The Budget Issue

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Budget and Levy Limits
Municipal Budgeting: What Local Officials Need to Know
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Photos by Jean Staral, LWM.
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A Manager Who’s Made a Difference

This month’s Municipality is loaded with good information about municipal budgeting. Our hope is to give you some advice, tidbits and resources to make your annual tug-of-war between needs and resources a little easier. Normally this column would serve as an introduction to the magazine, but if you’ll forgive me, I think we need to recognize an outstanding Wisconsin local government leader.

The 2014 President of the League of Wisconsin Municipalities is retiring this summer. Beloit City Manager Larry Arft will turn in his office keys on July 3, ending a city management career that lasted more than 40 years. During his career, Arft served four communities, three of them in Illinois and the last 12 years in Beloit. But his service, like the work of many municipal leaders, shouldn’t be measured by years. It should be measured by the difference he made. And Larry Arft made a difference.

Under Larry’s leadership, Beloit began a process of transformation called the Beloit Renaissance. The city is reshaping its downtown from a classic Midwestern “gray metal industrial city” to a unique, high quality urban community. New businesses are being attracted to downtown Beloit, old factories are being converted, and beautiful historic buildings are being put to new uses. Beloit is on the cutting edge of sustainability as an active member of the Green Tier Legacy Communities. The fruits of those efforts show in things like how busy the commercial areas of the city have become. Last year when the Urban Alliance met in Beloit (at a new boutique hotel called the Ironworks on the riverfront), Larry rattled off a list of choice restaurants now open in the city, but cautioned that they were booked to capacity on most Friday and Saturday nights.

Larry’s leadership will also be missed at the state level. In 2014 he became the first City Manager to serve as President of the League. Among other challenges, he led the League through a rare staff leadership transition. I am personally grateful for his expertise and thoughtfulness as I stepped in as executive director, after Dan Thompson retired following 25 years with the League. In 2011 Larry spearheaded the merger of the League and the former Alliance of Cities. As a result, instead of two voices speaking for Wisconsin cities and villages, we now speak with one voice . . . and we speak louder, thanks to Larry Arft.

The English gentleman First Baron Robert Baden Powell was the founder of the World Scouting movement. Powell was fond of saying, “Try to leave the world a little better than it was when you found it.” Beloit, Wisconsin, and the League of Wisconsin Municipalities are each distinctly better because of Larry Arft’s service.

Thank you, Larry. And enjoy your retirement.

Jerry Deschane
MUNICIPAL BUDGETING 101

By Jim Healy, Administrator, Village of Richfield

In an era of stagnant or declining municipal revenues, it has become imperative for municipalities to utilize financial resources in an economical manner, by doing more with less, thereby thinking creatively in order to manage those finite resources as efficiently and effectively as possible.

One of the most important functions, if not the most important function of local government, is being a good steward of the tax dollars we receive. The difficulty is repurposing those tax dollars in a fiscally prudent and responsible manner, which both adheres to an overall strategic plan and is representative of a community’s values. Right now you are probably saying to yourself: “But Jim, how do we do that?” Well, I’m glad you asked. Welcome to “Budgeting 101!”

At the request of my Village Attorney, the very first point, before we go any further about municipal budgeting, is something that needs to be clarified; Budgets are inherently simple documents. Most of the time, when adopted by ordinance, municipal budgets are only about one page long. Municipalities are only required by law to publish and adopt a “budget summary” pursuant to sec. 65.90, Wis. Stats. The summary must contain the following basic information for the current fiscal year and the proposed budget for the following fiscal year, along with the respective percentage difference:

- General government
- Public safety
- Public works
- Health and human services
- Culture, recreation, and education
- Conservation and development
- Capital outlay
- Debt service
- Other financing uses

These itemized general fund accounts, along with a handful of other similar-type information are all that are required by law to be adopted by a municipality. How that information gets translated best into a document made for public consumption is subject to much debate. In Richfield, 2015 was the first time we were able to draft something we felt so strongly was accessible, readable, and easily digestible for the populace that we had no choice but to call it our first-ever “Citizen’s Budget.” A budget that any person, regardless of local governmental knowledge or technical expertise, could pick up and understand. Prior to our “Citizen’s Budget,” our annual budget was nothing more than a series of generic Microsoft Excel spreadsheets for each department with zero narrative or information to assist the public in understanding the logic and reasoning for adopting the same. Does that sound like the type of budget your community adopts? Don’t worry, you aren’t alone.

Today, our budget is a vibrant and colorful document full of pictures submitted by our residents over the past year (which gives them incentive to read it and see if their pictures were chosen), different styles of graphs, robust narratives, the
Village’s “mission statement,” adopted financial policies, organizational charts, U.S. Census information, departmental/ employee goals and objectives, a full glossary of “government jargon” (We attempted to minimize the use of any jargon as much as possible), and pieces of the Village’s adopted Comprehensive Plan for added context. You can see it here: http://bit.ly/RichfieldBudget.

One of the most popular features in our budget document is a breakdown of how the average home’s tax dollars are spent on a monthly basis. We also reproduce the chart below (Example 1) during tax collection time so we can better answer the question: “So what do you do with all this money you’re taking from me, anyway?” We include these types of informational tidbits like Example 1, not for our benefit, but to benefit the people for whom the budget document was created — the taxpayers!

This transition was the culmination of several years of effort towards greater transparency of our operations and following many of the Government Finance Officers Association (GFOA) “best practices.” These suggested GFOA practices are laid out like a rubric for any administrator or elected official to follow for increased government transparency. If you have never reviewed these, I encourage you to do so. There is a lot of “low hanging fruit” which can be added to a municipal budget that can make a world of difference to a reader. You can see it on the GFOA website http://bit.ly/GFOABudgetBestPractices.

Chief among those recommendations is the adoption of several financial policies to help guide the municipality through the budgeting process. Over the last several years, the Village adopted several financial policies to help guide the development of our annual budget. They are, in no particular order, a “Budget Operating and Development Policy,” “Capital Improvement Policy,” “Capitalization Policy,” “Equipment Replacement Policy,” “Fund Balance Policy,” “Purchasing Policy,” and “Revenue Policy.” Having these adopted policies, which are summarized in our budget and are available to the general public on our village website, not only ensures greater organizational transparency but also increases our own accountability to our taxpayers.

There are many different approaches to budgeting, including: zero-based budgeting, program budgeting, and priority based budgeting. But in Richfield, as with many communities in Wisconsin, line-item budgeting or a hybrid approach to this method has been the primary model for developing annual budgets. In a nutshell, communities who adopt this approach craft a budget around historical expenditures from past years with some deviation where necessary. The primary advantage with the line-item approach is that, generally speaking, it is easier to justify expenditures to the general public when they are based on historical needs. While this type of approach is focused primarily on “what is purchased,” by virtue of how the budget is developed, there are some drawbacks. Line item budgets (or their hybrids to a lesser extent) have the potential to be less focused.
on results achieved, outcomes, the evaluation of new alternatives, and creating efficiencies.

That’s why over the last several decades, numerous communities, including Richfield, have started adopting hybrid approaches to line-item budgeting. These hybrid approaches may focus on service delivery and performance, managerial productivity, or budgeting which prioritizes an organization’s goals. The following six steps are representative of the Village’s budgeting process. While the varying sizes of communities and the services they provide play a large part in how each respective municipality sets their budget, citizen engagement is the common denominator.

Pre-Step 1

While most communities in Wisconsin do not adopt their annual budgets for the upcoming fiscal year, in this case 2016, until the last quarter of the preceding year (2015), almost immediately following the adoption of the annual budget this year in November, our Capital Improvement Planning for 2017 will start. From December to approximately the middle of May, our organization ramps back up our budgeting efforts by preparing the funding of capital expenses over the course of the next five years. Capital expenses include the construction, purchase, and major renovation of buildings, utility systems, or other structures, future purchases of land, road improvement projects, and the purchases of machinery or equipment. After the adoption of the Capital Improvement Plan in May, those projects and the dollars staff has allocated for them become the framework for the upcoming budgeting season. It is important to note that these projects and numbers are not set in stone. The Capital Improvement Plan is a living and breathing document meant to ebb and flow with the priorities of our community.

Step 1

Before commencement of the annual budgeting process during the summer months, the village administrator, in consultation with the deputy treasurer, develop “recommended” budget parameters. This is typically done during the month of June. For Richfield, one of the first aspects of developing these budget parameters is forecasting the end of year revenues and expenditures to ensure that we are working within our established budgetary limits. For example, if there are line items which show dramatic increases in spending can we determine a reason why? Was our overtime budget blown because of a bad winter? These types of “outliers” are then noted for future discussion with the respective department head. After that process, we analyze the previous year’s budget and evaluate how the implementation of the same was handled. Assessments are then made on what stated goals were achieved (or not achieved), and what types of quantitative and qualitative data may support the outcomes received. Once those core needs have been identified, goals and objectives for departments are created to correlate to the budget.

Step 2

For the benefit of the public, once these recommended budget parameters are developed by staff, the village board may provide additional guidance on other high-level financial goals and other objectives to aim for with the development of the budget at a regularly scheduled public meeting. In addition to those goals, a formal time-line or “budget calendar” will be presented to better inform the public about key dates for public involvement.

Step 3

Along with any Capital Improvement Plan projects a department head may automatically incorporate into his or her budget by virtue of the previously adopted plan, there are also certain elements of departmental budgets that department heads have no control over. These items are calculated and monitored by the village administrator and deputy treasurer to ensure comparability and budgetary control, they include: salaries, social security, health insurance, pensions, and de-
partmental utilities (phone, Internet, gas, electric, heat, etc.).

**Step 4**

Within the time-frame put forth by the village administrator, usually around the middle of August, department heads prepare and submit the first draft of their respective departmental budgets. These individual departmental budgets break down each proposed expenditure and show what was spent last year on the same item (if applicable), the year to date spending as of June, and a short written narrative explaining the justification of the purchase.

The administrator and deputy treasurer are responsible for review and critique of this initial draft. Several meetings are typically held with department heads to review their budget requests prior to finalizing any proposed draft budget ready for public consumption. Example 2 shows the budget detail prepared by staff for administrative review.

**Step 5**

Once the draft budgets of all departments have been administratively approved, the village hosts the first of potentially three workshops aimed at informing the public on the village's budgeting process and how tax dollars may potentially be allocated. Unlike most formal village board meetings, the elected officials during these workshops are not sitting in their seats behind the dais. They are seated side-by-side at tables with our residents, community organizations, and other interested parties as we go through each line of our proposed revenues and expenditures. If additional meetings are required by the board, the typical reason for these may be so that elected officials can see more information about a proposed expenditure, they may have requested the presence of a department head to discuss operations in his or her department, the potential exists for disagreement on individual funding levels, or additional information from potential stakeholders may be beneficial to the group.

Prior to the public hearing when the village board will consider the formal adoption of a proposed budget, these are some of the first opportunities for the public to ask questions about the proposed budget and for the village board to make any changes they deem necessary and appropriate. Village board deliberations at this stage of the budget development may also include special department head consultations if additional details are needed.

**Step 6**

The annual operating budget is then submitted to the village board for ordinance adoption as provided by our village Code and Wisconsin State Statutes. For the village, this is typically done the third week in November. At such time as the board considers final approval, the administrator provides a comprehensive report on the conditions, process, and outcomes of the budget creation for those in attendance as well as drafts a letter to the community regarding the budgetary road map for the upcoming fiscal year.

In this “new normal” of stagnant or declining state revenues we must learn to live within our means. We must do so by finding that appropriate balance between funding sources for essential operations and expenditures and coming to the realization that government cannot continue to be “all things to everyone.” Then, and only then, will the public start to see the benefit of having a fiscally strong and stable government. Budget structural balance, where a balance is maintained between operating revenues and operating expenditures over the long-term, is our budgeting philosophy in the Village of Richfield. This goal, which started back when we were a town, is still best-achieved when our organization works in concert with and solicits feedback from the people we serve, the taxpayers.

**Example 2**

<table>
<thead>
<tr>
<th>Deputy Clerk &gt; Election</th>
<th>2013</th>
<th>2014</th>
<th>2014</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Account Number</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1051440 232</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equipment Maintenance</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1,973.00</td>
<td>1,600.00</td>
<td>0.00</td>
<td>1,600.00</td>
<td></td>
</tr>
</tbody>
</table>

Expenditure Justification: This is an annual warranty and equipment maintenance agreement with the manufacturer of our election equipment.
Wisconsin municipalities have now operated under levy limits for a full decade. With its numerous adjustments, the impact of levy limits on individual communities has varied considerably.

Prior to developing budgetary goals and objectives, a municipality must understand what constraints its projected allowable levy poses. The following is an overview of the levy limit law and key adjustments.

**Base Increase to Allowable Levy**

The first step in determining the allowable increase to the municipal levy for the next year’s budget is to calculate the prior year’s adjusted actual levy. The adjusted actual levy is the prior year’s total levy decreased by any amounts claimed for unreimbursed emergency expenses or payment of obligation debt authorized after July 1, 2005 as shown in Example 1 which replicates the levy limit worksheet format (DOR Form SL-202m):

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2014 payable 2015 actual levy (not including tax increment). Note: Town, village or city taxes do not include county or state special charges for purposes of calculating levy limits.</td>
<td>$1,200,000</td>
</tr>
<tr>
<td>2</td>
<td>Exclude prior year levy for unreimbursed expenses related to an emergency.</td>
<td>$0</td>
</tr>
<tr>
<td>3</td>
<td>Exclude 2014 levy for new general obligation debt authorized after July 1, 2005.</td>
<td>$200,000</td>
</tr>
<tr>
<td>4</td>
<td>2014 payable 2015 adjusted actual levy.</td>
<td>$1,000,000</td>
</tr>
</tbody>
</table>

The adjusted actual levy is then increased by a percentage based on net new construction as determined by the Wisconsin Department of Revenue. Net new construction is the amount of new construction that occurred within the municipality in the prior year, including within tax incremental financing districts, less the value of any demolition. This net amount is divided by the prior year’s total equalized value to determine the applicable percentage. This percentage, along with any increase that may result from terminating a tax incremental financing district, determines the levy limit before adjustment as shown below.

**Example 2**

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>2014 payable 2015 adjusted actual levy.</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>5</td>
<td>0.00% growth plus terminated TID% ((0.000)) applied to the 2014 adjusted actual levy</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>6</td>
<td>Net new construction % ((1.000)) + terminated TID% ((0.000)) applied to 2014 adjusted actual levy.</td>
<td>$1,010,000</td>
</tr>
<tr>
<td>7</td>
<td>2015 levy limit before adjustments. Larger of Line 5 or Line 6.</td>
<td>$1,010,000</td>
</tr>
</tbody>
</table>

In this example, the municipality would be permitted to increase its levy by $10,000 over the prior year before claiming any adjustments. Lines 1-7 on the levy limit worksheet are calculated and pre-filled on the worksheet by the Department of Revenue, but these calculations should be checked for accuracy.

**Debt Service Adjustments**

The adjustments pertaining to general obligation (G.O.) debt service can offer significant levy limit flexibility depending on a municipality’s specific circumstances. The law treats G.O.
Debt service differently depending on the date on which the debt was authorized (the date the governing body adopted an initial or authorizing resolution):

- Debt service (principal and interest payments) due on G.O. debt authorized on or after July 1, 2005 is exempt from levy limits. A municipality may claim as an adjustment up to the full amount of the debt service payment, however, whatever amount is claimed is deducted in the following year. As such, it is essential that this adjustment not be overstated: claiming an adjustment but not actually levying the full amount will result in a permanent reduction in levy capacity as further discussed later in this article.

In some cases a municipality may be paying some or all of its post-July 1, 2005 G.O. debt service from within its unadjusted levy base. In such cases, this affords a measure of flexibility as the claimed adjustment amount could be increased. By moving levy for post-July 1, 2005 G.O. debt outside of the base levy by claiming a larger adjustment, a greater amount of levy capacity becomes available to support other types of expenditures. Caution should be exercised, however, when the additional debt service adjustment claimed is being paid from non-tax levy sources such as utility fees or tax increments. Relying on such an adjustment to support ongoing operating expenses such as staff costs will result in an eventual budget deficit if and when the non-levy paid debt service diminishes or is retired. This exposure does not occur if the entire amount of the debt adjustment claimed is fully levied for, or if the increased capacity is used to fund non-recurring or non-operating expenses such as capital equipment purchases and projects.

- For G.O. debt authorized prior to July 1, 2005, a municipality may increase its levy limit by the amount of any increase in the debt service payment over the prior year. If the debt service levy decreases from the prior year, the amount of that decrease must be taken as a reduction to the levy limit. An exception from the required reduction exists that is related to whether a carryover is claimed as discussed in the next section. An important distinction to note is that positive adjustments are based on comparing the debt service payment amounts whereas negative adjustments are based on the debt service levy amounts. In many cases these amounts may be the same, but if debt service payments are being partially or wholly abated by application of other revenues such as utility fees or tax increments, the levy amount will be less than the payment amount. As these older debt issues mature, it presents an opportunity to permanently capture the amounts previously paid for debt service as levy dollars available for operating or other expenses. Provided that the municipality does not subject itself to the required decrease by claiming a carryover, it can maintain its levy at the prior level required to pay the post-July 1, 2005 debt service and apply those dollars elsewhere without a need to increase the overall levy.

**Carryover**

- If the actual amount levied in the prior year was less than the allowable levy as was calculated on Line 9 of the levy limit worksheet, a carryover will be available. This residual unused levy capacity can be claimed and used in the next budget cycle, but is limited to the actual unused amount, or 1.5 percent of the prior year’s actual levy, whichever is less. Claiming the carryover requires governing body action. For a carryover of up to 0.5%, approval by a simple majority vote is required. To carry over a greater amount (up to the 1.5% maximum), approval requires three-fourths super majority vote, or a two-thirds super majority if the governing body has fewer than five members. Under current law, any available carryover not claimed is lost. In May the Joint Finance Committee passed an amendment to the proposed State budget that would permit carryover of unused levy capacity on a limited basis. If this provision is signed into law by the Governor, unused levy capacity could be carried over for a period of up to five years. The carryover would be subject to an annual cap of 5% and could only be carried over if the municipality did not increase its total outstanding G.O. debt in that year as compared to the prior year. There are two important features related to carryover to take into consideration:
  - As noted in the Debt Service Adjustments discussion, electing not to claim an available carryover
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Correction
EMC Insurance, a valued Associate Member, was incorrectly spelled in the June edition; the League regrets the error.

For more information, contact Jean Staral: jmstaral@lwm-info.org; (608) 267-2383.
exempts a municipality from the requirement to reduce its levy limit by the amount of any decrease in the levy from the prior year for G.O. debt authorized prior to July 1, 2005. If no carryover is available as a result of the prior year’s levy being equal to the allowable levy, a municipality is similarly exempted from the reduction.

- If a carryover is available, it is important to ensure that the carryover was not artificially created by claiming in the previous year an unnecessarily large adjustment for G.O. debt authorized on or after July 1, 2005 (Adjustment E on the levy limit worksheet). If a municipality is claiming Adjustment E, it should only claim the exact amount needed to cause its calculated allowable levy to equal what it plans to actually levy. Since the Adjustment E amount claimed is deducted in the following year, taking a larger than required adjustment will result in an unintended permanent reduction in levy limit capacity.

**Covered Services Negative Adjustment**

The law specifies that a municipality must reduce its levy limit if, on or after July 2, 2013, it puts into place a user fee for garbage collection (does not include recycling), fire protection, snow plowing, street sweeping and stormwater management. It must also be the case that the service for which the user fee is implemented was funded in whole or in part by the tax levy in the 2013 budget year. A negative adjustment also applies when a user fee for any of the listed services is subsequently increased. The amount of the negative adjustment is equal to the projected increase in revenue resulting from the implementation of a user fee, or the increase in the user fee amount. A negative adjustment does not apply if revenues increase as a result of additional service units, but the fee remains the same. Example 3, below, provides additional clarification based on the four possible scenarios.

The effect of this provision is to preclude a municipality from implementing a new user fee for any of the five covered services to free up levy limit capacity to fund other operating purposes.

**For Further Information**

A number of additional levy limit adjustments are available for circumstances such as annexations, transfer of services and joint fire departments. For a full treatment of all adjustments as well as additional discussion of levy limit strategies please refer to the presentation materials located on Ehlers’ website at the following address: http://bit.ly/EhlersLevyLimits.

---

**Example 3**

<table>
<thead>
<tr>
<th>Date User Fee First Enacted for Covered Service</th>
<th>Were tax levy dollars used to fund this service in part or in whole in 2013?</th>
<th>Negative Adjustment Applicable to Initial User Fee</th>
<th>Negative Adjustment Applicable to Subsequent Fee Increases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior to July 2, 2013</td>
<td>No, 100% user fee funded.</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Prior to July 2, 2013</td>
<td>Yes, funded partially with user fees and partially with tax levy</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>On or After July 2, 2013</td>
<td>Yes, levy funded prior to enactment of user fee</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>On or After July 2, 2013</td>
<td>Service was not provided prior to enactment of user fee, or was funded fully with other non-tax levy sources</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

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Todd Taves is a Senior Municipal Advisor and Principal with Ehlers: an independent financial advisory firm serving local governments in Wisconsin and other areas of the upper Midwest. Prior to joining Ehlers, Todd was the Administrator of the Town of Bellevue, with his eight-year tenure culminating in the Town’s successful incorporation as a village. He may be reached at TTaves@ehlers-inc.com.
As Wisconsin municipalities consider ways to engage the public, an innovative idea called participatory budgeting (PB) has been gaining interest.

In PB, a jurisdiction allocates a portion of its budget (typically discretionary dollars) toward community improvement projects. These projects are identified and selected by residents, approved by elected officials, and implemented by municipal staff. Over 1500 PB projects are operating world-wide. A New York City-based organization, The Participatory Budgeting Project, has been providing PB training and resources to support PB projects, across the US and Canada, since 2009. Domestic PB projects are ongoing in Chicago and New York, and in smaller communities such as Vallejo, California.

Vallejo’s PB process has become a regular component of its budget process, beginning with the city’s decision to allocate a portion of its 2012-2013 budget to PB projects. Residents then organized and began meeting to brainstorm community improvement ideas. Next, resident volunteers developed community improvement ideas into detailed project proposals, each with a budget. Project proposals were then voted on, by residents at large. Winning proposals were presented to the city for approval, demonstrating that decision-making authority over public expenditures remains with local government.

Vallejo’s first PB process saw the selection of twelve PB projects at a cost of $3.28M. Eight projects at a cost of $2.4M were selected for 2014, and twenty projects were selected and funded for 2015 at a cost of $5.6M. Examples of PB improvement projects include pothole and street repair; public lighting improvements; parks and recreation improvements; community

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garden development; small business grants; senior center improvements; installation of public safety cameras; a school meal improvement program; fire and rescue vehicle replacement; assistance to homeless veterans, the disabled, and children; and others. Vallejo's experience reflects PB's overall goal, which is to improve local democratic decision-making by involving the public more effectively and meaningfully in community improvement. Beyond this improvement, there are other reasons to consider PB.

The Participatory Budgeting Project's examination of PB projects identified several benefits:

- broad support for selected public expenditures because PB projects address known needs and interests, thereby helping local officials accomplish their own community improvement objectives,
- doesn't require “new money” because PB projects are typically paid for using existing discretionary funds. PB funds may also come from and/or be used to leverage funds from other sources such as public institutions (e.g. school districts) and community organizations (e.g. community foundations),
- produce higher levels of civic involvement that address positive, community-building goals;
- residents become more knowledgeable about how local government and budgeting works,
- provides more transparency in local government through direct, ongoing public involvement;
- residents learn about the complexity of issues and challenges local officials face, on their behalf,
- fairer, more equitable spending, across a community, because the PB process is open to all groups and interests, including vulnerable and under-represented groups, not just the “usual suspects,”

A major objective of PB is to complement and improve local government decision-making by making it more representative and democratic. The Participatory Budgeting Project has identified conditions and factors to help communities accomplish this objective including:

- local political will to initiate and support a PB process,
- community support from residents and community-supporting organizations,
- willingness of local officials responsible for municipal budgeting to permit the public to spend the money as proposed by residents, and as approved by municipal governing bodies,
- effective public outreach to make sure all communities of interest are invited to participate in, and have access to, the PB process, especially disadvantaged and traditionally underrepresented populations,
- community residents with the knowledge and skill needed to organize fellow residents and move the process along,
- Sound planning to manage projects through to completion.

Municipalities considering PB should reflect on both PB’s benefits and critical success factors. The Participatory Budgeting Project’s website (participatorybudgeting.org) contains excellent resources to assist municipal officials as they consider whether PB might make sense for their community.

Bill Rizzo is a Local Government Specialist at the UW-Extension Local Government Center. He may be reached at william.rizzo@ces.uwex.edu. UW-Extension’s Local Government Center provides educational programs to support Wisconsin local governments, across a variety of topics relevant for local officials. For additional information, visit the Center’s website (lgc.uwex.edu).
Municipal Budgeting:

By Claire Silverman, League Legal Counsel

All municipalities must prepare an annual budget. Although time periods vary depending on a municipality’s process, the budget process typically commences in the summer or early fall and is in full swing during October and November when municipal officials hold public hearings on proposed budgets and eventually adopt final budgets.

Because the budget process requires municipal governing bodies to allocate scarce resources to programs, services and capital assets, it is one of the most important activities undertaken by local governments. This comment reviews state laws governing the budget adoption process. [Note: This legal comment incorporates the material on Budgeting from the League’s Handbook for Wisconsin Municipal Officials.]

The State Budgeting Law

All Wisconsin municipalities must adopt an annual budget. See Wis. Stat. secs. 65.01 and 65.90. A budget is a projected financial plan or “fiscal blueprint” that outlines how municipal funds will be raised and spent.\(^1\) Technically, for purposes of complying with state law, a budget is an ordinance or resolution enacted by the governing body that meets the requirements of sec. 65.90(2). The budget requirements applicable to first class cities (the City of Milwaukee) are set forth in different statutes, secs. 65.01 - 65.20 and are discussed below under the Board of Estimates System. Second, third and fourth class cities are governed by sec. 65.90 but may, by ordinance adopted by three-fourths of all governing body members, choose to be governed by the municipal budget system set forth in secs. 65.02, 65.03 and 65.04.

Under sec. 65.90(2), the following information must be included in a municipal budget:

- all existing indebtedness and all anticipated revenue from all sources during the ensuing year;
- all proposed appropriations for each department, activity and reserve account during the ensuing year;
- actual revenues and expenditures for the preceding year, actual revenues and expenditures for not less than the first six months of the current year and estimated revenues and expenditures for the balance of the current year;
- all anticipated unexpended or unappropriated fund balances, and surpluses.

Budget Summary and Budget Hearing

Before adopting the annual budget, a municipal governing body must hold a public hearing on the proposed budget to allow citizen comment. To inform the public about the proposed budget, the municipality must publish the following information as a class 1 notice under Wis. Stat. ch. 985, at least 15 days before the date of the public hearing on the budget:

- A budget summary that includes information specified by state law;
- A notice of the place where the proposed budget in detail may be inspected (e.g., the clerk’s office);
- A notice of the time and place of the budget hearing.

Wis. Stat. sec. 65.90(3)(a).

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What Local Officials Need to Know

The published budget summary must contain the following information for the current budget and the proposed budget, and must also include the percentage change between the current and proposed budgets:

- General fund expenditures in the following categories: general government; public safety; public works; health and human services; culture, recreation and education; conservation and development; capital outlay; debt service; other financing uses.

- General fund revenues from the following sources: taxes; special assessments; intergovernmental revenues; licenses and permits; fines, forfeitures and penalties; public charges for services; intergovernmental charges; miscellaneous revenue; other financing sources.

- All beginning and year-end governmental and proprietary fund balances.

- The contribution of the property tax to each governmental fund and to each proprietary fund that receives property tax revenue and the totals for all funds.

- Revenue and expenditure totals, by fund, for each governmental fund, and for each proprietary fund and the revenue and expenditure totals for all funds combined.

- Revenue and expenditure totals for each impact fee imposed by the municipality.

In addition, the budget summary must include “an itemization of proposed increases and decreases to the current year budget due to new or discontinued activities or functions.”

A municipality may publish additional budget summary information, but the additional information must be reported separately from the statutorily required information.

A public hearing on the proposed budget must be conducted not less than 15 days after the budget summary is published. At this meeting “any resident or taxpayer of the governmental unit shall have an opportunity to be heard on the proposed budget.” Sometime after the public hearing, either at the same meeting or at a subsequent one, the budget ordinance or resolution is formally adopted by the governing body.

In cities, the budget ordinance or resolution is submitted to the mayor for his or her approval. Mayors are authorized to veto actions of the common council. If the mayor vetoes the budget, it is sent back to the council where a two-thirds vote of all the members is required to override the veto.

Statutory law does not authorize a partial veto by a mayor. However, it is the League’s view that cities may rely on their constitutional home rule powers to enact a charter ordinance providing for partial line or item veto of the municipal budget by the mayor. The League’s Handbook for Wisconsin Municipal Officials (2012) contains a sample charter ordinance giving the mayor partial veto authority over the budget on p. 246 in the appendix at the end of chapter VII which deals with Finance and Taxation.

Once a budget has been adopted by the governing body and, in cities, approved by the mayor, it provides the authorization to levy taxes and spend the authorized appropriations. The provisions of an adopted budget are obligatory and may be amended only by following certain procedures described below.

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3. Sec. 65.90(3)(d).
4. Sec. 65.90(4).
5. Sec. 62.09(8)(c).
State law does not set forth a specific date by which a municipal budget must be enacted. Certainly the budget must be adopted by the end of the year because villages and cities operate on a calendar fiscal year. For all practical purposes, however, the budget should be adopted by the end of November or, at the latest, the beginning of December. Otherwise, the municipality will be unable to comply with certain other deadlines relating to the property tax collection process. For example, village boards must determine the village’s tax levy by December 15. Also, the municipal clerk must transfer the tax roll to the municipal treasurer by December 8. This deadline is extended to the 3rd Monday in December if the municipality has in effect a policy of issuing refund checks to taxpayers whose escrow check for property taxes exceeds the actual tax bill within 15 business days after receiving the escrow payment.

In addition, the clerk must return the annual “Statement of Taxes,” showing all taxes levied in the municipality, to the Department of Revenue and county treasurer on or before the 3rd Monday in December.

Moreover, many municipalities have their tax bills printed by the county or a private service provider. In such situations, the municipality will need to have its budget adopted in time to comply with the county’s or private service provider’s deadline for receiving the tax roll. Thus, practically speaking, the deadline for adopting a budget is dictated by other deadlines, both statutory and otherwise, designed to ensure that tax bills are sent to taxpayers by Christmas so that taxpayers can pay their property tax bills before the end of the year.

**Budget Changes**

The law on changing an adopted budget is important because it is a key consideration in deciding how detailed the budget should be. A two-thirds vote of the entire governing body is required to change an adopted budget, and a class 1 notice of the change must be published under ch. 985 with-
in 10 days after the change is made or the change is invalid. This process must be followed when altering the amount of tax to be levied, the amounts of the various appropriations and the purposes for such appropriations stated in the budget. The law is unclear on whether transfers from the contingency fund to other budgeted accounts may be done under normal voting requirements, or require an extraordinary vote and a class 1 notice publication.

**Non-Lapsing Reserve Funds**

In general, municipalities may not accumulate unappropriated surplus funds. However, cities and villages may

1. maintain reasonable amounts of unappropriated funds on hand to meet immediate cash flow needs, and

2. accumulate needed capital in non-lapsing funds to finance specifically identified future capital expenditures (e.g., new fire truck, village hall or library).

Wis. Stat. sec. 65.90(1) provides that every municipality must annually, “prior to the determination of the sum to be financed in whole or in part by a general property tax, funds on hand or estimated revenues from any source, formulate a budget and hold public hearings thereon.” (Emphasis added.) In *Immega v. City of Elkhorn*, a taxpayer sued the City of Elkhorn to recover an amount of increased taxes he paid under protest that he claimed was due to Walworth County’s failure to use surplus funds on hand to reduce its tax levy. The City tendered defense of the action to the county and the county accepted. Before adopting its budget, the county board had adopted a resolution reciting its desire to set aside funds for future use in building a new courthouse. It also had changed the name of a no-longer needed sinking fund that had been started and used to retire a bond issue from “Special Sinking Fund” to “New Court House Fund.” However, the board failed to actually appropriate any funds for the construction of a new courthouse.

The *Immega* court stated that it was inappropriate for a local government to levy a tax to enrich the public treasury or to accumulate funds for no specific purpose. The court concluded that the unappropriated surplus must be treated as “funds on hand” and could not be carried forward as a separate sinking fund into the new fiscal year but rather must be used to reduce taxes. The Wisconsin Supreme Court held that year-end balances in accounts, if not designated for any particular purpose, must be considered “funds on hand” under Wis. Stat. sec. 65.90(1) and used to defray budgetary costs and reduce the tax levy for the ensuing year.

The general rule announced in *Immega* against accumulating surpluses for undesignated purposes was first qualified in *Fiore v. City of Madison*. In *Fiore*, a taxpayer sued for a refund of taxes claiming that approximately $600,000 appropriated by the city to a city-county non-lapsing building reserve fund should have been considered unallocated surplus “funds on hand” under Wis. Stat. sec. 65.90(1) and used to defray budgetary expenses. The *Fiore* court disagreed and held that, unlike the county board in *Immega*, the Madison city council had adopted a resolution appropriating approximately $600,000 into a city-county non-lapsing building reserve fund which it had lawfully created pursuant to its broad home rule powers under sec. 62.11(5).

The court concluded that because of the appropriation, the amount ceased to be an unallocated surplus available to defray budget expenses. With regard to the plaintiff’s claims that the city failed to take into account other large sums of unallocated surplus funds when fixing the tax rate, the *Fiore* court

Legal Comment

13. In 32 Op. Att’y Gen. 301 (1943), the Attorney General opined that transfers from a contingent account for a purpose not within the budget would not constitute a budget amendment since the very purpose of a contingency fund is to provide for moneys on hand to be available for emergency and other unforeseen matters not contemplated and otherwise provided for in the budget. This opinion was retreated from in 57 Op. Att’y Gen. 134 (1968) and 76 Op. Att’y Gen. 145 (1987) but these opinions are not clearly applicable to cities and villages since they were based, in part, on statutes specifically applicable to county contingent funds and were addressed to counties; See also League opinion, Financial Procedure 182 (intended allocation of funds from village’s contingency account to pay for newly created, although previously anticipated, positions would merely constitute a transfer of funds which would not require a two-thirds vote).
15. 264 Wis. 482, 59 N.W.2d 460 (1953).
agreed that if there were such funds they must be applied to finance the budget. However, the court said that ordinary business principles permit municipalities to retain reasonable working cash balances in the municipal treasury. In other words, every “last cent [of unallocated surplus funds] need not be devoted to reduction of taxes in aid of the budget.”

Subsequent judicial decisions, an attorney general opinion and a statutory change have further qualified the general prohibition in *Immega* against accumulating unappropriated surpluses. In *Blue Top Motel, Inc. v. City of Stevens Point*, the Wisconsin Supreme Court analyzed the *Immega* and *Fiore* cases as follows: “Taken together, *Immega* and *Fiore* establish generally that a city may retain funds to meet its needs, but may not simply carry a large surplus which has not been designated for any particular use.”

In *Barth v. Monroe Board of Education*, the Wisconsin court of appeals stated in dicta that “[i]t is possible that a sinking fund dedicated to all current and future capital expenditures without relation to specific capital projects has so little public purpose that it violates the prohibition against taxing for purposes other than a public purpose.” The *Barth* court declined to resolve the matter, however, because the school board specifically dedicated the funds at issue in the case to construct a swimming pool before the suit was filed.

A 1987 Wisconsin Attorney General opinion reads the *Immega, Fiore, Blue Top Motel* and *Barth* line of cases to mean that while municipalities may not lawfully create and accumulate unappropriated surplus funds, they may “maintain reasonable amounts necessary in the exercise of sound business principles to meet their immediate cash flow needs during the current budgetary period or to accumulate needed capital in non-lapsing funds to finance specifically identified future capital expenditures.”

In 1988, Wis. Stat. sec. 65.90 was amended to authorize municipalities to set up, operate and dissolve liability reserve funds. In the League’s opinion, these provisions were unnecessary as regards city and village authority to establish reserve funds, and can in fact be read to create limits on what a municipality can do with respect to establishing liability reserve funds.

The provisions provide that municipalities may set up and levy taxes for a liability reserve fund to pay liability claims or insurance premiums. The fund may accumulate from year to year. The annual taxes levied for the fund may not exceed the amount recommended by an actuary, in accordance with generally accepted actuarial principles, sufficient to pay the premiums and uninsured portion of the claims anticipated to be made for occurrences during the year. Payment of the premiums and claims may be made either directly from the reserve or transferred from the reserve to an operating account for the payments.

**Board of Estimates Budget System**

The budget development and adoption process set forth in Wis. Stat. sec. 65.90 applies to nearly all Wisconsin municipalities. However, as mentioned above, the City of Milwaukee follows the budget system set forth in secs. 65.01 - 65.20. Any other city may, by ordinance adopted by three-fourths of all the members of the common council, adopt the budget development process set forth in secs. 65.02 - 65.04. Only a few municipalities, such as the City of Madison, have done so. Under this alternative budget development process, the city must create a Board of Estimates made up of key city officers such as the mayor, president of the common council, city attorney, and comptroller. The Board of Estimates receives budget requests from each city department and prepares and submits a proposed budget to the common council by October 25 each year. The proposed budget must comply with sec. 65.02(5) - (11).

**Recommended Budget Practices**

So far, this discussion of municipal budgeting has focused almost exclusively on the minimum requirements imposed by state law regarding the adoption of an annual budget. As the National Advisory Council on State and Local Budgeting (NACSLB) explains in its Recommended Budget Practices: A Framework for Improved State and Local Government Budgeting (1998), published by the Government Finance Officers Association (GFOA), “[a] good budget process is far
more than the preparation of a legal document that appropriates funds for a series of line items. Good budgeting is a broadly defined process that has political, managerial, planning, communication, and financial dimensions.”

Wis. Stat. sec. 65.90 is silent about how a municipality is to develop a proposed budget for consideration by the governing body. This absence of a statutorily prescribed process for preparing a budget leaves substantial discretion to local governments in determining their own budgeting procedures. Consequently, there are wide differences in budget practices among municipalities.

Many municipalities have developed formal procedures set out in ordinances or resolutions and in guidelines furnished to department heads. See The League’s Handbook for Wisconsin Municipal Officials (2012) Ch. VII appendix for a sample “budget system” ordinance. The budget process in smaller municipalities is often less formal. Nevertheless, in most, if not all, municipalities, the process of developing a budget “is governed by a mixture of law, tradition, agreements, understandings — and politics.” Donoghue, “Local Government in Wisconsin,” Wisconsin Blue Book 1979-80.

Some communities treat budgeting as a seasonal occurrence — something to be done each October and November. However, as the discussion below of recommended budget practices implies, the budget process is a continuous, year-round process that involves three main components: 1) preparation; 2) consideration and adoption; and 3) administration.

In many communities, the budget process begins early in the calendar year when each department head or local official reviews his or her operations for the current and previous year and prepares a budget request for the ensuing year. In some cases, the municipal clerk or administrator may do this for some departments. The municipal clerk, administrator or finance officer compiles the requests. The compilation then is reviewed by the finance or budget committee of the governing body and a preliminary budget is developed. This is a legislative budget.

A number of other municipalities follow an executive budget system, where the municipal administrator, mayor or manager reviews the budget requests. The chief executive considers the whole budget and may make reductions or additions. After this process, the chief executive presents the recommended budget to the governing body. In some instances, the executive budget is accompanied by an executive budget message, which highlights the major goals of the budget and any significant anticipated or proposed changes in revenues or expenditures.

Executive budgets are most common in cities with a council-manager form of government or a full-time mayor. Some municipalities with an administrator also use the executive budget. The council or village board may review the preliminary budget either by referring the budget to a standing committee for consideration or by having the entire governing body undertake the budget review. Following this review, the reviewing body develops a proposed budget and a public hearing is held. The governing body then adopts the budget, which includes a levy of the necessary property taxes. The League’s Handbook for Wisconsin Municipal Officials ch. VII appendix contains a sample ordinance for adopting a budget and levying a property tax.

Features of a Good Budget Process

Some or all of the NACSLB’s 59 recommended budget practices might serve as a blueprint for Wisconsin local governments seeking to improve their budget process. As the NACSLB points out in the introduction to its recommended budget practices, “the quality of decisions resulting from the budget process and the level of their acceptance depends on the characteristics of the budget process that is used.” Thus:

A budget process that is well integrated with other activities of government, such as the planning and management functions, will provide better financial and program decisions and lead to improved governmental operations. A process that effectively involves all stakeholder selected officials, governmental administrators, employees and their representatives, citizen groups, and business leaders and reflects their needs and priorities will serve as a positive force in maintaining good public relations and enhancing citizens’ and other stakeholders’ overall impression of government.21

The NACSLB document further explains that a good budget process has the following essential features:

- Incorporates a long-term perspective;
- Establishes linkages to broad organizational goals;
- Focuses budget decisions on results and outcomes;
- Involves and promotes effective communication with stakeholders;
- Provides incentives to government management and employees.

These key characteristics of good budgeting make clear that the budget process is more than an annual exercise in balancing revenues and expenditures. It is strategic in nature, encompassing a multiyear financial and operating plan that allocates resources on the basis of identified goals. A good budget process moves beyond the traditional concept of line item expenditure control, providing incentives and flexibility to managers that can lead to improved program efficiency and effectiveness.22

Finally, the NACSLB’s list of recommended budget practices emphasizes that communication and involvement with citizens and other stakeholders is integral to the budget process. The term “stakeholder” refers to anyone who is affected by or has a stake in government. This term includes citizens, customers, elected officials, management, employees and their representatives (whether unions or other agents), businesses, other governments, and the media. As the NACSLB document explains:

It is vital that the budget process include all stakeholders. The budget process should accomplish the following:

- involve stakeholders,
- identify stakeholder issues and concerns,
- achieve stakeholder buy-in to the overall budgeting process,
- achieve stakeholder buy-in to decisions related to goals, services, and resource utilization,
- report to stakeholders on services and resource utilization, and
- serve generally to enhance the stakeholders’ view of government.

The importance of this aspect of the budget process cannot be overstated. Regular and frequent reporting is necessary to provide accountability, educate and inform stakeholders, and improve their confidence in the government. Communication and involvement is an essential component of every aspect of the budget process.23


Financial Procedure 237R

22. Id.
23. Id.
Frequently Asked Questions

**Is a majority vote of a quorum of the municipal governing body sufficient to adopt the annual municipal budget?**

Yes, unless a local ordinance provides otherwise. No extraordinary vote is required to formally adopt the annual budget. However, after the budget has been adopted, a two-thirds vote of the entire membership of the governing body (not just those attending and voting) is necessary to effect any change in the budget (i.e., the amount of the tax to be levied or certified, the amounts of the various appropriations and the purposes for such appropriations stated in the budget). Wis. Stat. sec. 65.90(1) and (5).

**Is there a deadline for adopting a municipal budget?**

No. State law does not set forth a specific date by which a municipal budget must be enacted. In the past, the League advised that a municipal budget must be adopted by the end of the year because villages and cities operate on a calendar fiscal year. Wis. Stat. secs. 61.51(3) and 62.12(1).

For all practical purposes, however, the budget should be adopted by the end of November or, at the latest, the beginning of December. Otherwise, the municipality will be unable to comply with certain other deadlines relating to the property tax process. For example, village boards must determine the village’s tax levy by December 15. Wis. Stat. sec. 61.46. Also, the municipal clerk must transfer the tax roll to the municipal treasurer by December 8 under sec. 74.03(1), unless the sec. 74.03(2), exception to this deadline applies. In addition, the clerk must return the annual “Statement of Taxes,” showing all taxes levied in the municipality, to the Department of Revenue and County Treasurer on or before the 3rd Monday in December. Sec. 69.61.

Moreover, many municipalities have their tax bills printed by the county or a private service provider. In such situations, the municipality will need to have its budget adopted in time to comply with the county’s or private service provider’s deadline for receiving the tax roll. Thus, practically speaking, the deadline for adopting a budget is dictated by other deadlines, both statutory and otherwise, designed to ensure that tax bills are sent to taxpayers by Christmas so that taxpayers can pay their property tax bills before the end of the year.

**What is “debt” within the meaning of Article XI, sec. 3(2) and 3(3) of the Wisconsin Constitution, which limits municipal borrowing and other debt?**

Article XI, sec. 3(2), Wis. Const., states in relevant part that no city or village “may become indebted in an amount that exceeds an allowable percentage of the taxable property located therein equalized for state purposes as provided by the legislature. In all cases the allow-

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The Board of Trustees of the Financial Accounting Foundation (FAF) announced in May that it is appointing Robert Scott as the Chairman of the GASAC. Robert Scott has served on the Governmental Accounting Standards Advisory Council (GASAC) as a representative of the Government Finance Officers Association (GFOA) since January 1, 2011.

As city of Brookfield Mayor Steve Ponto said when he conveyed the news, “This is a great distinction for Robert and for the City of Brookfield. All former chairs of this national advisory group have been from state governments. Robert is the first chairman from local government. Robert will, of course, continue as the City of Brookfield’s Finance Director. This action is another indication of how fortunate the City of Brookfield is to have such capable, accomplished employees.”

In Dieck, the Wisconsin Supreme Court stated that the test for indebtedness in art. XI, secs. 3(2) and (3), is "not whether the municipal body unit will probably pay or whether the municipal body would be foolish not to pay. The test is whether the municipal body is under an obligation to pay and the creditor has a right to enforce payment against the municipal body or its assets." No indebtedness is incurred "where payments are to be made solely at the government's option." 477 N.W.2d at 618 (quoting State ex rel. Thomson v. Giessel, 271 Wis. 15, 40, 72 N.W.2d 577 (1955)). Therefore, "debt" within the meaning of art. XI, secs. 3(2) and (3) not only includes direct indebtedness by municipal borrowing but also indirect obligations like guaranteeing repayment of a commercial loan to a non-profit organization or other third party. See League Opinion Debts 287.
The League’s Chief Executives Workshop is always a not-to-be-missed opportunity to network with fellow mayors and village presidents, learn from thoughtful leaders, and tackle issues that impact your community. In addition, we are featuring our second annual Women Chief Executives breakfast.

Attendee reviews included, “Great info,” “Success stories always inspiring,” and “Very motivating – good tips for making it happen.”

This year’s Workshop includes sessions on:

• The Brain Drain and other Demographic Challenges Facing Wisconsin, by Tom Still, President, Wisconsin Technology Council
• Strategies for Attracting and Retaining Residents to your Community;
• The State of Communities under 10,000: Recent UW Milwaukee Survey Results, by Dr. Douglas Ihrke, U.W. Milwaukee
• The Future of Wisconsin, by Lieutenant Governor Rebecca Kleefisch
• The always popular small and large communities concurrent roundtable sessions

Join us August 19-21 at the beautiful Osthoff Resort in Elkhart Lake. Registration is available on the League’s website http://www.lwm-info.org.

2015 League of Wisconsin Municipalities Calendar

August 19-21
Chief Executives Workshop
Osthoff Resort, Elkhart Lake
(800) 976-3399

September 16-18
Plumbing Inspectors Institute
Tundra Lodge, Green Bay
(877) 886-3725

September 29 - October 2
Assessors Institute
Osthoff Resort, Elkhart Lake
(800) 876-3399

October 28-30
117th Annual Conference
Engineering & PW Track
Hyatt Regency, Milwaukee
(866) 460-7456

November 6
Police & Fire Commission Workshop
Glacier Canyon Lodge
Wilderness Resort, Wisconsin Dells
(800) 867-9453

Last session 2013 Act 274 revised the law applicable to collecting residential tenants’ delinquent utility charges. The charges apply to municipal public utilities. While Act 274 preserves a municipal utility’s ability to use tax roll collection tools for delinquent residential tenant utility charges, it established a few new requirements to do so.

Municipal Electric Utilities of Wisconsin, Wisconsin Rural Water Association, Municipal Environmental Group–Water Division, and the League of Wisconsin Municipalities are pleased to provide this guidance on the provisions of 2013 Act 274 that affect the tax roll process for collecting delinquent tenant utility bills.

The League helped create a tax roll working group to prepare these educational materials for all utility collection and billing personnel. We thank the following individuals for their time and commitment to this initiative:

Shellie Benish, Village of Black Earth
Tina Erickson, La Crosse Water Utility
Diane Hermansen, Kaukauna Utilities
Paula Maurer, Menasha Utilities
Vicki Tessen, Wisconsin Municipal Clerks Association
Amber Peterson, Supreme Court of Wisconsin – Office of Court Operations
Zak Bloom, Municipal Electric Utilities of Wisconsin

Lawrie Kobza, Municipal Environmental Group–Water Div.
Dave Lawrence, Wisconsin Rural Water Association
Curt Witynski, League of Wisconsin Municipalities

This guidance does not cover the non-tax roll provisions of Act 274. Please contact your respective association for the FAQ document distributed in May 2014.

The remainder of this article provides a step-by-step look at the new tax roll process. Sample documents for your use are available on the League’s website.

2015 TAX ROLL PROCESS

Act 274 contains provisions that alter the tax roll process for 2015 and beyond for certain properties and customers where the landlord has triggered the application of additional landlord/tenant requirements. These requirements apply if:

• Utility service is measured separately for a residential rental unit
• Landlord notifies the utility in writing of the name and address of the property owner and the tenant who is responsible for payment of the utility charges at the residential rental unit

Two provisions have raised questions and created confusion. The first provision provides a municipal utility with a lien on the tenant’s assets for any unpaid utility bills of the residential tenant customer. The second provision requires that a municipal utility file a list of residential tenant customers with delinquent accounts placed on the property tax roll with the clerk of courts.

The primary question is: what must be done with the list of residential tenant customers with delinquent accounts that is filed with the clerk of courts? Is the clerk of courts to simply file the list in a folder, or must the clerk record the names on the list in the judgment and lien docket? If the latter, there are fees associated with the judgment and lien docket initial filing, transfer and satisfaction.

After discussing the interpretation of Act 274 with the original legislation stakeholders and the Office of Court Operations, we are pleased to report that there is consensus that the filing of the list with the clerk of courts does not require the clerks to enter the names on the list in the judgment and lien docket. This means municipal utilities will not be required to file and pay for lien filings, transfers and satisfactions. Clerks of court will be instructed to merely place the lists in a folder.

The municipal utility will be required to transfer the lien on a tenant’s assets
Act 274
From page 243
to the landlord when the landlord pays
the arrearages (either prior to Nov. 15 or
as part of a property tax payment). It is
then up to the landlord to file the notice
of lien with the clerk of courts. Once
the clerk of courts receives the notice of
lien, the clerk will then record the lien in
the judgment and lien docket, and that
information will appear on CCAP.

The working group has prepared a step-
by-step explanation of the new tax roll
process. New Act 274 requirements are
highlighted for your reference.

**Step One: Tax Roll/Lien Process Begins**

A utility may start the tax roll process:

- If past-due charges of a tenant cus-
tomer exist on Oct. 15 for services
  provided prior to Oct. 1, and
- If the utility has given the landlord
  the required 14-day notices. (Act
  274 requires 14-day notice as of
  Jan. 1. The previous requirement
  was 21-day notice or provision of
duplicate bills.)

If the utility has not given the landlord
the required 14-day notices, the utility
cannot use the tax roll process.

**Step Two: October 15 Notice of
Tax Roll/Lien Process**

The utility or municipal treasurer must
give notice to owner and tenant of:

- The amount of arrears and penalty
- Notice that the arrears and penal-
ty must be paid by Nov. 1 or a 10
  percent penalty will be added
- Notice that if the amount is not
  paid by Nov. 15, it will be placed on
  the parcel’s property tax bill

The municipality must also give the
tenant notice that:

- A lien has arisen on the tenant’s
  assets for unpaid arrears, and
- That the lien will transfer to the
  landlord if the landlord pays the
delinquent charges.
- Sample language for notice of lien
to tenant included.

The utility’s lien on the tenant’s assets
for delinquent utility charges exists by
statute. The lien arises as soon as the
Oct. 15 notice is sent. The utility does
not need to do anything further for the
lien to arise.

**Step Three: Handling Payments
between October 15 and November 15**

If the tenant pays before Nov. 15:

- No delinquency is owed to the util-
ity, so nothing goes to the property
tax roll;
- The municipal lien against the
  tenant’s assets is satisfied;
- Since the lien was not filed any-
  where, nothing more needs to be
done;

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**Annual Conference Resolutions Deadline: August 14, 2015**

Municipalities are invited to submit resolutions establishing League Positions on legislative and other issues for consideration by the membership at the Annual Conference in October.

All resolutions and other proposals establishing policies for the League of Wisconsin Municipalities must be submitted to the League office by Friday, August 14, 2015. Resolutions may be submitted to Curt Witynski, League of Wisconsin Municipalities, 131 W. Wilson Ave., Suite 505, Madison, WI 53703; fax (608) 267-0645; e-mail <witynski@lwm-info.org>. According to the League’s constitution, all such proposals must be published prior to the annual conference to become eligible for consideration.
If the landlord pays before Nov. 15:

- No delinquency is owed to the utility, so nothing goes to the property tax roll;
- The municipality must transfer the lien on the tenant’s assets to the landlord (see sample document);
- The owner can file a notice of lien with the clerk of courts;
- The clerk is to file the lien in the judgment and lien docket;
- If the lien is filed, it will appear on CCAP.

If no one pays by Nov. 15

- Delinquent charges go to the property tax roll;
- The municipal lien on tenant’s assets remains;

**STEP FOUR: TAX ROLL/LIEN PROCESS AFTER NOVEMBER 15**

- The utility certifies the list of parcels with delinquent utility bills to the treasurer on Nov. 16;
- This amount is placed on the property tax roll;
- Prior to Dec. 17, the utility must provide a list of residential tenant customers with delinquent accounts placed on the property tax roll to the clerk of courts (see sample document for details on what information should be filed).

**STEP FIVE: HANDLING TENANT PAYMENTS AFTER NOVEMBER 15**

The last piece of the tax roll/lien process deals with payments received after Nov. 15. Act 274 placed increased emphasis on the issue of whether and how to accept payments from tenants after Nov. 15. Those include the requirement that the lien on the tenant’s assets be transferred to the landlord if the landlord instead of the tenant pays the delinquent charges, and the potential for the landlord to file the lien with the clerk of courts and have the lien show up on CCAP. In order to avoid the need to transfer the lien to the landlord and the potential for the lien to show up on CCAP, the working group recommends creation of an internal policy between the utility and the municipality that addresses how a tenant can pay delinquent utility bills after Nov. 15. Issues to address include:

- Will you (utility or municipality) accept payment from tenants after November 15?
- If yes, how will the municipality ensure payment is credited to the owner’s property tax bill?

**STEP SIX: HANDLING PAYMENTS FROM PROPERTY OWNER AFTER NOVEMBER 15**

Under Act 274, if the property owner pays the delinquent utility bill incurred by the tenant customer, the utility must transfer the lien on the tenant’s assets to the property owner. The working group prepared a sample payment receipt and lien transfer form for your use. The working group recommends creation of an internal policy between the utility and the municipality that addresses how the department accepting tax payments will notify the utility when the landlord pays the delinquent utility charge on the property tax bill. This is critical because of the lien transfer requirement. A sample “inter-office notice of payment of delinquent charges after Nov. 15” was prepared by the working group that can be edited for your specific process.

Sample Documents required by 2013 Act 274 are posted on the League’s website at http://bitly/1BWpFu8.

You may have already revised existing or created new documents to comply with Act 274. Please be sure they are comparable to the samples on-line.

**SUMMARY**

Act 274 changes a few things for the 2015 tax roll process for those rental properties where special landlord/tenant requirements have been triggered. These include:

1. Providing a residential tenant customer with the Oct. 15 tax roll notice; including language that a lien may be placed on the tenant’s assets and that the lien transfers to the landlord if the landlord pays the delinquent charges.

2. The municipal utility is required to transfer the lien to the landlord if the landlord pays the delinquent charges.

3. The municipal utility must file a list with the clerk of courts of residential tenant customers with delinquent accounts placed on the property tax roll.

We believe the process has been clarified significantly since initial guidance was released and we hope this document is useful. Please contact your respective association with any questions.
Legal Procedure 237R

Legal comment reviews Wisconsin law governing municipal budgets including the requirements for publishing a budget summary and holding a budget hearing, deadlines for adopting a municipal budget, requirements for amending the budget, non-lapsing reserve funds, the board of estimates budget system, and reviews the National Advisory Council on State and Local Budgeting’s recommended budget practices. 5/29/15. The complete text of this legal comment is on page 230 of this Municipality.

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The League’s Budgeting Toolkit

Every year, one of the most important activities undertaken by cities and villages is preparing and passing an annual budget.

Good budgeting is more than an annual exercise in balancing revenues and expenditures and appropriating funds for a series of line items. Rather, the budget process should be strategic in nature, with political, managerial, planning, communication, and financial dimensions.

The 2016 Municipal Budgeting Toolkit is designed to help city and village officials work through their budgeting process. Access the League’s Toolkit at www.lwm-info.org under Resources > Municipal Topics.

The League’s Toolkit is packed with information and resources about the municipal budgeting process. It includes the latest information on shared revenue, general transportation aids, the expenditure restraint program, and other state aid programs. It explains the latest changes to the levy limits law. The toolkit includes links to budgeting guides and best practices as well as sample policies and procedures.

As the magazine goes to print, we just added Governing Magazine’s “New Tools for the New Normal” to our website toolkit. The report is the result of Governing’s 2014 Cost of Government Summit and includes chapters on “Is Permanent Fiscal Scarcity the New Normal?” as well as “4 New (And Not-So-New) Tools for the New Normal,” and “Government’s Major Cost Drivers — And What to Do About Them.” Take a look.
Welcome –

The League welcomes the following as they begin their new municipal responsibilities:

Account Analyst: La Crosse, Marcus Buchholz

Building Inspector Merrillan, Adam Pillard

Administrative Services Manager: Milwaukee, Angelyn Ward

Administrators: Caledonia, Tom Christensen; Poynette, Lisa Wilson

Administrator–Clerk: Mequon, William Jones

Administrator–Clerk–Treas.: Darien, Rebecca Houseman

LeMire; Kewaunee, Kyle Ellefson

Aldermen: Abbotsford, Gerald Anders, Roger Weideman; Burlington, Todd Bauman, John Ekes, Bob Grandi, Thomas Preusker; Darlington, Felix Perez; Gillett, William Pecha; Horicon, Nathan Anfinson; Lake Geneva, Chris Gelter, Richard Hedlund, Sarah Hill, Jeff Wall; Mauston, Leslie Householder; Marshall, Rich Reinart; Milton, Maxine Strieg; Jeremy Zajac; Mondovi, Lynn Smith; Neillsville, Julie Counsell; Ripon, Todd Elliott; River Falls, Hal Watson; Stanley, Laurie Foster; Stevens Point, Heidi Oberstadt, Garrett Ryan, Bryan Van Stephen

Alderman–Comptroller River Falls, Peter Anderson

Assessors: Baldwin, Barrett Brenner; Blue River, Don McGuire; Eagle River, Mark Haefelfren; Elm Grove, Dan Walker; Fennwood, James Kuetzwie; Fox Point, Dan Walker; Manawa, Richard Brost; Marinette, Michael Denor; Milltown, William Koepp; Oshkosh, Marly Kuehn; Plymouth, Walt Hughes; River Hills, Jay Matthes

Attorneys: Balsam Lake, Terry Dunst; Black Earth, William Cole; Black River Falls, Lisa Hirschman; Cadott, Brian Wright; Cedar Grove, Richard Wirtz; Elk Mound, Ken Schofield; Holmen, Brian Weber; Hustisford, Ian Prust; Jackson, John St. Peter; Mayville, James Hammes; Mequon, Brian Saidak; Montreal, Dennis Cossi; Muskego, Don Molter; New Holstein, Andrew King; Onalaska, Amanda Jackson; Sheboygan, Charles Adams; Somers, Jeffrey Davison; Suring, John Evans; Wittenberg, Tim Schmid

Attorney, Assistants: Germantown, Siely Joshi; Sheboygan, Rose Simon

Building Inspectors: Chenequa, Tony Fockler; Elmwood Park, Lee Greivel; Janesville, Tom Clippert; Milltown, Cliff Manwiller; Twin Lakes, Jack Rowland; Wrightstown, Dan Coffey

Building–Plumbing Inspector: Evansville, Ben Koch

Business Dev. Dir.–Planning: Portage, Steven Sobiek

Chief Building Inspector: Fond du Lac, Doug Hoerth

Chief Fire Inspectors: Blanchardville, Steve Pilling; Chippewa Falls, Justus Busse; Friesland, Marc Bubholz; Grantsburg, Cory Barnett; Hales Corners, Wes Guajardo

Clerks: Cascade, Kayla Brown; Downing, Susan Petranovich; Eland, Marnie Osterbrink; Footville, Jennifer Becker; La Valle, Colette Radtke; Mason, Marian Schraufnagel

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*Community Dev. Dirs.:** **Brillion**, Cheryl Welch; **Fond du Lac**, Dyann Benson

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*Data Processing Manager:* **Kenosha**, Tig Kerkman

*Deputy Clerk-Treasurers:* **Coon Valley**, Julie Nelson; **Elkhorn**, Corrie Daly; **Glendale**, Andrew Barten; **Horicon**, Christine Spilker; **Shell Lake**, Stefanie Naessen; **Warrens**, Emma Jensen

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*Deputy Treasurer-Admin. Serv. Coord.:** **Richfield**, KateLynn Schmitt

*Econ. Dev. Coord.:** **Janesville**, Gale Price

*EMS Chief:* **Dodgeville**, Brian Cushman

*Engineers:* **Elkhorn**, Paul VanHenkelum; **Viroqua**, Sarah Grainger

*Engineer, Assistant:* **Chippewa Falls**, Robbie Krejci

*Facilities Management Director:* **New Berlin**, Kevin Bernhardt

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*Fire Inspector:* **Vesper**, Doug Schalow

*Fiscal Mgr.:** **Kimberly**, Barbara Rein

*Historical Development Dir.:** **Marquette**, Rudy Winter

*Leisure Services Director:* **Ashland**, Sara Hudson

*Maintenance Dept.:** **Loganville**, Mark Kruse

*Management Assistant:* **Bayside**, Ben Matters

*Manager:* **Beloit**, Lori Curtis Luther

*Mayor:* **Stevens Point**, Mike Wiza

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**Water Superintendents:** Hilbert, Jeremy Baumgartm

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**Zoning – Planning Specialist:** Ashland, April Kroner

**Zoning Administrators:** Arcadia, Bill Chang; Chetek, Joe Atwood; Lodi, Colin Punt; Luxemburg, Todd Delbeau

**Corrections –**

The League regrets that the following people were listed incorrectly last month due to a glitch in the database system:

**Elkhorn.** The new Alderman for the City of Elkhorn is Michael Kluck.

**Palmyra.** The new Trustee is David Cox.

**Racine.** The following are the new Alders: Mary Land, Steve Smetana, and Melissa Lemke.

**Menomonie.** The new Council Members are Faith Cook, Clay Barnes, and Lee Hathaway.
Wisconsin municipalities finance public services and capital assets primarily through a combination of property taxes, shared revenue and state transportation aids, special assessments, fees and borrowing.

THE BREAK-DOWN:

**Cities**
- Taxes: 29%
- Utility Revenue: 16%
- Intergovernmental Charges: 13%
- Long-term Debt: 12%
- Intergovernmental Revenues: 12%
- Other Income: 11%
- Fines & Forfeitures: 4%
- Licenses & Permits: 1%
- Interest Income: 1%
- Fines & Forfeitures: 1%

**Villages**
- Taxes: 36%
- Public Charges for Services: 12%
- Utility Revenue: 11%
- Long-term Debt: 11%
- Intergovernmental Charges: 10%
- Intergovernmental Revenues: 9%
- Other Income: 3%
- Licenses & Permits: 2%
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- Fines & Forfeitures: 1%

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