



"Leadership in Public School Governance"

JOHN H. ASHLEY, EXECUTIVE DIRECTOR

122 W. WASHINGTON AVENUE, MADISON, WI 53703
PHONE: 608-257-2622 FAX: 608-257-8386

MEMORANDUM

TO: Members, Senate Committee on Commerce, Utilities and Rail

FROM: Dan Rossmiller, Legislative Services Director

DATE: April 18, 2007

RE: SB 122, relating to the property tax exemption for waste treatment facilities

The Wisconsin Association of School Boards (WASB) supports Senate Bill 122, as a legislative remedy to address the "*Newark* decision" and prevent both a major property tax shift onto homeowners and a major erosion of the property tax base for schools and other units of local government.

Senate Bill 122 closes a property tax exemption loophole for manufacturers that recycle material as part of the manufacturing process that was created by a court decision.

In August 2005, in what is now known as the *Newark* decision, a circuit court upheld a 2004 Wisconsin Tax Appeals Commission decision that broadly interpreted the tax exemption in state statutes for property purchased or constructed as a waste treatment facility and used for the treatment of industrial wastes. In that case, Wisconsin Paperboard, and its successor, the Newark Group, argued that it is entitled to a tax exemption as a waste treatment facility, since it uses part of its manufacturing property to recycle cardboard waste and waste paper into paperboard, even though the product is sold for profit. The decision removed property from the tax rolls in Green Bay and Milwaukee.

The potential implications of the *Newark* decision are far-reaching because the ruling states the property does not have to be used exclusively as a waste treatment facility to be statutorily exempt. Thus, the slightest reuse of scrap materials in the manufacturing process could allow the entire real estate parcel, land and improvements, to become exempt as a waste treatment facility.

According to a recent Legislative Fiscal Bureau memo, two additional manufacturers have requested the exemption for property similar to that owned by Wisconsin Paperboard and an additional 25 appeals have been filed by eight companies, including paper mills, cheesemakers, chemical plants and others.

Currently, \$146 million in appeals is pending. By one estimate, the *Newark* decision has the potential to remove over \$2 billion in tax base from the manufacturing assessment rolls plus more from the local assessment rolls, resulting in a \$40 million tax shift.

Under Senate Bill 122, only property purchased or constructed as a waste treatment facility and used “exclusively and directly” to remove, store or cause physical or chemical change in industrial waste or air contaminants would be exempt. The bill restores the original intent of the 1953 law and allows those treatment facilities that have been receiving the tax exemption properly for 50 years to continue to do so.

The WASB supports developing a well-balanced tax system that lowers Wisconsin’s heavy reliance on the income and property taxes while maintaining the current two-thirds funding commitment for schools and properly funding existing mandates. Allowing this decision to stand does not foster the goal of reducing reliance on the property tax; it only shifts the burden from one group of taxpayers to another group.

Reducing our reliance of property taxes and balancing our tax system should be accomplished by thoughtful legislative consideration rather the haphazard application of court-created expansions of exemptions that distort local tax bases and create “patchwork quilt” patterns of exempt property that reflect accidents of geography more than sound policy.

Property tax exemptions that take away funding sources for local units of government and cause enormous shifts of the property tax burden onto homeowners should be granted by the legislative branch only after serious deliberation based on sound public policy considerations. We ask your support for Senate Bill 122.