

WAPA Legislative Update
By Steve Hiniker
[1000 Friends of Wisconsin](#)

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2009 - 2010 Wisconsin Legislative Session Bill Tracking

Previously reported LEGISLATIVE PROPOSALS

[AB 18](#) – Tax Credit for Historic Rehabilitation

Referred to committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue

[AB 25](#) - Relating to school board approval of subdivision plats

Referred to committee on Urban and Local Affairs

[AB 75](#) – Budget Bill - An act relating to state finances and appropriations, constituting the executive budget act of the 2009 legislature.

Budget Bill currently in Joint Finance Committee

Joint Finance Committee Action on Regional Transit Authority (RTA)

The Joint Finance Committee made significant changes to the Governor's budget on RTAs:

Fox Valley – The panel rejected any RTA for the Fox Valley. (The Fox Valley transit system is in desperate need for an RTA given that they will lose millions of dollars in federal funding in 2010. Under federal law, urbanized areas exceeding 200,000 in population do not qualify for federal operating assistance. The Fox Valley population will exceed 200,000 in 2010, causing the system to lose \$1.5 million in operating assistance.)

Racine and Kenosha – The Joint Finance Committee rejected ½ cent sales tax levy for Milwaukee, Kenosha and parts of Racine County to fund transit. Instead, the Joint Finance Committee split up the three county RTA into two parts, a Milwaukee RTA and a joint Racine/Kenosha RTA. Instead of having a sales tax, the Racine/Kenosha RTA would rely on a rental car fee that will not generate enough revenues to support the KRM commuter rail proposal.

Milwaukee County – Milwaukee County would have its own RTA funded by a one cent sales tax increase.

Dane County – Dane County language is substantially the same as the bill that was introduced. (1/2 cent sales tax to fund transit. Dane County leaders have indicated that they will conduct

Property Tax Offset – A requirement that RTA funds be offset by an equal amount of property tax reduction in southeastern Wisconsin.

Other Areas in the State – The Joint Finance Committee did not grant RTA authorizing powers to other areas in the state.

AB 90 – **The operation of motorboats, other than personal watercraft, at slow-no-wake speed within a given distance of the shoreline of a lake.**

Referred to committee on Natural Resources

AB 92 - **The regulation, preservation, and restoration of historic buildings; the supplement to the federal historic rehabilitation tax credit and the state historic rehabilitation tax credit; requiring the certification of downtowns; promoting certain downtown areas in this state; highway projects involving business and downtown areas; granting rule-making authority; and making appropriations.**

Referred to committee on Jobs, the Economy and Small Business

AB 92 is a Companion Bill to SB 55 (see analysis below)

AB 109 - **Relating to authorizing a city or village to extend the life of a tax incremental district for one year to benefit housing in the city or village.**

Referred to the Committee on Housing

AB 113 - **Relating to changes to economic development tax benefit programs, providing an exemption from emergency rule procedures, and requiring the exercise of rule-making authority.**

Consolidation of economic development zone programs

Referred to committee on Jobs, the Economy and Small Business

AB 165 - **Relating to expanding the types of property that may be specially assessed by a neighborhood improvement district.**

Referred to committee on Urban and Local Affairs

SB 12 - Relating to the operation of motorboats, other than personal watercraft, at slow-no-wake speed within a given distance of the shoreline of a lake.

Passed in both houses.

SB 47 - Designating portions of the Totogatic River as a wild river

*Recommended by committee on Transportation, Tourism, Forestry, and Natural Resources.
Available for scheduling.*

SB 50 - Legislative oversight of expenditure of federal economic stimulus funds

Referred to committee on Ethics Reform and Government Operations

SB 55 - The regulation, preservation, and restoration of historic buildings; the supplement to the federal historic rehabilitation tax credit and the state historic rehabilitation tax credit; requiring the certification of downtowns; promoting certain downtown areas in this state; highway projects involving business and downtown areas; granting rule-making authority; and making appropriations.

*State Historic Building Code
Historic buildings used as multifamily dwellings
Historic rehabilitation tax credit
Certification and promotion of downtowns*

Referred to Committee on Economic Development.

SB 62 – An Act relating to state finances and appropriations and making diverse other changes in the statutes.

2009 Wisconsin Act 2 – Published March 9, 2009

SB 77 - Changes to economic development tax benefit programs, providing an exemption from emergency rule procedures, and requiring the exercise of rule-making authority.

Consolidation of economic development zone programs

Referred to Committee on Economic Development

SB 78 - Protections for tenants in foreclosure actions

Referred to committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing

SB 81 - Authorizing a city or village to extend the life of a tax incremental district for one year to benefit housing in the city or village.

Referred to committee on Ethics Reform and Government Operations

SB 117 - Relating to extraterritorial plat approval on basis of land's use.

Referred to committee on Rural Issues, Biofuels, and Information Technology

SB 131 - Relating to authorizing the cities of Cudahy and Oak Creek to use environmental remediation tax increments generated by one environmental tax incremental district to benefit another environmental remediation tax incremental district.

Referred to committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue

SB 132 - Relating to expanding the life of a tax incremental district in the city of Racine.

Referred to committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue
Public Hearing held 4/14

NEW LEGISLATIVE PROPOSALS

AB 174 –Authoring sharing of tax increments by certain remediation tax incremental districts.

Under current law, the environmental remediation tax incremental financing program permits a city, village, town, or county (political subdivision) to recoup the costs of remediating contaminated property from property taxes that are levied on the remediated property. The mechanism for financing remediation costs is very similar to the mechanism for financing project costs under the tax incremental financing program.

Initially, the governing body of a political subdivision adopts a resolution creating an environmental remediation tax incremental district (ERTID) with particular boundaries. This resolution is then reviewed by a joint review board made up of representatives of the overlying taxing jurisdictions. If the joint review board approves the ERTID, a political subdivision that has incurred eligible costs to remediate environmental pollution on a parcel of property may apply to the Department of Revenue (DOR) to certify the environmental remediation tax incremental base of the parcel. DOR is required to certify the environmental remediation tax incremental base if the political subdivision submits to DOR all of the following: 1) a statement that the political subdivision has incurred some eligible costs, together with a detailed proposed remedial action plan approved by the Department of Natural Resources (DNR) that contains cost estimates for anticipated eligible costs, a schedule for the design and implementation that is needed to complete the remediation, and certification from DNR that it has approved the site investigation report that relates to the parcel; 2) a statement that all taxing jurisdictions with authority to levy general property taxes on the parcel of property have been notified that the political subdivision intends to recover its environmental remediation costs by using an environmental remediation tax increment; and 3) a statement that the political subdivision has attempted to recover its environmental remediation costs from the person who is responsible for the environmental pollution that is being remediated. Thereafter, the political subdivision that created the ERTID may use positive environmental remediation tax increments to pay eligible costs of remediating environmental pollution in the ERTID.

Currently, the maximum life of an ERTID is 23 years and no expenditure for an eligible cost may be made by a political subdivision later than 15 years after the environmental remediation tax incremental base is certified by DOR. An ERTID may also terminate when a political subdivision has received sufficient environmental remediation tax increments to cover all of the eligible costs.

This bill allows the governing body of a political subdivision to adopt a resolution requesting that DOR allocate environmental remediation tax increments from an ERTID that has recovered all eligible costs to another ERTID created by the same governing body. Upon receipt of a copy of this resolution, DOR would continue to allocate environmental remediation tax increments from the donor ERTID after all of the eligible costs for that ERTID have been recovered. These increments would be applied to another ERTID created in the same political subdivision. Increments from the donor ERTID continue to be generated until the earlier of: 1) 23 years after the creation of the donor ERTID; or 2) the recovery of all eligible costs for the recipient ERTID.

AB 180 – changes to and extension of the Environmental Results Program, extension of the Environmental Improvement Program and the length of a compliance schedule under that program, and reporting requirements for certain environmental programs.

See SB 126 below for a detailed analysis.

AB 205 – adopting changes to the Internal Revenue Code for state income tax purposes related to deductions for energy efficient commercial building.

This bill adopts, for state income and franchise tax purposes, changes made to the Internal Revenue Code by the federal Tax Relief and Health Care Act of 2006 and the Emergency Economic Stabilization Act of 2008 related to a deduction for energy efficient commercial buildings. The acts extend the eligibility for the deduction to property placed in service no later than December 31, 2013, rather than December 31, 2007.

AB 213 - relating to establishing and changing compensation for city and village elective offices; signing village contracts; bidding procedure for village public construction contracts; officer-of-the-peace status of village officers; publication by the city clerk of fund receipts and disbursements; village and 4th class city regulation of political signs; liability of counties and cities for mob damage; means of providing police and fire protection by cities and villages; holdover status of appointed city and village officers; use of the s. 32.05 procedure in villages for certain housing and urban renewal condemnation; and application of public contract bidder prequalification to 1st class cities.

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was developed by the Joint Legislative Council's Special Committee on Differences in Laws Applicable to Cities and Villages. The committee was directed by the Joint Legislative Council to review laws relating to cities and villages, other than those laws that relate to the fundamental organizational structure that distinguishes cities and villages, to determine discrepancies and inconsistencies in the application of those laws to each type of municipality and recommend, when appropriate and advantageous, rectifying those discrepancies and inconsistencies that exist for no apparent policy rationale.

Based on its review of discrepancies and inconsistencies in laws that apply to cities and villages that were brought to the committee's attention by interested parties, the committee recommends further harmonizing the laws that apply to cities and villages as provided in this bill.

In general terms, this bill:

- Requires compensation for city and village elective offices to be established before the earliest time for filing nomination papers for the office or, if nomination papers are not used for an elective village office, before the caucus date for that office. In so providing, the bill repeals current language regarding the establishment of salaries for elective city offices and appointive city offices with definite terms. Also, for consistency with law that applies to cities, the bill removes the requirement that the salary of a village president and village board member be an “annual” salary.
- Makes the bidding procedure for village public construction contracts consistent with the bidding procedure that applies to city public construction contracts. Currently, villages have the option to use the city procedure.
- Provides that persons serving in city appointive offices serve until their respective successors are appointed and qualify, for consistency with current village law. For both cities and villages, the bill allows an ordinance to provide otherwise.
- Authorizes, consistent with law that applies to city public construction contracts, a village by resolution or ordinance to alter the statutory requirement that the village president and clerk execute all contracts, conveyances, commissions, licenses, or other written instruments.
- Repeals officer-of-the-peace status of village board members for consistency with the former repeal of police powers for city council members.
- Repeals the current directive that applies to city clerks, but not village clerks, to annually publish as a class 1 notice a statement showing the receipts and disbursements as to each fund during the preceding fiscal year. - Extends the current authority of 1st, 2nd, and 3rd class cities to regulate political signs larger than 11 square feet in area to include 4th class cities and villages.
- Repeals the statute providing that counties and cities are strictly liable, subject to contributory negligence principles, for injuries to persons or property caused by a mob or riot within their respective jurisdictions.
- Consistent with law that applies to villages, expressly authorizes cities to contract for police protection with a village, a town, another city, or a county and authorizes cities to contract for fire protection with a village, a town, or another city.
- Clarifies that the condemnation procedure under s. 32.05, stats., may be used for certain housing and urban renewal condemnation in villages, as well as in cities.
- Authorizes a 1st class city, consistent with the authority of other classes of cities and of villages, to use the bidder prequalification procedure for public contracts.

SB 126 – relating to changes to and extension of the Environmental Results Program, extension of the Environmental Improvement Program and the length of a compliance schedule under that program, and reporting requirements for certain environmental programs.

4/28/09 - Passed unanimously in the Senate and sent to Assembly Natural Resources Committee. Environmental Results Program

Under current law, the Department of Natural Resources (DNR) administers the Environmental Results Program (ERP, also called Green Tier) under which qualified participants agree to improve their environmental performance and implement environmental management systems in return for incentives provided by DNR. There are two tiers of participation in ERP. A participant in tier II enters into a participation contract with DNR that sets forth the commitments of the participant and the incentives that DNR will provide. This bill makes various changes in ERP.

Under current law, DNR may not approve any application for participation in ERP after July 1, 2009. This bill eliminates that restriction. Under current law, certain environmental enforcement actions taken against an entity disqualify the entity from acceptance into ERP for a specified period. The act that created ERP, in 2004, gave the secretary of natural resources temporary authority to waive the provisions concerning an entity's environmental enforcement record if the secretary determined that the waiver was consistent with the purposes of ERP and that the waiver would not erode public confidence in the integrity of ERP. The waiver authority expired at the end of 2006. This bill allows the secretary of natural resources to waive the provisions concerning an entity's environmental enforcement record based on the same criteria as under former law. The bill does not contain a termination date for the waiver authority.

Current law requires participants in ERP to conduct annual audits of their environmental management systems and, for participants in tier II, annual audits of their compliance with environmental laws and to report the results of those audits to DNR. Under the law, if an audit reveals a violation of an environmental law, the participant must provide information about the violation to DNR. If a participant complies with these requirements and corrects the violation within a specified period, the participant is generally exempt from paying a forfeiture (civil monetary penalty) for the violation.

This bill authorizes a participant in ERP to report to DNR a violation of an environmental law that it discovers, other than through an annual audit. If the participant reports within 30 days of discovering the violation, provides required information about the violation, and corrects the violation within a specified period, the participant is generally exempt from paying a forfeiture (civil monetary penalty) for the violation.

Currently under ERP, a participant is required to correct a violation within 90 days unless DNR approves a longer compliance schedule. The law prohibits DNR from approving a compliance schedule that is more than 12 months long. This bill authorizes DNR to approve a longer compliance schedule if the secretary of natural resources determines that a longer schedule is necessary.

Currently, DNR administers the Environmental Cooperation Pilot Program under which DNR was authorized, before October 1, 2002, to enter into not more than ten cooperative agreements with persons subject to environmental laws. The term of an agreement is five years with the possibility of one renewal for five years. In a cooperative agreement, a participant in the program is required to implement an environmental management system and to improve its environmental performance. In return, DNR may grant operational flexibility and, under specified circumstances, provide variances from requirements under environmental laws.

This bill provides a process under which a participant in the Environmental Cooperation Pilot Program may become a participant in tier II of ERP, using the cooperative agreement under the pilot program as a basis for a participation contract under ERP.

Currently, under ERP, DNR may issue an environmental results charter to an association of entities to assist the entities to participate in tier I or tier II and to achieve improvements in the quality of the air, water, or other natural resources beyond that achieved through compliance with environmental laws (superior environmental performance). Under this bill, DNR may issue a charter to an association of entities to assist the entities to participate in tier I or tier II or to take actions that may lead to superior environmental performance.

The bill makes some changes in the required characteristics of an environmental management system and gives an applicant for tier I of ERP one year from the date that DNR approves its application, rather than one year from the date of application, to implement an environmental management system

that complies with the law's requirements. The bill also changes the name of ERP to the Green Tier Program.

Environmental Improvement Program

The Environmental Improvement Program (EIP), administered by DNR, limits to \$500 the amount of a forfeiture (civil monetary penalty) that a qualifying entity can be required to pay because of a violation of an environmental law if the entity discovers the violation through an environmental compliance audit, reports the violation to DNR, and corrects the violation within a specified time. Current law sunsets the EIP on July 1, 2009. This bill eliminates the sunset of EIP.

Currently, an entity does not qualify for EIP if within two years before it submits the environmental compliance audit the Department of Justice (DOJ) filed suit against the entity to enforce an environmental requirement or DNR or a local government issued a citation to the entity to enforce an environmental requirement.

This bill eliminates the automatic disqualification provision. Instead, under the bill, DNR must consider whether DOJ filed a suit against an entity to enforce an environmental requirement within two years before the entity notifies DNR that it will conduct an environmental compliance audit. If DNR determines that, because of the nature of the violation involved in a suit, the entity's participation would damage the integrity of EIP, DNR must notify the entity that it is not eligible for participation.

Currently under EIP, a qualifying entity is required to correct a violation within 90 days unless DNR approves a longer compliance schedule. The law prohibits DNR from approving a compliance schedule that is more than 12 months long. This bill authorizes DNR to approve a longer compliance schedule if the secretary of natural resources determines that a longer schedule is necessary. The bill also changes the name of EIP to the Environmental Compliance Audit Program.

SB 144 – Authorizing sharing of tax increments by certain environmental remediation tax incremental districts.

See AB 174 above for analysis.

SB 145 – determining the value of billboards for personal property tax purposes.

Under current law, a billboard is subject to the imposition of personal property taxes. The Wisconsin Supreme Court has recently determined that, although net income from billboard rentals may be a factor to consider, it cannot be the sole controlling factor for determining the value of a billboard for property tax purposes.

See, *Adams Outdoor Advertising, Ltd. v. City of Madison*, 294 Wis. 2d 441, 717 N.W.2d 803. The court also found that, by not determining the billboard's value based on its cost, less depreciation, the city assessor contravened the prevailing practice for assessing billboards not only in this state, but throughout the United States.

Under this bill, for personal property tax purposes, an assessor must determine a billboard's value by subtracting depreciation from the cost of reproducing the billboard. In addition, consistent with *Adams Outdoor Advertising, Ltd.*, the assessor may not include the value of any permits issued, leasehold interests, or other intangibles with regard to the billboard for the purpose of determining the billboard's assessed value.

SB 172 – Relating to limiting a city’s and village’s use of direct annexation and authorizing limited tow challenges to an annexation.

Currently, town territory that is contiguous to any city or village may be annexed to that city or village under several methods if, in general, some of the city’s or village’s territory is in the same county as the territory to be annexed, unless both the town and county boards approve of the proposed annexation, and the city or village agrees to make limited payments to the town based on property taxes that the town levied on the annexed territory.

Three of the methods of annexation include the following: 1) direct annexation, under which a petition for annexation that was signed by the required number of electors and landowners is filed with the city or village clerk; 2) annexation by referendum, under which a petition for referendum that was signed by the required number of electors and landowners is filed with the city or village clerk, and a referendum is held and passes in the town; and 3) annexation by court order and referendum, under which the governing body of a city or village adopts a resolution declaring its intention to apply to the circuit court for an order for an annexation referendum. Another method of annexation is direct annexation by unanimous approval. If a petition for direct annexation by unanimous approval signed by all of the electors residing in the territory and the owners of all of the real property in the territory is filed with the city or village clerk and the town clerk of all of the involved towns, along with a scale map and legal description of the property to be annexed, the governing body of the city or village may, generally, annex the property by a two-thirds vote of the body. Such an annexation, however, is subject to Department of Administration advisory review as if the annexation petition were for direct, but not unanimous, annexation or annexation by referendum.

Generally, cities and villages may also annex territory that is owned by the city or village and that lies near but not necessarily contiguous to the city or village by enacting an ordinance to annex such territory.

This bill limits the use of direct annexation by unanimous approval to town land that is contiguous to the annexing city or village.

Under current law, a town may not challenge in court, on any grounds, any direct annexation by unanimous approval as well as several other types of annexations. Under this bill, a town may challenge direct annexation by unanimous approval, as well as several other types of annexations, including annexation by referendum initiated by a city or village and annexation of city-owned or village-owned territory, but only on the issue of whether the territory proposed for annexation is contiguous to the annexing city or village.

SB 173 – relating to the removal of nonconforming outdoor advertising signs.

The federal Highway Beautification Act requires states to restrict advertising along interstate and federal-aid primary highways, and current state law incorporates these requirements.

Current law prohibits, with certain exceptions, the erection or maintenance of outdoor advertising signs within 660 feet of, or otherwise visible (and intended to be visible) from, the main-traveled way of an interstate or federal-aid primary highway. The Department of Transportation may remove signs that do not conform to applicable requirements but, for each sign removed, must pay just compensation to the owner of the sign and to the owner of the land on which the sign is located.

Current law permits customary maintenance of certain nonconforming signs but, if the nonconforming sign is enlarged, replaced, or relocated, the sign may be removed without compensation.

This bill provides that any nonconforming sign may be removed without compensation if the costs of repairing and maintaining the sign within any 36 consecutive months exceed 50 percent of the replacement costs of the sign and that such repairs and maintenance do not constitute customary maintenance.