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## Winter-Spring 2017 Newsletter

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## Fair Housing Lawsuit Settled

By Cassandra Leopold and Nancy Frank  
University of Wisconsin - Milwaukee

In 2011, the Metropolitan Milwaukee Fair Housing Council (MMFHC) filed a complaint against Waukesha County for engaging in illegal housing discrimination affecting people of color. The lawsuit was years in the making, dating back to efforts in the early 2000s. In the lawsuit, MMFHC claimed that between 2006 to 2011, Waukesha County used roughly \$12,500,000 in federal Community Development Block Grant (or CDBG) and HOME Investment Partnerships Program “without adequate consideration for its impact on fair housing choice by people of color.” MMFHC cited significant housing restrictions and zoning limitations in these jurisdictions as damaging to the very people the funds were intended to help.

One of the key planners playing a role was Kori Schneider-Peragine, supported by planners in county government and a number of Waukesha County municipalities. This article reviews the fact situation that culminated in a conciliation agreement in January 2017 and the important role that planners played in urging an end to discriminatory practices. (Except where otherwise specified, the principal source for this article is Pledl (2017), the MMFHC press release).

In 2011, MMFHC filed a complaint declaring that Waukesha County encouraged racial and economic segregation by continuing to fund activities within municipalities that ignored their disadvantaged and low-income aging populations. Communities named in the lawsuit included New Berlin, Brookfield, Menomonee Falls, the City of Waukesha, Mukwonago and others. Impediments within local regulations halted development of affordable housing and openly discouraged integration of their predominantly white, segregated cities. After six years of mediation between HUD and Waukesha County, the complaint has finally been settled. Waukesha County has been cited for violating HUD’s main directive to advance fair housing.

Throughout this case, MMFHC worked with several local organizations including the American Civil Liberties Union of Wisconsin, Legal Action of Wisconsin, IndependenceFirst, and Disability Rights Wisconsin. Their goal was to increase the quality and quantity of housing opportunities throughout Southeastern Wisconsin. As alleged in the complaint, each of these organizations had urged Waukesha County to adopt strategies that would promote both integration and affordable housing options, but were greeted with political red tape from local policymakers.

A conciliation agreement with Waukesha County was announced on February 2. Waukesha County is now legally responsible for providing a variety of activities to promote integration and expand housing choices, and has a strict deadline to prove they are meeting the parameters of the agreement. Each named municipality will need to create a Fair Housing Impact Statement, which clearly outlines the actions each municipality will take to address fair housing restrictions, and report annually on the progress being made to eliminate those impediments. Each jurisdiction will also be required to identify actions that promote affordable housing for families and identified municipalities will need to develop a land inventory that will identify parcels suitable for development of affordable, multifamily housing.

## Background

The Milwaukee and Waukesha metropolitan area is one of the most segregated regions in the US for African-Americans and in the top third of large metropolitan areas for residential segregation of Hispanics (Maternowski 2017). This map from the University of Virginia shows the pattern of racial and ethnic segregation both within the city of Milwaukee and in the metro area.

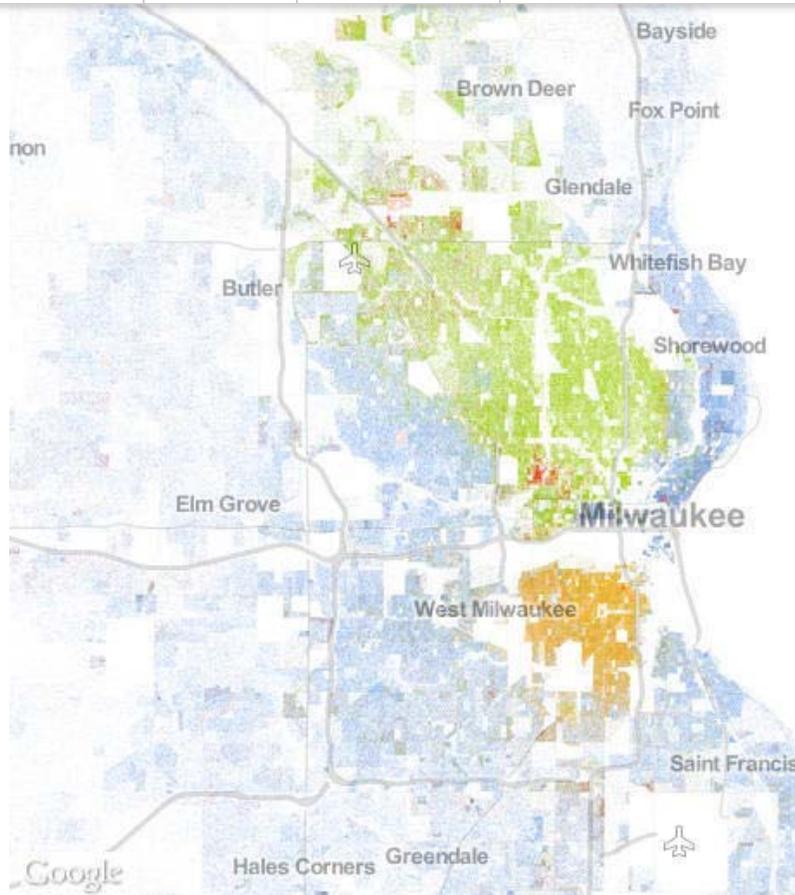
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2010 Census Block Data

1 Dot = 1 Person

- White
- Black
- Asian
- Hispanic
- Other Race / Native American / Multi-racial

The city itself is quite segregated, but surrounding suburban areas, like Waukesha County, remain almost exclusively white. “Milwaukee has the lowest rate of African-American suburbanization of any metropolitan area in the country,” according to a soon to be released research report by Marc Levine, Director of the Center for Economic Development at the University of Wisconsin – Milwaukee (Maternowski 2017).

**While the Milwaukee metro area, among Wisconsin metro areas, receives almost all of the national press about its segregation problems, other areas of the state are not immune from segregation and discrimination in housing policy. Dane County has its own racial segregation problems, and the 2014 Race to Equity report documented the racial disparities accompanying segregation and unequal opportunity. Even in smaller metro areas, according to Dan Schneider (2015)**

**Municipalities around Wisconsin with smaller black populations bear many of the same traits as the state’s two major cities. A quick look at Census data maps shows that places like Racine and Beloit are similarly segregated. Predominantly African-American areas are segregated from majority-white areas by dividing lines like the Root River cutting through Racine.**

MMFHC’s complaint in 2011 pointed to the significant impact residential segregation has had on opportunity for minorities in the metro and suburban economies. Housing segregation reduces job opportunities for low-income families who are forced to live far from potential employers. Cities that create housing barriers actively reduce connectivity between workers and jobs while also driving income and economic growth down across all income levels (Chicago Policy Review, 2014). Without awareness of the impacts of housing segregation, policy makers and developers are unlikely to take committed steps to stop the racial isolation of neighborhoods, or the educational and economic segregation that stem from it.

For years prior to filing the lawsuit in 2011, MMFHC and HUD insisted that government officials should not be indifferent to these kinds of outcomes and that no one should be excluded from communities because of race, age, disability or income. In the years prior to the lawsuit in 2003-04, MMFHC planner, Kori Schneider-Peragine participated in the Waukesha County Housing Action Coalition a group that included local homeless shelter reps, food pantry reps, and other advocacy groups, to

understand the housing context in the county and how barriers to fair housing might be addressed.

After a series of meetings in 2008, Waukesha County officials asked Schneider-Peragine to provide information for an Analysis of Impediments to

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showed a lack of commitment to change, according to Schneider-Peragine. MMFHC and the ACLU provided comments on the Assessment report, but none of their feedback was incorporated in the final draft.

Between 2011, when the lawsuit was filed, and its settlement in 2017, lawyers, city and county officials, MMFHC and HUD were in constant negotiations. As this was happening, SEWRPC completed its 2013 housing study. The study specifically pointed to Waukesha's housing mismatch, and SEWRPC even created a formula to look at the number of jobs at different wages and matching those to housing in each community to identify likely affordability (SEWRPC Regional Housing Plan: 2035, Table 155, p. 495). All of the municipalities in Waukesha were inserted into the formula and included all of the varying rent ranges possible. SEWRPC's fair housing information, showed that some communities allowed for elderly multiple unit housing, but not multi-family housing, limiting housing and economic opportunity for people of color and disabled households.



## Planners' Roles

A key contributor to moving toward the settlement was Kristen Silva, a Community Development Manager with Waukesha County. Silva had recently worked at the Wisconsin Partnership for Housing Development as Community Development coordinator. Silva was able to act as an advocate within Waukesha County government. With her extensive history of working for disadvantaged populations in the nonprofit sector, she knew she had inherited a serious situation, one that she desperately wanted to change. Schneider-Peragine also recognized the role Dale Shaver played in achieving the settlement in his position as Director of Parks and Land Use for Waukesha County. After the complaint was filed, Shaver helped to educate Waukesha officials to take the allegations more seriously.

Throughout 2009, Schneider-Peragine continued to meet with urban planners from Oconomowoc, Brookfield and Menomonee Falls, and she felt motivated by the honest conversations she had with them about the case. She, like many involved, had begun getting used to the shock found with each new allegation that came to light. They shared their commitment to not becoming complacent. This sense of having allies in the suburban communities kept her energized and encouraged to keep pushing for reforms.

Planners should remain shocked, she insists, because allowing indifference to discrimination and exclusion to become the norm is dangerous. Schneider-Peragine recalls an example of this in a Smart Growth phone survey, prior to the comprehensive planning process, to get residents' opinions on the policies. When MMFHC looked at the results, they noticed that the survey was of homeowners only, not renters. People of color, single moms, and residents with disabilities were more likely to be renters than homeowners and their voices were not being heard. Stunned by this blatant exclusion, the MMFHC immediately went on the record, saying that if the survey was to be included as evidence that Waukesha County residents had experienced no housing discrimination, the report needed to clarify that renters were not called or included.

Continuing to call out poor professional practice is critical. Planners need to resist the temptation to shrug off sloppy methodology by other professionals who may not share planners' ethical concern for the needs of those who are most disadvantaged.

Schneider-Peragine believes planners can do more to raise these issues in their communities. The most important and powerful tools for planners, she said, are information and communication. In 2015 HUD rolled out a mapping tool called HUD GEOSpatial, which allows even those without access to GIS capabilities to see where public housing is located, and to overlay housing issues with school performance or other public concerns, to determine areas in need. This tool can help advocates explain to city officials where barriers are located in a more concrete and visual way.

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Efforts have been underway by some members of Congress to prohibit HUD from providing this sort of data (HR 892 and S 103 introduced on January 12, 2017). The bills are designed to eliminate the Affirmatively Furthering Fair Housing regulation.

The bills would also prohibit federal funds from being used for the HUD database containing geospatial information regarding community racial disparities and disparities in access to affordable housing. (National Low Income Housing Coalition 2017)

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## Planning and Fair Housing: New PAS Report

The federal Fair Housing Act prohibits discrimination in selling, renting, and financing, and requires state and local governments to promote diverse, inclusive communities. While the Act does not preempt local planning or zoning, some common land use planning and zoning techniques are incompatible with fair housing goals.

The latest edition of PAS QuickNotes reviews local obligations under federal law and highlights three specific strategies for expanding fair housing access through local land use policy.

[Read the new PAS QuickNotes](#)

## Chapter Receives Grant to Advance Healthy Communities

APA Wisconsin Chapter has received \$50,000 grant to help build local capacity for integrating planning and public health. Only 28 chapters have received funding through the Planners4Health initiative led by APA. This is the third Planners4Health grant that APA – Wisconsin has participated in. In this project, APA – Wisconsin is partnering with East Central Regional Planning Commission and other partners.

The Planners4Health initiative is part of APA's Plan4Health three-year, \$9 million program to help communities combat determinants of chronic disease – lack of physical activity and lack of access to nutritious foods. Funding for the initiative is provided through a grant from the Centers for Disease Control and Prevention (CDC).

Through the initiative, APA Wisconsin will use the grant funding to broadly share knowledge and resources on building coalitions with public health professionals and more strongly integrating public health into local and regional planning practices.

"This is a significant opportunity to enhance local planning efforts to create healthier communities and establish a strong legacy of collaboration between planners and public health professionals," said Anna Ricklin, AICP, manager of APA's Planning and Community Health Center. "Through APA Wisconsin's efforts, even more professionals will have access to best practices and resources to further advance healthy communities."

Through this grant, the APA [CHAPTER] will:

- Identify potential partners;

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- Share planning and public health information; and
- Bring together key stakeholders.

More information about the chapter's work under the Planners4Health initiative can be found at [www.wisconsinplanners.org](http://www.wisconsinplanners.org) (take the Planning and Health menu link under Resources). Visit [www.planning.org/nationalcenters/planners4health](http://www.planning.org/nationalcenters/planners4health) for information about the three-year program.



## New Megatrends: Transportation Report Released By Becky Roberts, UW - Stevens Point

In this edition of Megatrends, we address the impact of transportation on individuals, businesses, communities, the environment and the state by taking a closer look at statewide land use and transportation trends. We provide a timeline of Wisconsin's transportation history and discuss how people and goods move around, how different users rely on the transportation system, and the impact of transportation on the economy, environment, and human health. Through case studies, we examine how land use and transportation policies can be used to shape local communities. Lastly, we look at emerging trends likely to take hold in the future.

<http://www.uwsp.edu/cnr-ap/clue/Pages/publications-resources/LandUseMegatrends.aspx>

In past years, Megatrends has focused on housing, water, agriculture, and other topics. These publications are available at the same link above.

## Big Changes at the American Planning Association:

### Digital Access to PAS and Free Student Memberships for ALL

**By Wendy Moeller, Region IV Director  
American Planning Association**



I am excited to be starting my second year representing APA Region IV as a Director of APA. I admit that there has been a major learning curve over this last year; learning about all of the activities APA undertakes for the betterment of our profession and to ensure a value to your membership. Even prior to my time on the board, APA has been hard at work doing what many organizations do, which is increasing its membership numbers as well as enhancing the value of that membership. If you haven't had a chance to read the most recent issue of Planning magazine, check out the website (the new version rolled out last year!), or read the various e-mail blasts, you are missing out on some new and exciting benefits to your membership.

### Digital PAS Access

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First, starting this year, ALL members of APA will have digital access to the research produced by the Planning Advisory Service (PAS). Prior to this year, members could pay to purchase hard or digital copies of PAS reports or become subscription members, at hefty fees, to have access to research on demand by APA research associates. Now, digital versions of over 100 reports since 1996, plus any future reports, will be free to members. This is a substantial benefit to members as the reports provide detailed information on specific issues related to the work we do. On-call custom research is still available to members as a separate fee for service.

For more information or access to the reports, check out <https://www.planning.org/pas/reports/>.

## Free Student Membership: Soon to be Free for All

Second, APA has completely overhauled its approach to membership for students and emerging professionals who have recently graduated and are just entering the workforce. Before this year, students were only given the opportunity of one free year of membership and a reduced fee upon entering the workforce. From this point moving forward, if you are a student, regardless of how many years you have left or if you are in an accredited program or not, your membership in APA is free. That includes free membership in the national organization, free membership in your primary chapter, and free membership in up to five divisions. The goal is to encourage more students to participate in the organization as well as become lifelong members of APA. Our students are the future of this organization. Upon graduation, past students will be eligible for two years of reduced rate membership as they transition into the profession. For students who participated in the past programs but whose membership has lapsed, they will become eligible for free membership again. For emerging professionals who just graduated, or who are new to APA, they too will be eligible for two years of reduced rate membership dues.

I believe that APA has taken great strides in the last two years to improve member benefits and I hope you do too. If you have any questions, comments, or suggestions for enhancing your membership even more, please do not hesitate to contact me at [wmoeller@compasspointplanning.com](mailto:wmoeller@compasspointplanning.com).

*Wendy Moeller, AICP, is the Region IV Director for the American Planning Association representing Ohio, Indiana, Illinois, Michigan, Missouri, Iowa, Minnesota, and Wisconsin. Wendy is a principal and owner of Compass Point Planning in Blue Ash, Ohio.*



## Volunteers Needed: Update Occupation Information about City and Regional Planning Aides

The U.S. Department of Labor requests Wisconsin planners to assist in updating job requirements for planning jobs. This request comes from the Occupational Information Network (O\*NET®). The O\*NET Program serves job seekers, students, veterans, employers, human resource professionals, job counselors, and labor market analysts across the country who depend on occupational information to perform their daily work, career exploration and job analysis. The O\*NET Database is a free resource at [www.onetonline.org](http://www.onetonline.org).

APA – Wisconsin has been asked to help recruit volunteers to assist the Department of Labor with the occupation category of City and Regional Planning Aides. Your participation will help the Department assure that its information is accurate and current. They need occupation experts, like us, to provide input via a series of questionnaires. People serving in this occupation may have other titles including Zoning Technician, Planning Assistant, Planning Aide, Planning Intern, and Planning Technician and may include those working in entry-level Planner roles.

Here is the description of the occupation along with the link to O\*NET Online with the complete summary for your reference:

Workers in this occupational category compile data from various sources, such as maps, reports, and field and file investigations, for use by city

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Most professional planners likely qualify as an occupation expert, and therefore eligible to participate in the survey, if you have five or more years of experience with this occupation, which can include your experience as a supervisor/Planner, trainer or teacher as long as you have at least one year of working as a City and/or Regional Planning Aide at some point in your career. For example, a Senior Planner is an occupation expert for the Planning Aide if she spent at least one year working as a Zoning Technician and has been supervising a Planning Tech over the last 4 years.

Please email or call Traci Davis, an O\*NET Liaison at RTI International, to volunteer to help with the O\*NET update or if you have questions: 877-233-7348 ext. 109/ [tdavis@onet.rti.org](mailto:tdavis@onet.rti.org)

Your participation in this effort is voluntary. Yet, participation by you and other occupation experts is vital to the success of this important program and for increasing the understanding of the occupation of City and Regional Planning Aides. Thank you for your time and consideration.

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## Law Update

By **Brian W. Ohm, JD**  
 Dept. of Urban & Regional Planning  
 UW-Madison

For questions or comments about these cases, please contact: [bwohm@wisc.edu](mailto:bwohm@wisc.edu).

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Visit the [Law and Legislation](#) page any time to access the current and past issues of the Case Law Update.

## U.S. Supreme Court

No cases to report, but stay tuned . . .

- Oral arguments before the U.S. Supreme Court in the regulatory takings case *Murr v. Wisconsin* are scheduled for Monday, March 20th. A decision in the case should be expected by mid-June. The American Planning Association and the Wisconsin Chapter filed a friend of the court brief in the case.

## Wisconsin Court of Appeals Opinions

### City Property Tax Assessment of Billboard Permits Upheld

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*Clear Channel Outdoor, Inc. v. City of Milwaukee* involved the issue of whether the City of Milwaukee properly assessed the billboard permits of Clear Channel Outdoor. Clear Channel had permits for billboards it owned on land leased from different landowners. The City assessed the permits separate from the property tax bills issued to the owners of the land underlying the billboard structures.

Clear Channel argued that the property tax assessments of the billboard permits were invalid because the permits did not expressly fit the definition of real property in the Wisconsin Statutes. In this decision, the Wisconsin Court of Appeals disagreed, relying on the Wisconsin Supreme Court decision in *Adams Outdoor Advertising, Ltd., v. City of Madison*, 2006 WI 104, 294 Wis. 2d 441, 717 N.W.2d 803, that held billboard permits are real property.

Clear Channel also argued that the billboard permits should not be taxed because the Wisconsin Statutes did not include a method for imposing a tax on billboard permits. The City identified each permit by GPS coordinates and valued the permit based on estimates of rent earned by Clear Channel from advertisers. The Court held that the City method was consistent with state law. The Court also rejected Clear Channel's claims that the City's practices violated Equal Protection under the U.S. Constitution and the Uniformity Clause of the Wisconsin Constitution.

The case is recommended for publication in the official reports.

## Use of Term “Organizer” in Ordinance Not Unconstitutionally Vague

*City of Oshkosh v. Kubiak* involved a special events ordinance adopted by the City of Oshkosh in 2011. The ordinance requires that the “organizer” of an event apply for a permit and pay the City to help defray the extra costs (such as additional police needed for security) incurred by the City. While the ordinance defines many of its terms, it does not define the term “organizer.”

For several years Joseph Kubiak, acting on behalf of Oshkosh Pub Crawl, LLC., applied for a permit and made the payment for the extra city services. The Pub Crawl has been held consistently twice a year on the second Saturday in April and October. After several years, however, Kubiak stopped applying for a permit and no longer paid for the extra City services. The City then initiated this lawsuit against Kubiak.

The circuit court concluded the meaning of “organizer” was unconstitutionally vague and dismissed the lawsuit. The City appealed to the Court of Appeals. While Kubiak argued that he was not in fact the “organizer” of the Pub Crawl, the Court focused only on the question of whether the term “organizer” as used in the ordinance was unconstitutionally vague. The Court of Appeals reversed the decision of the circuit court and found that the use of “organizer” was not unconstitutionally vague. According to case law, a statute or ordinance is unconstitutionally vague when it “is so obscure” that people of common intelligence must necessarily guess at its meaning and differ as to its applicability.” The Court of Appeals concluded that the ordinance did not need to be written with exact precision and that people of ordinary intelligence could read and sufficiently understand the requirements of the Ordinance.

The case is recommended for publication in the official reports.

U.S. Court of Appeals for the 7th Circuit Opinions  
[No planning-related cases to report.]

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## Legislative News

APA - Wisconsin Legislation Tracking

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# Planners and the Legislature: Lessons from Oshkosh

**By Cassandra Leopold, Student Editor  
University of Wisconsin - Milwaukee**

Ideally, the best allies for planners' interests before the state legislature are elected officials of our own communities. This is the central idea behind an approach that the City of Oshkosh and planner Allen Davis have been using with their legislative delegation.

Oshkosh's Community Development Director Allen Davis and the Oshkosh City Council were interested in speaking with legislators about bills that might have unintended and negative impacts on the City of Oshkosh as well as other municipalities. Davis notes that state legislators sometimes want to solve a problem they have heard about from their constituents, but the legislators don't have all the information they need. The City Council wants to provide additional information to improve the legislation. Sometimes this involves informing legislators about existing capabilities or finances of the city. Other times it involves researching existing state policy and what the potential ripple effect of the proposed law would be.

According to Davis, Oshkosh addresses these issues through a Strategic Plan, created by city council members, that provides a set of local protocols and goals for political action in Oshkosh. The planning office is invited to forward concerns related to planning issues for the meeting between the city council's and state legislators.

Planners review the agenda for the City Council's meeting with legislators, research relevant statutes, gather information to advise legislators on the issues and how the proposal might affect the City of Oshkosh. This combined effort is successful because it benefits both city council members and legislators. In addition to creating a venue for discussing specific legislative proposals, the meetings develop relationships that can be beneficial for both the city and for legislators.

For example, if an issue gets circulated to a senator, the senator can email the city council staff to ask what they would recommend or to further advise them on the matter. The City of Oshkosh can actively make recommendations on pending legislation, and legislators can hear what the community feels about legislation before it is voted on. Most importantly, Davis stresses, it keeps communication between officials themselves and the community open and transparent. He encourages every municipality to meet with their state legislators in order to have a voice on state-wide initiatives. "Exchanging information," Allen stresses, "is the first step to effective lasting legislation, not promoting a pro or a con. It is important for both bodies to know all the information first and then move forward together."

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## APA-WI Legislative Update – Jan - Feb 1000 Friends of Wisconsin – Deb Nemeth

Governor Walker released his budget bill on Feb. 8th. The areas that are receiving the most attention are increased funding for K-12, tax cuts,

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things evolve over the next few months. The goal is to pass the budget by July.

Link to Budget in Brief:

<http://doa.wi.gov/Documents/DEBF/Budget/Biennial%20Budget/2017-19%20Executive%20Budget/17-19%20BIB%20FINAL%20revised%2002082017.pdf>

## Bills to watch

**SB-3/AB 24 Project Labor Agreements** (Vukmir, Leah) Relating to project labor agreements and public contracts.

Under this bill, the state and local units of government are prohibited from engaging in certain practices in letting bids for state procurement or public works contracts. Under the bill, the state and local governments may not do any of the following in specifications for bids for the contracts:

1) require that a bidder enter into an agreement with a labor organization; 2) consider, when awarding a contract, whether a bidder has or has not entered into an agreement with a labor organization; or 3) require that a bidder enter into an agreement that requires that the bidder or bidder's employees become or remain members of a labor organization or pay any dues or fees to a labor organization.

- Passed Senate 19-13
- Received by Assembly Committee on Labor – passed 6-3 and referred to Rules.

**SB-22/AB 50 Groundwater Management**, (Miller, Mark) Relating to groundwater management, approval of high capacity wells, and granting rule-making authority.

This bill establishes standards and a process for designating areas in this state as groundwater management areas. The standards vary depending on whether an area has a confined aquifer or an unconfined aquifer. An aquifer is a water-bearing geologic formation. A confined aquifer has above it a layer (of rock, for example) through which water does not pass easily. An unconfined aquifer does not have such a layer above it.

Current law provides for a Groundwater Coordinating Council, consisting of the secretaries of natural resources, safety and professional services, agriculture, trade and consumer protection, health services, and transportation, and the president of the University of Wisconsin System, or their designees; the state geologist; and a person to represent the governor.

This bill requires the GCC to appoint a subcommittee on groundwater area review (council subcommittee), consisting of individuals with technical expertise in the area of groundwater science and management.

<http://docs.legis.wisconsin.gov/2017/proposals/reg/sen/bill/sb22>

- SB 22 Referred to Committee on Natural Resources and Energy
- AB 50 Referred to Committee of Environment & Forestry

NOTE: Citizens across Wisconsin are experiencing the impacts of diminishing groundwater levels. These bills create mechanism to identify areas where water withdrawals are not sustainable and they create systems for the development and deployment of a science based plan to bring withdrawals back in balance.

**SB 26 Broadband expansion** (Joint Legislative Committee) Relating to broadband expansion grants and making an appropriation

Under current law, funding for the Broadband Expansion Grant Program is limited to the unspent funds remaining from a total of \$6.0 million that was transferred from the Wisconsin Universal Service Fund (USF) in 2015 Wisconsin Act 55. A total of approximately \$3 million remains for grants in Fiscal Year (FY) 2017-18 and FY 2018-19. Under current law, the Public Service Commission (PSC) is not authorized to raise additional funding for the program through the assessment paid into the USF by telecommunications providers.

- Beginning in FY 2019-20, this bill reserves for the Broadband Expansion Grant Program \$1.5 million annually from the funding that the PSC currently receives from assessments paid into the USF by telecommunications providers.
- SB 26 Referred to Elections & Utilities Committee

**SB-48/ AB 78 Lead Service Lines** (Cowles, Rob) Relating to lead service line replacements.

This bill provides that it is not unjust, unreasonable, insufficient, unfairly discriminatory, or preferential or otherwise unreasonable or unlawful for a water public utility to provide financial assistance to a customer solely for replacing service lines containing lead if the financial assistance is allowed by local ordinance. The bill also provides that the water public utility may provide financial assistance for the replacement of a service

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the customer's service line either do not contain lead or are replaced at the same time as the customer's service line is to be replaced. Under the bill, if a water public utility provides financial assistance for replacing service lines containing lead, the Public Service Commission must include the cost of providing that financial assistance in its determination of water rates. <http://docs.legis.wisconsin.gov/2017/proposals/sb48>

- SB 48 referred to Committee on Natural Resources and Energy
- AB 78 referred to Energy & Utilities

**SB-49 Broadband extension** (Marklein, Howard) Relating to the information technology block grant program, the broadband expansion grant program, waiving certain fees and appraisals, and making appropriations.

The bill makes changes to funding for grants made by the PSC for projects to construct broadband infrastructure in underserved areas. Under current law, \$6,000,000 was transferred from the universal service fund (USF) for making the grants, but current law also limits the total grants made in a fiscal year to \$1,500,000. The bill eliminates that limit. The bill also provides additional funding for the grants by doing the following: 1) transferring an additional \$6,000,000 from the USF; 2) transferring \$5,000,000 from moneys received under a federal program for assisting schools and libraries in obtaining telecommunications services and Internet access, which is commonly known as the federal e-rate program; and 3) at the end of each fiscal year, transferring the unencumbered balances from other USF-funded appropriations. Also, beginning in fiscal year 2017-18, the bill allows the PSC to fund its administration of the broadband grant program from contributions made by telecommunications providers to the USF.

The bill also makes changes to the priorities for the PSC to make the grants. One of the priorities under current law is for projects that affect areas with no broadband service providers. The bill repeals that priority and requires that the PSC give priority to projects in an "unserved area" designated by the PSC, which the bill defines as an area of this state that is not served by an Internet service provider offering Internet service that 1) is wired service or fixed wireless service; and 2) is provided at actual speeds of at least 20 percent of the upload and download speed for high-speed, switched, broadband telecommunications capability as designated by the Federal Communications Commission in its annual inquiries regarding advanced telecommunications capability. Another priority under current law is for projects that promote "economic development," which is not defined. This bill defines "economic development" as development designed to promote job growth or retention, expand the property tax base, or improve the overall economic vitality of a town, village, city, county, or region. Also, the bill creates a new priority for projects that will not result in delaying the provision of broadband service to neighboring areas. In addition, the bill requires the PSC to consider the following in evaluating grant applications for proposed projects: 1) the degree to which the projects would duplicate existing broadband infrastructure; 2) impacts on the ability of individuals to access health care services from home and the cost of those services; and 3) impacts on the ability of students to access educational opportunities from home. <http://docs.legis.wisconsin.gov/2017/proposals/sb49>

- SB 49 referred to Revenue, Financial Institutions and Rural Issues

**SB 51/ AB 81 TIF** (Stroebe, Duey) Relating to technical changes to the tax incremental financing statutes.

This bill makes a number of technical changes to the statutes affecting city, village, and town tax incremental financing districts. The bill does the following:

1. Limits penalties to \$6,000 per report that the Department of Revenue may assess against municipalities that fail to file with DOR certain required reports.
2. Modifies certain administrative payment and certification request due dates, changing the dues dates from May 15 to April 15.
3. Repeals a requirement for municipalities to provide DOR with preliminary project plan amendment notifications.
4. Adds mixed-use development to the list of eligible project costs for mixed-use tax incremental districts.
5. Excludes municipal property from base values for town TIDs.
6. Repeals an obsolete special provision that applied only to a TID in the city of Hayward; the TID terminated in 2011.

<http://docs.legis.wisconsin.gov/2017/proposals/sb51>

- SB 51 was referred Committee on Government Operations, Technology and Consumer Protection.
- AB 81 referred to Ways & Means

**SB 76/ AB 105 High Capacity Wells** (Senator S. FITZGERALD) Relating to: replacement, reconstruction, and transfer of an approved high capacity well, recommendation of special groundwater measures by the Department of Natural Resources, and metering requirements and grants for certain high capacity wells.

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have the capacity to withdraw more than 100,000 gallons of water per day.

#### Activities exempt from approval

Current law requires a person to obtain approval from the Department of Natural Resources before constructing or operating a high capacity well. This bill provides that no additional approval is needed for the owner of an approved high capacity well to 1) repair or maintain the well, 2) construct a replacement high capacity well, if the replacement well's purpose is to prevent contamination or if the replacement well will be substantially the same depth as the existing well and either within a 75-foot radius of the existing well or farther from the nearest groundwater protection area than the existing well, 3) reconstruct the well to substantially the same depth and specifications as the existing well, or 4) transfer the approval at the same time as the owner transfers the land on which the well is located. No additional fee is required for any of these actions, but the owner of the well must notify DNR of any replacement, reconstruction, or transfer. The owner may not take any of these actions if they would be inconsistent with the conditions included in the approval for the high capacity well, and the conditions of the approval continue to apply after any of these actions are taken.

- SB 76 referred to Committee on Labor & Regulatory Reform
- AB 105 referred to the Committee on Agriculture

#### AB 109 County Zoning (Rep Ripp) Relating to modifying the requirements for certain towns to withdraw from county zoning.

This bill makes a number of technical changes to the law authorizing towns located in a county with a population of at least 485,000 to withdraw from county zoning. The bill makes the following changes:

1. Changes some of the timing requirements related to when a town must notify a county of the town's intention to withdraw from county zoning.
2. No longer requires a town to send copies of its official map to the county clerk.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

- AB 109 referred to the Committee on Local Government.

#### Other items of interest:

Below is a link to the Audit Bureau's recommendation regarding WisDOT major highway projects program. The audit found WisDOT had misrepresented the estimated costs of major projects by over 100% on average. The audit also found they miscalculated traffic projections and did not document why they chose a certain traffic projection model in 28 out of 30 cases. The new DOT Secretary David Ross has pledged to follow the Audit Bureau's recommendations and is committed to increasing transparency and accountability.

LRB 1852 Highway Projects (Joint Audit) [http://www.thewheelerreport.com/wheeler\\_docs/files/lrb1852\\_01.pdf](http://www.thewheelerreport.com/wheeler_docs/files/lrb1852_01.pdf)

Update – Feb 28th –WisDOT cancels expansion of I-39/90/94 north of Madison in the face of enormous community opposition.

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