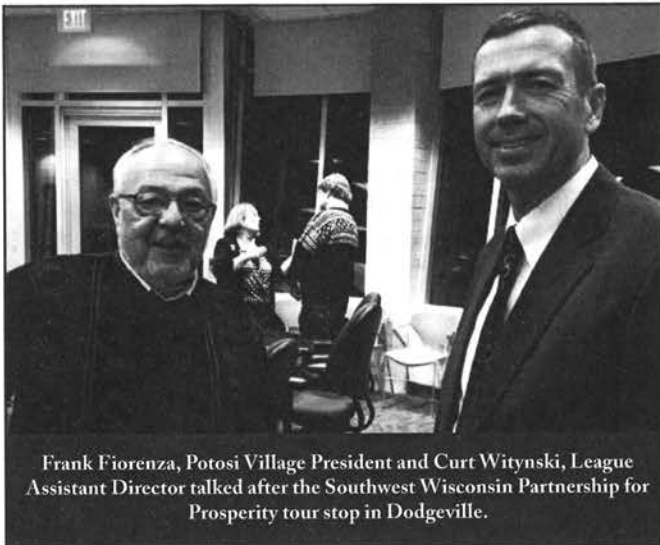
Municipal Liability

Letters from the Street

THE 2015-2016 LEGISLATIVE SESSION TURNED OUT WELL FOR MUNICIPALITIES

By: Curt Witynski, Assistant Director, League of Wisconsin Municipalities

Thanks to increased lobbying efforts by municipal officials, the 2015-2016 legislative session was one of the best for municipalities in years. Dozens of items helpful to cities and villages, including four tax incremental financing (TIF) bills, as well as the League initiated charge-back and adverse possession bills were enacted into law.



Frank Fiorenza, Potosi Village President and Curt Witynski, League Assistant Director talked after the Southwest Wisconsin Partnership for Prosperity tour stop in Dodgeville.

League efforts to block bills restricting local control were mostly successful as well.

Most bills interfering with local control or reducing municipal revenues failed to pass. The one significant exception was the room tax restrictions included in the state budget. Other bills initially interfering with local control, such as AB 568, the landlord rights bill, and AB 582, the private property rights bill, were substantially watered down by negotiated amendments.

Also, despite the state's ongoing budget challenges, legislators avoided making any cuts to the shared revenue, expenditure restraint, and tax exempt computer reimbursement programs. Funding for general transportation aids and mass transit assistance actually increased slightly. In addition, while the state budget cut the recycling grant program by \$4 million in 2016, the Legislature subsequently reduced the cut by enacting legislation restoring \$3 million to the program.

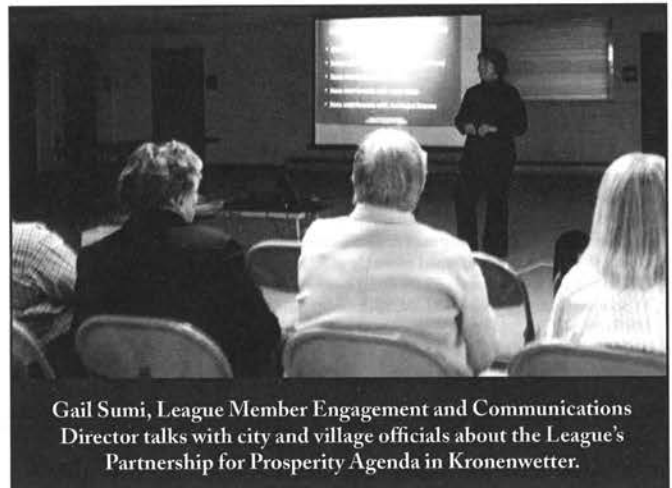
This session's successes and relatively few disappointments are discussed in more detail in this article.

Legislators received 1,563 emails from 800 people who responded to the League's 14 legislative alerts.

THE SESSION BY THE NUMBERS

The 2015-2016 session began on January 3, 2015 and ended March 15, 2016. As of March 15, 2016, legislators had introduced 1,791 bills. The Legislature and governor enacted over 390 bills into law. The League followed 119 bills and took formal positions on 82. Of the 53 bills we supported, 31 were enacted into law. Of the 17 bills we opposed, only five became law. Put another way, 58.5% of the bills we supported were enacted into law and 70% of the bills we opposed did not become law. By comparison, in the 2013-2014 legislative session 42% of the bills we supported became law while 65% of the bills we opposed did not become law.

What made the difference? You did. When we sent alerts, you took action. Municipal officials and staff contacted their legislators in record number during this legislative session. Legislators received 1,563 emails from 800 people who responded to the League's 14 legislative alerts. All told, more than 200 people participated in the three League Capitol Lobby Days, many of them League Lobby Team members. The Lobby Team currently has more than 400 members and is always welcoming new participants. In addition, more than 300 people signed in to the exclusive Lobby Team webinars over the course of the session. Your active participation as advocates increased the League's effectiveness in the Capitol. Thank you!



Gail Sumi, League Member Engagement and Communications Director talks with city and village officials about the League's Partnership for Prosperity Agenda in Kronenwetter.

THE 2015-2016 LEGISLATIVE SESSION (CONTINUED)



Paul Kent, Staff Attorney at Stafford Rosenbaum LLP, successfully worked on behalf of the League's Local Government Stormwater Group to support legislation providing additional flexibility and options for complying with stormwater regulations. He is shown here speaking at the League's 117th Annual Conference.

MUNICIPAL SUCCESSES

BILLS ENACTED INTO LAW THAT THE LEAGUE SUPPORTED

Act 317: Charge-Back of Property Tax Refunds. Modifies state law to make sure that counties, school districts, and other taxing jurisdictions always pay their proportional share of any property tax refunds a municipality must make. Under prior law that was not the case 20 percent of the time, resulting in many communities in recent years being held solely responsible for covering 100% of a tax refund. The League sends a big thank you to Sen. Rick Gudex (R-Fond du Lac) and Rep. Todd Novak (R-Dodgeville) for introducing the bill at the tail end of the session and efficiently guiding it through the legislative process. The League also thanks attorney Stan Riffle, Arenz, Molter, Macy, Riffle & Larson, S.C., for working with the DOR to get an initial version of the charge-back bill drafted that was acceptable to the department. The Assembly passed the bill by voice vote and the Senate passed it 32-0.

AB 515*: Restoring \$3 Million to the Recycling Grant Program. The state budget, Act 55, cut funding for the recycling grant program from \$19 million to \$15 million in 2016. **AB 515*** restores 75% of the cut to the recycling grant program in 2016. The Assembly passed the bill by a vote of 87-8 and the Senate by a vote of 30-2. The League thanks Sen. Rob Cowles (R-Green Bay) and Rep. Paul Tittel (R-Manitowoc) for introducing the recycling funding bill and shepherding it through the legislative process.

Four Acts Improving the TIF Law. The Legislature enacted into law 4 of the 8 bills recommended by the Legislative Council's TIF Study Committee. The League thanks Sen. Rick

Gudex (R-Fond du Lac) and Rep. John Spiros (R-Marshfield) for guiding the following four bills to passage within their respective houses. The Senate unanimously passed each of these bills and the Assembly concurred in each by voice vote.

- **Act 256: TIF Law Technical Changes.** Makes several technical changes to the TIF law, including clarifying that the municipality's equalized value for the preceding year, as used in the calculation of the levy limit exception for the year that a TID terminates, excludes the value of any TID value increments.
- **Act 257: Reporting and Transparency.** Makes several changes improving reporting and transparency regarding the performance of TIF districts, including requiring a community to submit an annual report by July 1 describing the status of each existing TID to each overlying taxing jurisdiction as well as to the DOR. Also requires communities to create permanent Joint Review Boards. The reporting and other changes made by Act 257 take effect October 1, 2016.
- **Act 254: Impact on TIDs of State's Buy-Down of Tech College Property Tax Rate.** Allows communities to extend the life of a TIF district by three years if the district was adversely impacted by 2013 Wisconsin Act 145, the technical college property tax rate buy-down legislation.
- **Act 255: Treatment of Vacant Property within TIDs.** Removes the restriction that vacant property may not comprise more than 25% of the area of a newly-created TID, and excludes all tax-exempt city-owned property from the calculation of a TID's initial tax incremental base value.

Act 219: Prohibiting Persons from Acquiring Municipally-Owned Land by Adverse Possession. The League thanks Sen. Howard Marklein (R-Spring Green), Rep. Rob Brooks (R-Saukville), and Rep. Melissa Sargent (D-Madison) for introducing this bill on our behalf. Both houses passed the bill by voice vote.

SB 459*: Providing Additional Flexibility and Options for Complying with Stormwater Regulations. Sen. Frank Lasee (R-De Pere) and Rep. Adam Jarchow (R-Balsam Lake) introduced this legislation modifying numerous water and wetlands laws. The League supported the bill because it included the following items inserted through the efforts of attorney Paul Kent, Stafford Rosenbaum LLP, working on behalf of the League's Local Government Stormwater Group:

- Provides an exemption from chapter 30 dredging permits for the dredging of existing stormwater ponds.

(CONTINUED ON PAGE 9)

* At the time the magazine went to print, the governor hadn't signed these bills into law.

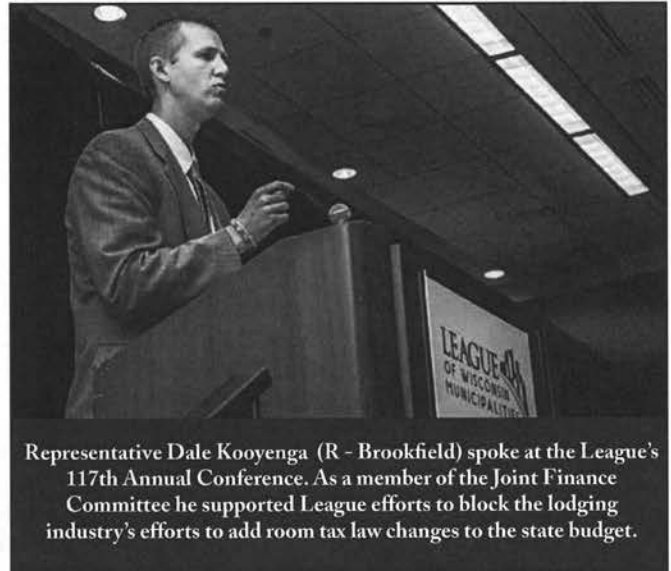
THE 2015-2016 LEGISLATIVE SESSION (CONTINUED)

- Exempts from wetland permitting requirements any discharge that is the result of maintenance, operation, or abandonment of a sedimentation or stormwater detention basin and associated conveyance features that were not originally constructed in a wetland. This clarifies that upland stormwater ponds can be maintained without a wetland permit.
- Allows DNR to provide credit for on-line ponds in navigable or non-navigable artificial waterways as a method for achieving compliance with DNR's prescribed performance standards for sources of nonpoint water pollution.
- A parallel provision in chapter 30 specifically provides that the DNR must consider the sediment control in and water quality improvements to the watershed as a whole that result from an on-line pond. Thus, while a chapter 30 permit is still required for an on-line pond, this provision requires DNR take a holistic view of the benefits from such a pond.

The Senate passed the bill on a party line vote of 19-13. The Assembly's vote for concurrence was 56-37.

Act 286: Providing Options for Municipalities to Issue Above-Quota Liquor Licenses. Rep. David Steffen (R-Howard) introduced this bill after working out a compromise between the League, the Tavern League of Wisconsin, and the Wisconsin REALTORS Association. Sen. Rob Cowles (R-Green Bay) introduced the Senate companion. The Act creates two new options for communities that have no liquor licenses available under the state imposed quota system, but seek to accommodate a new restaurant or bar wanting to locate in the community. The new options are:

- **Regional Transfer Option:** The Act allows a municipality to purchase a "Class B" liquor license from a contiguous municipality or a noncontiguous municipality within 2 miles of the community's borders. A municipality may purchase a license from a donor municipality for a minimum of \$10,000. This is a one-time fee paid to the donor municipality that may not be refunded or rebated. A municipality may transfer a maximum of three reserve "Class B" liquor licenses in this manner.
- **PEDD Option:** The bill allows a municipality to establish a Premier Economic Development District (PEDD) and outlines specific requirements and qualifiers for a PEDD (i.e., economic development project must increase valuation in the district by at least \$20 million, only one PEDD per municipality, PEDD shall not exceed 40 acres, PEDD property must be contiguous, PEDD boundaries established by 2/3 vote of municipality's



Representative Dale Kooyenga (R - Brookfield) spoke at the League's 117th Annual Conference. As a member of the Joint Finance Committee he supported League efforts to block the lodging industry's efforts to add room tax law changes to the state budget.

governing body and may not include industrial or single family parcels). Upon establishing a PEDD, a municipality may issue up to two Premier "Class B" Reserved liquor licenses within the PEDD at a cost of no less than \$30,000 each. These reserved licenses are non-refundable and non-transferable and are above the community's quota.

In exchange for these new quota exceptions, Act 286 makes the following two changes to current law sought by the Tavern League:

- Specifies that the initial \$10,000 fee for a reserve "Class B" liquor license may not be rebated or refunded.
- Modifies the current 300 seat restaurant quota exception by clarifying that the exception only applies to restaurants having an interior permanent seating capacity of 300 or more seats. This change first applies to licenses initially issued after the effective date of this Act.

The Assembly passed the bill by voice vote and the Senate unanimously concurred. Act 286 takes effect June 1, 2016.

Act 126: Sales Tax Exemption for Material Purchased Directly by Contractors. Sen. Howard Marklein (R-Spring Green) and Rep. Bob Kulp (R-Stratford) introduced this bill at the request of Associated General Contractors of Wisconsin. The Act creates a sales tax exemption for material sold to construction contractors for inclusion in state and local government public construction projects. To qualify for the exemption, the project must involve a public building, shelter, parking lot or garage, athletic field or park, storm sewer, water supply system, or sewerage and waste water treatment facility;

(CONTINUED ON PAGE 11)

THE 2015-2016 LEGISLATIVE SESSION (CONTINUED)

and it may not be a highway, street, or road. The Senate passed the bill unanimously and the Assembly concurred by voice vote.

Act 169: Authorizing Public Libraries to notify Collection Agencies and Law Enforcement Agencies of Delinquent Accounts. Permits a public library to report to a collection agency information about delinquent accounts of an individual who borrows or uses the library's materials, as well as the number and type of overdue items. The Act also permits a public library to report such information to a law enforcement agency, but only if the delinquent account is at least \$50. Sen. Sheila Harsdorf (R-River Falls) and Rep. Nancy Vander Meer (R-Tomah) introduced the bill on behalf of the Wisconsin Library Association. Both houses passed the bill by a voice vote.

Act 174: Making it easier for currently non-participating municipalities to join WRS. Allows a municipality that first elects to participate in the Wisconsin Retirement System (WRS) after March 2, 2016, to elect to be a participating employer only with respect to employees hired on or after the date on which the municipality elects to participate in WRS. However, a municipality taking advantage of this new provision may offer its current employees the option of becoming participating employees in the WRS. The Act also allows a municipal employer electing to participate in the WRS after the effective date of the Act to choose not to include any of its public utility employees. Rep. Jeremy Thiesfeldt (R-Fond du Lac) and Sen. Jerry Petrowski (R-Marathon) introduced this bill at the request of the City of Sun Prairie. Both houses passed the bill by voice vote.

Act 156: Residency Restrictions for Sexually Violent Persons. Establishes standards the state must follow when releasing back to the community a sexually violent person on supervised release following the completion of treatment. Under the Act, no sexually violent person may be placed in a residence within 1,500 feet of any school, child care facility, youth center, place of worship, or public park. If the person committed a sexually violent offense against a child, he or she may not be placed in a residence in a property adjacent to a property where a child resides. If the person committed a sexually violent offense against an elderly or disabled person, he or she may not be placed in a residence within 1,500 feet of a nursing home or other assisted living facility.

Under the Act, any local ordinance restricting or prohibiting a sex offender from residing within a particular city, village, town, or county remains generally enforceable except that it may not be enforced against a sexually violent person who is placed in a residence under supervised release so long as the person is under supervision and is complying with court orders related to his or her release.



Russ Van Gompel, former Eau Claire City Manager and State Representative Kathleen Bernier (R-Chippewa Falls), at the League's very well attended 2015 Legislative Luncheon.

The Act also provides that an actual or alleged lack of available housing for a released sex offender under Wis. Stats. sec. 980.08 within a county because a local ordinance prohibits placement may not constitute "good cause" for a judge to select another county for placing the person.

The League supported this bill as a reasonable compromise for addressing a complicated, highly charged area of the law. It establishes statewide standards that mirror most ordinances for locating sexually violent offenders following treatment. The state releases about 12-15 such offenders annually. Rep. Mark Born (R-Beaver Dam) introduced this bill after consulting with the League and other stakeholders. Both houses passed the bill by voice vote.

Act 113: Ambulance Staffing Flexibility in Communities under 10,000. Changes the staffing requirements in effect for emergency medical services under certain conditions in small communities (i.e., under 10,000 in population). Specifically, the Act allows:

- An EMT-basic ambulance to be staffed by one EMT and one first responder.
- An EMT-intermediate technician ambulance to be staffed by one EMT intermediate technician and one individual licensed at or above first responder.
- An EMT-intermediate ambulance may be staffed by one EMT-intermediate and one individual licensed at or above the first responder level.

(CONTINUED ON PAGE 12)

THE 2015-2016 LEGISLATIVE SESSION (CONTINUED)

Sen. Terry Moulton (R-Chippewa Falls) and Rep. Jeff Mursau (R-Crivitz) introduced this legislation. Both houses passed the bill by voice vote.

Act 55: Two Helpful Policy Items in the State Budget. The state budget included the following policy changes beneficial to municipalities.

- **Allow Communities to Carry Forward Unused Levy Capacity for Five Years.** Beginning with the 2015 levy limit worksheet municipalities have the option of carrying forward unused levy limit capacity for a period of up to five years under certain conditions. This option is in addition to an existing provision allowing a municipality to carry forward unused levy capacity to the following year only. Under the new provision created by the budget, the maximum amount of carry forward that can be claimed as an adjustment in any given year is equal to five percent of the prior year's actual levy. Claiming the carry forward requires approval by a two-thirds majority vote of the governing body, and the amount of general obligation debt outstanding in the year the carry forward is claimed must be less than the amount of general debt outstanding in the prior year.
- **Prevailing Wage Law Repeal.** Effective January 1, 2017, the state budget repealed the prevailing wage law applicable to local government public construction contracts.

BAD BILLS DEFEATED OR MODIFIED

League staff and municipal officials successfully defeated or had amended prior to enactment the following bills negatively impacting municipalities:

Act 176: Restricting Municipalities from Regulating Apartments and Landlords; and from Engaging in Historic Preservation. Sen. Frank Lasee (R-De Pere) and Rep. Rob Brooks (R-Saukville) introduced this legislation at the request of various landlord groups and the Wisconsin REALTORS Association. As originally introduced, the bill prohibited a municipality from:

- Requiring that rental units be inspected without a showing of good cause.
- Requiring that a landlord obtain a license, certification, or registration.
- Designating a property as a historic landmark without the consent of the owner.
- Requiring or prohibiting any action by an owner of a property relating to preservation of the historic or aesthetic value of the property without the consent of the owner.

The League strongly opposed the bill. Thanks to the 10 municipal officials testified against it at a marathon public hearing in the state Capitol. After the hearing the authors offered to significantly amend the bill. The amended version that was eventually enacted into law allows municipalities to do the following:

- Municipalities continue to be allowed to require that landlords be registered. More specifically, under the Act a city or village may require landlords to provide the name of the landlord and an authorized contact person and an address and telephone number at which the contact person may be contacted. Also, the Act contains no express prohibition on charging a registration fee reasonably related to the cost of administering the program.
- Establish and maintain a program of regularly scheduled inspections conducted in compliance with s. 66.0119, as applicable. (Sec. 66.0119 is the special inspection warrant statute.)
- Charge a fee for inspections as long as the fee is uniform and is charged at the time of inspection.

The amended version also deleted the limits on historic preservation regulations in the original bill, including the owner consent requirement, and replaced them with the following:

- A requirement that local governments hold a public hearing before designating a historic landmark or establishing a new historic district and notify any affected owner of the proposed designation or establishment.
- A provision allowing a property owner affected by a decision by a local landmarks commission to appeal the decision to the governing body, and allows the governing body to overturn the landmark commission's decision by a majority vote.

After the rental inspection and landlord registration changes were made, the League switched its position on the bill from oppose to neutral. The Assembly passed the bill by a vote of 60-31 and the Senate concurred by a vote of 19-13.

AB 582*: Property Rights and Developer's Discount. Sen. Frank Lasee (R-De Pere) and Rep. Adam Jarchow (R-Balsalm Lake) introduced this legislation at the request of agricultural interests, the Wisconsin Builders Association, and the REALTORS. The bill as originally introduced included the following items interfering with local control and causing a tax shift:

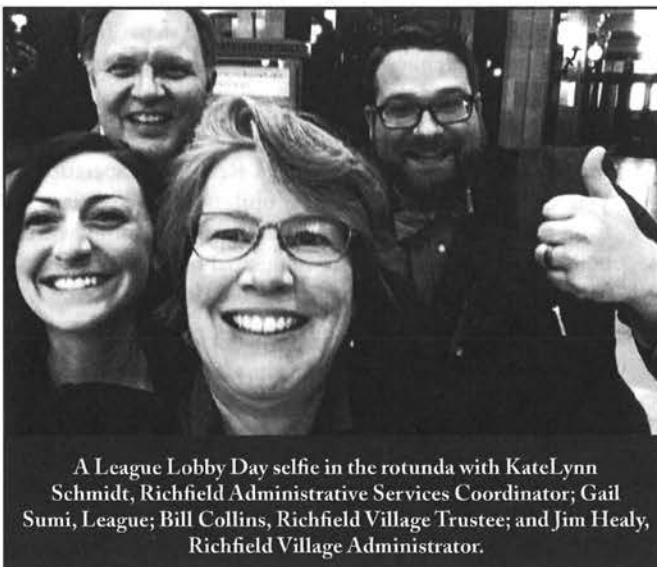
- At the time the magazine went to print, the governor hadn't signed these bills into law.

(CONTINUED ON PAGE 13)

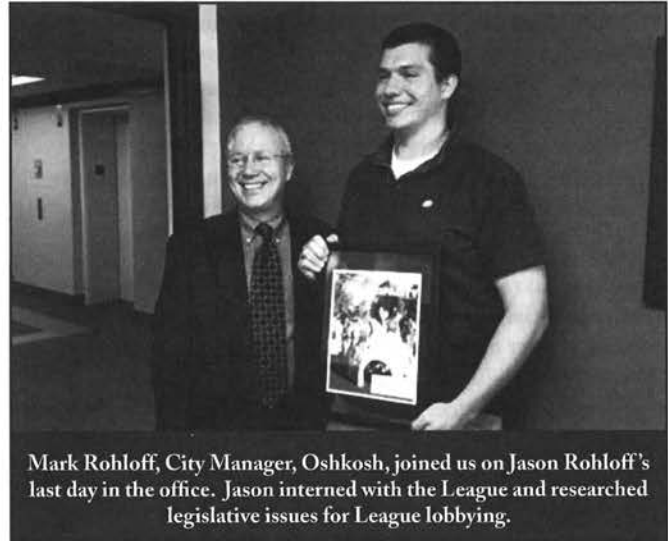
THE 2015-2016 LEGISLATIVE SESSION (CONTINUED)

- A significant expansion of the concept of vested rights. The original bill provided that whenever a person applies for any state permit with regard to a particular project, the person obtains “vested rights” to existing local zoning regulations. Municipalities would be unable from that point forward to adjust zoning or other land use regulations applicable to the project.
- A requirement that local governments provide written notice to any owner of property that would be affected by zoning changes relating to the density or the allowable use of the property.
- A developer’s property tax discount by requiring non-agricultural lots platted and zoned for residential, commercial, or manufacturing use to be assessed at 50% of fair market value until a building was constructed and occupied on the parcel.

The League strongly opposed the bill and testified against it at a public hearing. After the hearing, the authors met with the League, the Counties Association, the Towns Association, and other stakeholders and agreed to dramatically amend the bill. The first amendment removed the vested rights piece and modified the requirement to provide written notice to any property owner affected by proposed zoning changes. As a result of these and other changes, the League switched its position from oppose to neutral. The Assembly passed the bill on a vote of 56-39. When the bill came up in the Senate, Sen. Ducey Stroebel (R-Saukville) and other GOP senators expressed firm opposition to the developer’s discount provision and that item was deleted from the bill by a Senate floor amendment offered by Sen. Lasee. The Senate passed the amended bill by a 19-13 vote and the Assembly concurred.



A League Lobby Day selfie in the rotunda with KateLynn Schmidt, Richfield Administrative Services Coordinator; Gail Sumi, League; Bill Collins, Richfield Village Trustee; and Jim Healy, Richfield Village Administrator.



Mark Rohloff, City Manager, Oshkosh, joined us on Jason Rohloff’s last day in the office. Jason interned with the League and researched legislative issues for League lobbying.

AB 583 – Restricting Municipalities from Prohibiting Persons from Renting out their Homes. Rep. Scott Allen (R-Waukesha) and Sen. Frank Lasee (R-De Pere) introduced this bill at the request of the Wisconsin REALTORS Association, which has pushed for similar legislation the last couple of sessions. The bill as introduced prohibited a local government from enacting or enforcing an ordinance that prohibits, regulates the duration or frequency of, or unreasonably restricts the rental of a “residential dwelling” for seven consecutive days or longer. The League opposed the bill and testified against it at public hearings in the Assembly and the Senate. Nevertheless, the bill appeared to have momentum, particularly in the Assembly. Consequently, just prior to the Assembly vote, we negotiated with the REALTORS the best deal we thought possible at the time and shifted our position to neutral when they agreed to make the following two changes on the floor:

- Allow a municipality to limit the total number of days a dwelling may be rented within a 365 day period to no more than 180 days.
- Delete language prohibiting municipalities from adopting ordinances that “unreasonably restrict” home rentals.

The Assembly passed the bill by a voice vote. When the bill reached the Senate, Senator Chris Kapenga (R-Delafield) and several other GOP senators expressed concerns about the bill excessively interfering with local control. As a result, GOP Senate leaders declined to schedule the bill for a vote prior to the session ending.

(CONTINUED ON PAGE 14)

THE 2015-2016 LEGISLATIVE SESSION (CONTINUED)

AB 269: Requiring municipalities to pre-fund post-retirement health benefits offered to employees hired after January 1, 2016. Again this session Rep. Thiesfeldt (R-Fond du Lac) and Sen. Vukmir (R-New Berlin) introduced this bill. Committees in both houses voted along party lines to recommend passage. Leadership in both houses declined to schedule the bill for a floor vote.

SB 263: Adding new Financial Accountability Requirements to TID Creation Process. Sen. Ducey Stroebel (R-Saukville) introduced this legislation requiring that the project plans of all TIDs created by a city or village after October 1, 2015, contain at least one of the three accountability practices that currently apply to certain town TIDs and distressed TIDs only. Committees in both houses voted to recommend passage, but leadership in the Assembly and the Senate declined to schedule the bill for a floor vote.

AB 290: Establishing uniform statewide residence restrictions on sex offenders released from prison and preempting local residence restrictions on such individuals. Rep. Joel Kleefisch (R-Oconomowoc) introduced this bill. There was no Senate companion. The bill never received a public hearing.

AB 750: Repeal of Personal Property Tax. Rep. Bob Kulp (R-Stratford) and Sen. Ducey Stroebel (R-Saukville) introduced this legislation late in the session. It never received a public hearing. The bill would have eliminated the personal property tax in 2020 and the tax exempt computer aid program in 2016. The authors originally circulated the bill for co-sponsors in the spring of 2015. However, stiff opposition from the League, the Counties Association, the

Towns Association, and the REALTORS Association caused the authors to delay introducing the bill until the end of the session.

Three Bad Bills that were Killed before Introduction.

League staff successfully convinced legislators not to introduce three anti-municipal proposals that were under serious consideration this session. One bill draft sought by the Towns Association would have created substantial obstacles to annexation. Another Towns Association bill would have restricted the ability of less populous municipalities to freeze zoning classifications within their extraterritorial jurisdiction in anticipation of reaching agreement on an extraterritorial zoning ordinance with a neighboring town. The final proposal would have significantly restricted the ability of municipalities to impose and collect stormwater utility charges.

BIGGEST DISAPPOINTMENTS

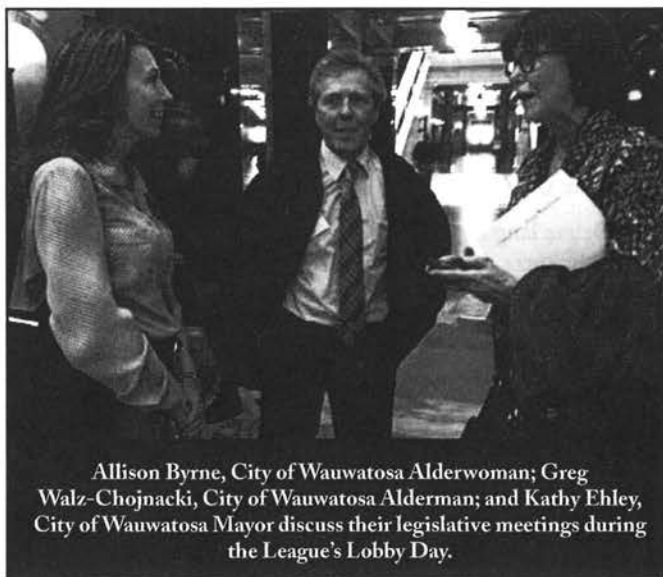
BAD BILLS ENACTED INTO LAW

We were disappointed the following items interfering with municipal powers were enacted into law despite our opposition:

Act 55: The 2015-2017 state budget included three non-fiscal policy items preempting municipal powers:

- **Room Tax Law Changes.** The budget bill made several changes to the room tax law sought by the lodging industry that we strongly opposed. These changes, which mostly take effect January 1, 2017, include:
 - Eliminating municipal governing body discretion to directly spend room tax revenues on tourism promotion and development; and
 - Modifying a 1994 grandfather clause in the law allowing communities with pre-1994 room tax ordinances to continue to retain more than 30% of room tax revenues for purposes other than tourism promotion and development.
- **Time of Sale Restrictions.** The state budget created a provision sought by the Wisconsin Realtors Association, Wis. Stats. sec. 706.22, which prohibits municipalities from requiring an owner of real property to comply with building, housing, and other municipal ordinances at or near the time that real property is sold or transferred.
- **Requiring municipalities in Kenosha County to extend water and sewer outside their boundaries upon request under certain circumstances.**

Act 65: Preempting Municipal Authority to Create new Occupational Licenses or Fees. Rep. Dale Kooyenga (R-Brookfield) and Sen. Van Wanggaard (R-Racine) introduced this legislation prohibiting municipalities from



Allison Byrne, City of Wauwatosa Alderwoman; Greg Walz-Chojnacki, City of Wauwatosa Alderman; and Kathy Ehley, City of Wauwatosa Mayor discuss their legislative meetings during the League's Lobby Day.

THE 2015-2016 LEGISLATIVE SESSION (CONTINUED)

imposing new occupational fees or licensing requirements on any profession, but allowing communities to continue regulating professions they were regulating as of November 13, 2015. The Act also provides that future state regulation of an occupation preempts local regulations and renders them unenforceable. Under the Act, if the Department of Safety and Professional Services (DSPS) imposes any new occupational fees or licensing requirements on any profession previously unregulated by the state, then a municipality may no longer regulate that profession and existing regulations do not apply and may not be enforced. The Senate passed the bill on a voice vote. The Assembly concurred by a vote of 56-34.

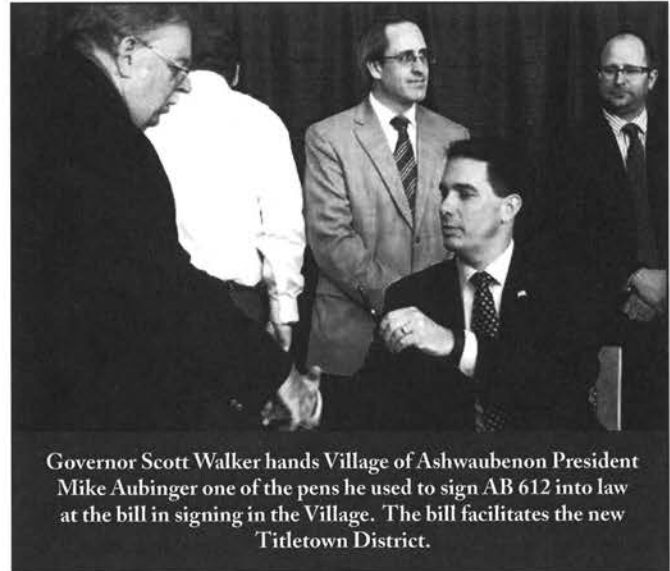
Act 730: Prohibiting Municipalities from banning plastic bags and certain other containers. Rep. Mike Rohrkaste (R-Neenah) and Sen. Roger Roth (R-Appleton) introduced this legislation on behalf of grocery stores, plastic bag manufacturers, and other business interests. The League opposed the bill because it violated the principle of local control. The Assembly passed the bill on a party line vote of 63-35. The Senate concurred by a 19-13 vote.

Act 178: Allowing towns in Dane County to withdraw from county zoning. Rep. Keith Ripp (R-Lodi) and Sen. Scott Fitzgerald (R-Juneau) introduced this bill at the request of the Dane County Towns Association. The League joined the Dane County Cities and Villages Association in opposing. We are concerned that this is the first step toward allowing all towns statewide to get out from county zoning and establish their own zoning ordinances, which may conflict with municipal comprehensive plans covering development in a municipality's extraterritorial jurisdiction. The Assembly passed the bill 62-35 and the Senate concurred by a 19-13 vote.

FAILURE OF KEY MUNICIPAL BILLS TO ADVANCE

We were disappointed the following legislation the League actively supported was not enacted into law:

Fixing the Transportation Funding Shortfall. The League teamed up with the Counties Association, the Towns Association, the Transportation Development Association, and other stakeholders to urge the Legislature and the governor to address the state's looming transportation funding shortfall as part of the 2015-2017 state budget. However, Governor Walker rejected his Department of Transportation's recommendations to include various tax and fee increases in the state budget to help pay for current and future state and local transportation needs. Instead, the governor introduced a budget that relied on bonding to pay for pending state transportation projects. While the Legislature rejected the governor's approach, it declined to pass a gas tax increase or any new sources of revenue for the transportation fund. The League will continue to push the Legislature to pass a



Governor Scott Walker hands Village of Ashwaubenon President Mike Aubinger one of the pens he used to sign AB 612 into law at the bill in signing in the Village. The bill facilitates the new Titledown District.

long-term, sustainable solution to funding our state and local transportation needs.

Four TIF Study Committee Bills. The League was disappointed that the Legislature failed to pass the most important bills recommended by the Legislative Council's TIF study committee. The Assembly declined to pass the following three TIF bills that the Senate passed unanimously in 2015. Despite the Assembly Ways and Means Committee voting to recommend passage of each of these bills, Assembly GOP leadership refused to schedule them for a floor vote.

- **SB 52, Donor TIDS.** Removes certain barriers preventing TIDs from sharing tax increments, including limiting the participation of certain special purpose districts in tax incremental district financing, and allowing any type of a TID to be a recipient of donated tax increments.
- **SB 56, Extending Sunset on Distressed TID Law.** Extends the October 1, 2015, deadline by which a local government must declare a TID to be distressed or severely distressed to October 1, 2018.
- **SB 57, Decrement TID Base Value Redetermination Process.** The version passed by the Senate repeals the process for re-determining the base value of poorly performing TIDs created by 2013 Wisconsin Act 183. The amended bill authorizes a municipality to request a base value re-determination any time that a TID is in a decrement situation (i.e., the current equalized value is less than the TID's base value). The ability to request base value re-determinations must be authorized in the

(CONTINUED ON PAGE 16)

THE 2015-2016 LEGISLATIVE SESSION (CONTINUED)

TID's project plan, and the Joint Review Board must approve the project plan but not each specific request for re-determination. The new process for re-determining the base value of a TID in a decrement situation would have sunsetted December 31, 2018.

Both the Senate and the Assembly failed to pass SB 55, increasing from 12% to 15% the maximum amount of a community's total equalized value that can be located in TIDs.

AB 210: Enabling a Local Sales Tax Option for Funding Local Street Maintenance. Rep. Dean Knudson (R-Hudson) introduced this bill after consulting with the League, the Counties Association and the Towns Association. The bill authorized counties, following voter approval, to impose a half percent sales tax for street maintenance. The county was required to share sales tax revenues with cities, villages, and towns based on a formula involving population and road miles. While the bill was not perfect, (it didn't, for example, allow sales tax revenue to cover transit costs), it was a reasonable compromise among competing stakeholders. We supported the bill because it was the first time the Legislature had offered local governments a local revenue option for transportation infrastructure costs without an accompanying reduction in state aid. Rep. Knudson and Speaker Robin Vos nearly convinced their caucus to pass the bill in the last week of the session before talk radio got wind of the bill and criticized it as a tax increase. Once that happened, support collapsed within the GOP caucus and the bill died.



Mike Heifetz, the State's Budget Director stopped by the bill signing and talked with Joe Murray, Wisconsin REALTORS Association and Jerry Deschane, the League's Executive Director.

OTHER NOTEWORTHY MUNICIPAL BILLS

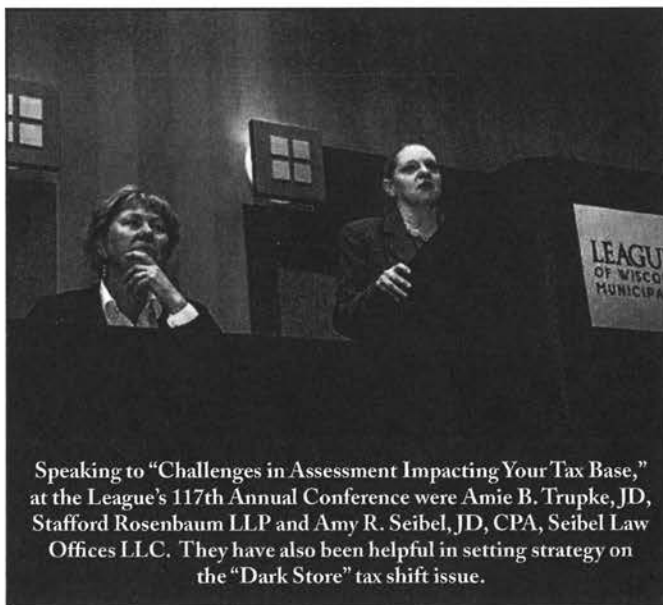
The League took a neutral position on the following legislation of interest to municipalities:

Act 211: Requiring Electronic Building Permits and Electronic Digital Reporting to DSPS. This legislation was sought by the Wisconsin Builders Association. The Act requires the Department of Safety and Professional Services (DSPS) to do all of the following by rule by January 2, 2017:

- Establish a system by which a person may electronically submit an application to a municipality for a building permit for a one- or two-family dwelling, through which the person may be issued the building permit, and through which the municipality may submit copies of the issued permits to DSPS.
- Prescribe a standard building permit application form that shall be furnished to all political subdivisions and used by all applicants for building permits for one- and two-family dwellings, except that DSPS may approve a political subdivision's use of a different application form.
- Require a political subdivision to use the standard building permit form as prescribed above, unless DSPS approves a political subdivision's use of a different form.

The Act also requires local governments to do all of the following:

- Begin implementation of the system described above no later than January 2, 2018.



Speaking to "Challenges in Assessment Impacting Your Tax Base," at the League's 117th Annual Conference were Amie B. Trupke, JD, Stafford Rosenbaum LLP and Amy R. Seibel, JD, CPA, Seibel Law Offices LLC. They have also been helpful in setting strategy on the "Dark Store" tax shift issue.

(CONTINUED ON PAGE 17)

THE 2015-2016 LEGISLATIVE SESSION (CONTINUED)

- Not later than the 15th day of the month following issuance of each building permit for one- or two-family dwellings, electronically file a copy of the permit with DSPS. If a municipality fails to do so within this timeframe, it must refund a portion of the permit fee to the applicant.

CONCLUSION

The 2015-2016 legislative session was a good one for municipalities. Dozens of items helpful to cities and villages, including four TIF bills, and the League initiated charge-back and adverse possession bills were enacted into law.

Efforts to block bills restricting local control were mostly successful. Also, legislators avoided making any cuts to the shared revenue, expenditure restraint, and tax exempt computer

reimbursement programs. Funding for general transportation aids and mass transit assistance even increased slightly.

As state legislators campaign for office in your community this summer and fall, ask them about the legislation discussed in this article. Thank them for the bills they passed that help municipalities. But also remind them about the importance of preserving local control. Emphasize that local elected officials are in the best position to decide the appropriate level of services and property taxes within a community.

Finally, tell your state legislators that thriving cities and villages are critical to Wisconsin's economic success and ask them to focus on passing legislation next session that supports cities and villages. A good place to start, you might suggest, is passing a long-term, sustainable solution to the state's transportation funding shortfall.

MUNICIPAL CHAMPIONS IN THE LEGISLATURE

Many members of the Wisconsin state legislature, both Democrat and Republican, support municipalities generally and their own cities and villages in particular. The League is happy to work with all legislators and has excellent relationships with most members of both houses. Several legislators, however, stand out when it comes to supporting cities and villages and deserve to be recognized for their efforts to advance municipal powers and resources. The legislators highlighted on the following pages worked closely with the League to advance legislation helpful to municipalities and to oppose bills interfering with municipal powers. The League enthusiastically thanks each of them for their hard work on behalf of cities and villages.

MUNICIPAL CHAMPIONS



Senator Rick Gudex (R-Fond du Lac) is a former mayor (Mayville) and city council member (Fond du Lac). During his tenure in the Legislature he has consistently worked to improve tax incremental financing laws. This session was no exception. He co-chaired the TIF Study Committee in 2014 and in 2015

guided through the Senate 7 of the 8 bills recommended by the Committee. He also introduced on the League's behalf the charge-back of refunded property taxes legislation, and guided it to passage in the Senate. Sen. Gudex also worked with the League on draft legislation designed to address the tax shift caused by commercial retail chains using the dark store strategy to reduce their property taxes. Sen. Gudex is retiring from the Legislature after this session. We will miss him.



Representative Todd Novak (R-Dodgeville) is also currently the mayor of Dodgeville. This was his first session in the Legislature and he consistently advocated for local control and protection of home rule powers. At our request Rep. Novak authored AB 843, assuring the charge-back of refunded property taxes, which was enacted into law. He also

championed a budget amendment allowing communities to carry forward unused levy capacity over five years. We also are grateful for his enthusiastic and vocal support for the TIF reform bills.



Representative David Steffen (R-Howard) is a former trustee for the Village of Howard. This session was his first term in the Legislature and he unfailingly supported bills the League supported and dependably opposed bills preempting municipal authority. Rep. Steffen authored AB 612, a compromise the League supported creating two new

options for communities with no liquor licenses available under the state quota. He also authored AB 296, which returned excess Lambeau field sales tax revenue to local governments in Brown County.

(CONTINUED ON PAGE 18)

MUNICIPAL CHAMPIONS (CONTINUED)



Senator Rob Cowles (R-Green Bay) has throughout his long tenure in the Senate consistently supported municipalities and opposed efforts to infringe on local control and municipal home rule powers. This session Sen. Cowles authored and guided through the legislative process SB 340, restoring \$3 million to the recycling grant

program in 2016. He also authored SB 535, the liquor license quota exemption bill enacted into law; and SB 233, returning excess Lambeau field sales tax revenue to local governments in Brown County.



Senator Howard Marklein (R-Spring Green) authored at our request SB 314, prohibiting persons from acquiring municipal and state lands through adverse possession, which was enacted into law. He also supported, as a member of the Joint Committee on Finance, a long-term, sustainable solution to the revenue

shortfall in the state's transportation fund. Sen. Marklein also introduced SB 227, clarifying that material purchased directly by contractors for use in municipal and state public construction projects is exempt from the sales tax. Also, as chair of the Senate Revenue Committee, he held a hearing and a vote on the League's charge-back bill in a timely manner, which ultimately allowed the Senate to concur in the bill on its last floor day.

OTHER STRONG SUPPORTERS OF MUNICIPALITIES



Representative Mark Born (R-Beaver Dam) is a former city council member from Beaver Dam. He is a frequent supporter of municipalities in the Legislature. Rep. Born authored AB 497, establishing statewide standards for the residency of violent sex offenders, which was enacted into law. Rep. Born reached

out to the League and the City of Milwaukee to develop a workable compromise on this difficult issue.



Representative Rob Brooks (R-Saukville) was very active this session, his first as a state legislator. He introduced bills on our behalf and responded to our concerns about other bills he co-authored that interfered with municipal powers. Rep. Brooks authored at our request AB 459, prohibiting persons from acquiring

municipal and state lands through adverse possession, which was enacted into law. He also championed a budget amendment allowing communities to carry forward unused levy capacity over five years. We also are grateful to Rep. Brooks for drafting and considering introducing legislation addressing the tax shift caused by dark store tax strategies employed by some commercial property owners to reduce their property tax bills.



Representative Gordon Hintz (D-Oshkosh) has been a long-time supporter of cities and villages within the legislature. The last two sessions he has served on the Joint Committee on Finance, where as a vocal member of the minority he consistently advocates for more funding of municipal programs and against reducing municipal powers.



Representative Robb Kahl (D-Monona) served as mayor of Monona before entering the Legislature several years ago. During his tenure in the Legislature he has often consulted League staff about bills affecting municipalities. He nearly always supports bills we support and opposes bills interfering with municipal powers.



Representative Dean Knudson (R-Hudson) is a former mayor of Hudson who has frequently supported municipal bills during his tenure in the state Legislature. This session he authored AB 210, enabling a local sales tax option for local street maintenance. Rep. Knudson consulted frequently with the League, the

Counties Association, and the Towns Association at each step in the development of this bill, which ultimately failed to be enacted. Rep. Knudson is retiring from the Legislature at the conclusion of his current term. We will miss his thoughtful approach to legislation and the legislative process.

MUNICIPAL CHAMPIONS (CONTINUED)



Senator Julie Lassa (D-Stevens Point) has consistently been a strong voice for cities and villages during her entire tenure in the Legislature. This session she authored and successfully guided to enactment AB 439, changing the time by which municipalities must publish a class 1 notice of a budget amendment. The bill gives municipalities 15 days instead of 10 to publish the notice.



Senator Devin LeMahieu (R-Oostburg) frequently supported local control. He authored and championed a budget amendment allowing communities to carry forward over five years unused levy capacity. Senator LeMahieu is also very receptive to the needs and concerns of his local government constituents.



Senator Janice Ringhand (D-Evansville) served as mayor of Evansville before being elected to the Legislature several sessions ago. Throughout her tenure she has been a dependable defender of local control and a strong advocate for municipalities.



Representative Mark Spreitzer (D-Beloit) is a former Beloit city council president serving his first term as a state legislator. He consistently advocated for local control and home rule powers. Rep. Spreitzer worked with the League to introduce a bill that would have restored the ability of municipalities to impose residency requirements on city and village managers.



Representative Paul Tittl (R-Manitowoc) is a former member of the Manitowoc city council who authored and guided through the legislative process AB 515, restoring \$3 million to the recycling grant program in 2016.

Are You Burdened By Financing Restrictions?

Don't let these restrictions stop your community from completing infrastructure upgrades that are necessary to provide quality services to your constituents.

Leveraging existing assets is one of the many ways to finance the creation of a new project or needed upgrade.

To learn more, call
920.751.4200
ask for an IPR Representative



IPR

Integrated

PUBLIC RESOURCES

A McMAHON GROUP COMPANY

McMAHON
ENGINEERS ARCHITECTS

NEENAH WI MACHESNEY PARK IL VALPARAISO IN

920.751.4200 MCMGRP.COM