



Wisconsin Towns Association
2019-21 Comprehensive Legislative Session Summary



Alcohol Licensing

2019 Wisconsin Act 6: Alcohol Sales

Removes the four-liter limit on sales of distilled spirits for off premises consumption by “Class B” liquor license holders. Under Act 6, “Class B” license holders may now sell distilled spirits in any quantity for off premises consumption.

2019 Wisconsin Act 166: Issuance of a Bartenders License

Allows a municipal governing body to designate, by ordinance, a municipal official that is authorized to issue alcohol beverages operator’s licenses and provisional operator’s licenses (i.e., bartender licenses).

Assessment and Taxes

2019 Wisconsin Act 2: Agricultural Land Assessment Notification

Assessors must generally notify a taxpayer when the taxpayer’s property is assessed at a different total than the prior year. This act creates an exception to that requirement, providing that an assessor is not required to deliver notice of a change in assessment if the assessed land is classified as agricultural land for the current and prior year and the difference between the assessments is \$500 or less.

2019 Wisconsin Act 40: Property Tax Due Dates

Property tax payments are generally considered delinquent if not paid on or before five working days after the due date. The act provides that if the due date falls on a Saturday or Sunday, the five working day grace period ends at the close of business on the first Friday following the due date. The act also provides that, regardless of when it is received, a payment is timely if it is mailed in a properly addressed envelope, postmarked before midnight on the due date with postage prepaid, and is received by the proper official.

2019 Wisconsin Act 114: Notice of Changed Assessment

Requires that an assessor, when notifying a property owner of a change in assessed value from the previous year’s assessment, include the following statement in the notice:

“Under Wisconsin law, generally, the assessor may not change the assessment of property based solely on the recent arm’s length sale of the property without adjusting the assessed value of comparable properties in the same market area. For information on the assessment of properties that have recently sold, visit the Internet site of the Department of Revenue at ... (Internet site address).”

2019 Wisconsin Act 128: Tax Exemption for Property Used to Provide Broadband Service
Adds “qualified broadband service property” to the current list of telephone company property that is exempt from the telephone company tax. For purposes of the exemption, qualified broadband service property is defined to mean either:

- 1) Tangible personal property installed before 2020 that is used to provide Internet access to rural areas at speeds of at least 25 megabits per second download and three megabits per second upload; or
- 2) Tangible personal property installed in 2020 or later that is used to provide Internet access to rural or underserved areas at speeds of at least 25 megabits per second download and three megabits per second upload or certain download and upload speed benchmarks designated by the Federal Communications Commission, whichever are higher.

Budgeting and Levy Limits

2019 Wisconsin Act 42: Biennial Budget Procedures for Political Subdivisions

Authorizes cities, villages, towns, and counties to adopt and operate under a biennial budget rather than an annual budget. If a political subdivision decides to adopt a biennial budget, it must do so in an odd numbered year to begin in the subsequent even-numbered year. A political subdivision may return to using an annual budget by a two-thirds majority vote of its governing body.

2019 Wisconsin Act 45: Utility Aid Levy Limit Exemption

Creates a new exception under the levy limit law allowing a political subdivision to raise its levy to replace revenue lost due to a reduction in utility aid payments as a result of closure or decommissioning of a power plant.

2019 Wisconsin Act 126: Best Estimate Valuation for Levy Limit Referendum

This act provides levy limit referendum flexibility. Under Act 126, a political subdivision may rely on its best estimate of its valuation factor when looking to exceed its levy limit by referendum. Using a best estimate allows political subdivisions to begin the referendum process much earlier than if the political subdivision had to wait for DOR’s report on net new construction. Act 126 also provides flexibility over the exact wording of the referendum question.

2019 Wisconsin Act 133: Levy Limit Exception for Joint EMS District Charges

Expands the joint fire department levy limit exception to also include payment for charges assessed by a joint EMS district. Under this act, municipalities may exceed the levy limit at a rate of 2% plus CPI (inflation) for charges assessed by a joint EMS district. The governing body of each municipality that is served by the joint EMS district must first adopt a resolution in favor of exceeding the levy limit before any municipality may do so.

COVID-19

2019 Wisconsin Act 185: COVID-19 Response

This act made the following changes to state law in response to the COVID-19 pandemic:

1. Annual Meeting: Act 185 allowed town boards, or the town chair if the town board is unable to meet, to postpone their 2020 annual meeting. The act requires rescheduled annual meetings to be held after July 11.
2. Board of Review (BOR): Under Act 185, towns may meet and immediately adjourn the 2020 BOR to a future date regardless of whether or not the assessment roll is completed on time.
3. Workers Compensation: Act 185 provides that, for the purposes of worker's compensation, where an injury to a first responder is found to be caused by COVID-19, and where the employee has been exposed to persons with confirmed cases of COVID-19 in the course of employment, the injury is presumed to be caused by the individual's employment. The presumption requires a diagnosis or positive test for COVID-19, and may be rebutted by specific evidence that the injury was caused outside of employment.
4. Property Tax Flexibility: Act 185 allowed taxation districts to waive interest and penalties on 2020 installment payments of property taxes until October 1, 2020. A municipality could only choose to waive interest and penalties if the County Board first adopted a resolution that allows for such a waiver.

Elections

2019 Wisconsin Act 99: Elections to Lake Protection and Rehabilitation District Board of Commissioners

Creates election and recount procedures for lake district board elections held during the district's annual meeting. Act 99 requires that ballots be counted immediately following the election, that results be read to meeting attendees, and that candidates or their designees be able to observe the counting of ballots. Ballots may only be distributed to qualified electors and property owners, and no ballots may be distributed after collection of the ballots has begun. This act also creates a recount process that may be requested by any candidate or voter, but a request must be made before adjournment of the district's annual meeting. If requested, an initial recount is conducted immediately at the meeting.

2019 Wisconsin Act 182: Timing for Issuing a Certificate of Election

Eliminates the waiting period before the Wisconsin Elections Commission or a local clerk may issue a certificate of election when no candidate qualifies to request a recount. Instead, under this act, the certificate of election may be issued immediately after completion of the canvas if no candidate qualifies to request a recount.

Environmental

2019 Wisconsin Act 101: PFAS in Firefighting Foam

Prohibits the use or discharge of Class B firefighting foam if the foam contains intentionally added per- and polyfluoroalkyl substances (PFAS). Act 101 provides exemptions from this prohibition for emergency firefighting or fire prevention operations and for testing purposes if the testing facility has implemented appropriate containment, treatment, and disposal or storage measures to prevent discharges of the foam to the environment. This act also imposes notification and record keeping requirements on persons who use or discharge firefighting foam containing PFAS.

2019 Wisconsin Act 177: Grant Eligibility for Floating Treatment Wetlands

Makes the placement of floating treatment wetlands specifically eligible for lake management project and river protection management grants. For that purpose, the act defines “floating treatment wetland” to mean an artificial, buoyant platform for keeping plants afloat that: (1) mimics the function of natural wetlands; (2) allows plants to grow in water that is typically too deep for them; and (3) is placed below the ordinary high-water mark in a navigable water.

Fire, EMS, and Public Safety

2019 Wisconsin Act 19: Health Insurance Payments for Survivors of First Responders

Wisconsin law requires a city, village, or town that pays the health insurance premiums for its employees who are firefighters to continue to pay the health insurance premiums for the surviving spouse and dependent children of a firefighter who dies in the line of duty. This act expands those provisions to also require the continued payment of health insurance premiums for the surviving spouse and dependent children of a law enforcement officer or EMS practitioner who dies in the line of duty.

2019 Wisconsin Act 139: Service Award Funding Increase

Increases state funding for the Length of Service Award Program to meet current demand levels. The state will continue to match up to \$390 per service award per fiscal year, but the overall cap of the program was raised from \$2,500,000 to \$2,805,700 in fiscal year 2019-20 and \$2,900,000 in fiscal year 2020-21 and beyond.

Highways and Right of Way

2019 Wisconsin Act 9 (Budget Bill): Transportation Aids

The 2019-21 state budget included the following transportation aid increases:

1. General Transportation Aid: The budget included a 10% (\$239 per mile) increase to GTA funding. The rate per mile went up from \$2,389 to \$2,682.
2. Multimodal Local Supplement (MLS): After a partial veto by the governor, the budget included \$75 million in one-time money for the MLS program, \$28.7 million of which went to town projects at up to a 90/10 state to local cost share. The Wisconsin Supreme Court subsequently ruled that the governor’s veto creating this program was improper

and restored the legislature's original language. This ultimately increased total funding to \$90 million dollars (\$35.1M for towns) and distributed the money through the LRIP program at up to the same 90/10 cost share.

3. Supplemental Transportation Aid: The budget included \$2.5 million annually (\$5 million over the biennium) in supplemental transportation aid for towns limited by the 85/15 GTA cost share requirement.

2019 Wisconsin Act 63: Transportation Facilities Economic Assistance and Development

The grant ceiling of the transportation facilities economic assistance and development program is the lesser of the following: (1) 50 percent of the anticipated cost of the improvement; or (2) \$5,000 for each job in this state resulting directly from the improvement or economic development project. Act 63 clarifies that both jobs created and jobs retained as a result of an improvement or development project may be counted for the purposes of determining the grant ceiling.

2019 Wisconsin Act 69: Supplemental Transportation Aid Fix

2019 Wisconsin Act 9, the biennial budget act, provided supplemental transportation aids for towns that failed to leverage the full amount possible under the GTA rate per mile basis. Act 69 corrected a typo in Act 9 that would have prevented distribution of those supplemental funds.

2019 Wisconsin Act 146: Permits for Overweight Municipal Sewage

Authorizes WisDOT to issue overweight permits for the transportation of residue material from municipal sewage treatment. WisDOT has issued these permits in the past without the proper statutory authority to do so. This act grants WisDOT explicit authority to issue these permits consistent with past practice.

2019 Wisconsin Act 183: ATV / UTV Regulation

Makes various changes related to state regulation of ATVs and UTVs. Act 183 provided an exemption from some of its restrictions and requirements for ATVs and UTVs owned or leased by the state or by a local government.

Town Law

2019 Wisconsin Act 140: Town Law Reform

Makes nine technical changes to sections of town law to provide efficiency and flexibility in the way towns operate:

1. Creates procedures for the appointment of town board members when multiple town board vacancies occur at the same time;
2. Provides flexibility in the initial appointment of a town clerk, treasurer, or combined clerk/treasurer when a town switches to an appointed position;
3. Expands the maximum allowable contract for an appointed town assessor from 3 to 5 years;
4. Allows for the appointment of a temporary town board member when a board member is temporarily incapacitated due to mental or physical disability;

5. Allows for removal of a town board member for gross neglect of duty or the continued physical inability to perform the duties of office;
6. Clarifies that a municipal website and one physical posting location is sufficient for providing legal notice to the public under the open meetings law;
7. Provides that the board of review be noticed as a class 1 notice under Ch. 985, Wis, Stat. This allows for either publication in a newspaper, posting in three physical locations, **OR** posting in one physical location and on a town website;
8. Increases the maximum wage for town board members also serving as town employees from \$5,000 to \$15,000 per year; and
9. Allows an appeal process for temporary use permit applications denied by the chief of a fire district.

Zoning, Housing, and Property Issues

2019 Wisconsin Act 38: Building Permit Submissions

Clarifies that a municipality may require that a building permit application be submitted either in paper or electronic form, but not both. If a municipality requires submission in paper form, this act allows the applicant to submit any of the following: (1) a printed copy of the municipal authority's electronic form; (2) a printed copy of DSPS's electronic form; or (3) DSPS's paper form. The municipality must submit electronically to DSPS the information submitted by the applicant.

2019 Wisconsin Act 145: Town Partial Zoning and Zoning in Shorelands

Clarifies that county shoreland zoning ordinance requirements must relate to the purposes described in the navigable waters protection law, Wis. Stat. §281.31, and that towns may still enact general zoning ordinances in shoreland areas subject to certain restrictions. Act 145 also specifies that a county board may enact a zoning ordinance that applies in only part of a town.

2019 Wisconsin Act 175: Regulation of Nonconforming Buildings in Floodplains

Provides that DNR may not prohibit the repair, reconstruction, or improvement of a nonconforming building in a floodplain if the nonconforming building: 1) is or will be permanently changed to comply with federal floodplain requirements; and 2) any living quarters in the nonconforming building are or will be at or above the DNR's flood protection elevation.

Miscellaneous

2019 Wisconsin Act 9 (Budget Bill): Broadband Expansion Grant Funding

The 2019-21 state budget included \$48 million in additional funding for the Broadband Expansion Grant Program.

2019 Wisconsin Act 11: Electric Scooter Regulation

Authorizes and creates a framework for the operation of electric scooters on roadways, sidewalks, bicycle lanes, and bicycle ways. A local government may further regulate the rental, operation, and parking of electric scooters under this act.

2019 Wisconsin Act 32: Washington Island Observer as a Newspaper

Expands the statutory definition of “newspaper” Ch. 985 to include a newspaper published in the Town of Washington in Door County, at least two times each month. This change will allow the Washington Island Observer to receive compensation for publication of legal notices even though it publishes only 2 issues per month in the winter. Act 32 also specifies that a copy of a notice clipped from a newspaper that accompanies an affidavit of publication may be in hard copy or electronic format.

2019 Wisconsin Act 70: Municipal Court Procedures

Makes changes to municipal ordinance enforcement and municipal court procedures relating to costs, court personnel, judicial substitution, disqualification, and vacancy, appeals, and various other court processes.

2019 Wisconsin Act 110: BCPL Investment Flexibility

The Board of Commissioners of Public Lands (BCPL) may invest its funds with the State of Wisconsin Investment Board (SWIB). Act 110 provides more flexibility in how BCPL funds are invested, allowing SWIB to invest BCPL moneys in accordance with the standard that applies to SWIB’s other investments. This standard requires that SWIB: (1) manage the moneys as would a prudent person acting in a similar situation; (2) adequately diversify investments; and (3) administer trust fund moneys for the purpose of ensuring the fulfillment of the purpose of each trust fund, at a reasonable cost.

2019 Wisconsin Act 124: Honorary Discharge of Firearms

Provides that no municipality may restrict the honorary discharge of a firearm that uses blanks and is a part of: 1) an event honoring a current or former member of the military, law enforcement officer, or fire fighter; or 2) military honors provided at a cemetery on Memorial Day, Veterans Day, or at a veterans memorial site.

2019 Wisconsin Act 136: Investment in Wisconsin Opportunity Zones

Under this act, an investor in a Wisconsin opportunity zone who invests capital gains in a qualified opportunity fund for at least five years may exclude an additional 10 percent (20 percent total) of the gains for Wisconsin income and franchise tax purposes. An investor who does the same for at least seven years may exclude an additional 15 percent (30 percent total). This act also requires qualified opportunity funds to certify annually that the fund is qualified for the fund’s taxable year.

2019 Wisconsin Act 159: FEMA Payments to Municipalities

Ensures timely payment of federal emergency management assistance to municipalities. Under this act, the state must process and remit funds to a local government within 30 days after the Federal Emergency Management Agency (FEMA) has approved a project and distributed funds to the state. The state must also provide for local training on how to apply for federal emergency management assistance.