July 25, 2018 **Prepared by Alice O'Connor, WCUTA Executive Director**

WCUTA's desire is to ensure the revenue counties receive from utility aid formula for counties does not deteriorate over time especially as electric utilities move more toward renewable resources. Therefore, WCUTA is investigating the possibility of increasing utility aide payments from pipelines, telecoms, electric overhead lines as well as solar grid panels and small wind generators.

Meeting summary June 25, 2018 members of WCUTA with WCA Executive Director Mark O'Connell and Kyle Christianson, WCA tax lobbyist

Several Supervisors on the WCUTA Board and representatives met June 25,2018 with Mark O'Connell, WCA Executive Director and Kyle Christianson, WCA tax lobbyist, to discuss possible consideration of a proactive legislative strategy to obtain additional revenue under the current utility tax revenue payment that counties and other units of local government receive from the Dept. of Revenue. This is separate from shared revenue payments each year.

At the meeting besides myself were WCUTA members:

- Supervisor Yeomans, Rock
- Supervisor Goehring, Sheboygan
- Supervisor Gove, Columbia
- Supervisor Keeney, Grant
- Supervisor Sinicki, Waushara
- Supervisor Christiansen, Jefferson
- Columbia County Comptroller Lois Schepp and Outagamie county lobbyist Mark Wadium and myself.
- Mark Wadium, Outagamie County lobbyist and WCUTA guest

The current formula the Dept of Revenue uses to calculate utility tax payments to counties has been steady for a while. But, a variety of factors are contributing to shrinking payments under this formula and are expected to continue to decline. The decline in payments contrasts with the increase in the value of power plants who pay an ad valorum tax to the Dept off Revenue. Counties receive funding based on a Dept. of Revenue calculating that only looks at Plant generating capacity and the net book value of its substations and other assets.

The biggest issues are that we don't know what part of the revenue paid to the state is part capacity and part ad valorem. The Dept of Revenue won't share a breakdown of what each utility pays even though they have those figures. ATC, for example, has a monopoly on energy and is a consortium of utilities. Any transmission lines they build cut across geographic lines that are in a variety of local property boudnaires. These above the ground transmission lines are not taxed.

The factors that the state has used to determine its final numbers to provide counter with less revenue under the utility tax, include but are not limited to:

- cheaper energy
- more solar
- purchase of power from out of state energy sources.

The big question asked by WCUTA members was, “Will the WCA join the WCUTA to address the shrinking revenue from the utility taxes and help us figure out what the plausible scenarios might be to jointly pursue legislation in 2019?”

There was immediate consensus this would never be a standalone bill but. Rather it would be pursued as a budget amendment in the first six months of 2019.

In our discussions with Mark and Kyle, Supervisor Yeomans and others laid out what we had been through with multiple meetings at the Dept. of Revenue (DOR) and one meeting at the Public Service Commission (PSC). Supervisors expressed our ongoing frustrations with the Dept of Revenue who simply feels they do not need to release any information that might help us better understand what additional revenue might be plausible to pursue. The secrecy is suspect. Our meeting with the PSC was informative, but still led us back to the DOR. The PSC alluded to the fact that they felt the DOR was giving us the run around.

The good news is Mark O’Connell, WCA Executive Director, pledged 100 percent support from the WCA! He said he would make sure it was a part of the WCA’s legislative platform for 2019. Wonderful news.

Items discussed with the WCA

1. Which option suggested is politically viable and should be pursued?
2. What allies can be soliciting to help us and strengthen our hand?
3. Who will our opposition be?
4. Who are stakeholders htat may be ablest help but not be front and center?

The possible scenarios for legislation were laid on the table for discussion with the WCA:

A. Pursue an impact Fee from pipelines

1. Under currently law, pipelines are not subject to property taxes. The state collects an ad valorum tax, based on the average net property tax rate in the state (estimated collections from 2017-2018 are $45,295,000.)

2. Under current law, pipelines do pay one-time fees to counties for any initial infrastructure cost. Towns also get a one-time payment if roads are affected. There is risk if a pipeline bursts or leaks. IE. Local law enformcent or EMS services would be needed. (Sun Prairie explosion July 10, 2018 comes to mind). Local units of government need to be prepared. There should be some compensation for this emergency preparedness, training, and possible use of local resources in the event of an emergency. There is currently no compensation to local units of government factored in for this. These events often result in pollution containment, evacuation of those in affected area, clean up, organizing and providing aid to those affected, along with damaged property assessment and cleanup. In some situations, like most recently, Sun Prairie, there was at least one fatality, too. We can expect litigation resources will also be chewed up.

3. **OPTION TO PURSUE?** To train for preparedness, could there be a percent, say 10%, of the value of the pipeline that would be redistributed through the ad valorem tax collected by the Dept. of Revenue and given to counties? This would be a formula. We need to figure out what the total amount of the ad valorem tax that is collected (which DOR is reluctant to share gross figures) and then see if the 10 percent is a good proposition for counties this would be an annual, not a one-time amount.

B. <u>Pursue taxation from Telephone companies who are currently exempt from property taxes</u>

1. No local units of government right now receive any tax dollars from pipelines or telephone companies. Telephone companies current pay an ad valorem tax based on the full market value of the utilities taxable property. That is done by multiplying that value by the net property tax rate in the jurisdictions where the property is located. 2017-2018 estimated tax collections from telephone companies was valued at $64,817, 000, according to the Legislative Fiscal Bureau.

2. Pursue and get a specific answer we all pay money to the state for telephones. Why are counties not getting any back?

3. **OPTION TO PURUSE? Same angle as above.** Counties incur costs to be prepared for potential disasters even if they never occur. They must have the equipment and trained personnel and be ready.

C. **<u>Pursue changing the $2000/megawatt capacity formula which has not been changed since 2004.</u>**

1. Under current law (that has not changed since 2004), counties receive a payment based on $2000 per megawatt. Even though the cost of providing services has increased since 2004, payments to counties has not. It is worth noting that the state utility tax formula is based on <u>sales,</u> so taxes collected by the state from utilities, has always increased. Yet, the compensation to counties has remained static or declined.

2. The utility tax formula that helps the state determine what a local government should receive for a qualifying utility property is done by applying a mill rate to the net book value of the property. This is separate from the gross licensed fee per megawatt paid the state.

3. **OPTION TO PURSUE?** Discussed idea of increasing payment to counties based on a $3000 per megawatt formula. We need to see what the numbers look like for counties. We need someone to calculate the dollars before we could commit to this.

4. **OPTION TO PURSUE?** Consider changing the mil rate that has been at 9 mills since 2004. As the value of the property goes up, the same mill rate will result in higher revenue collection. Since utility calculations are based on depreciated property value, the 9 mill rate results in declining local revenue even as the market value of the property likely is increasing over time. One the utility property is depreciated on the books, the 9 mill rate results in “0” compensation even though the asset may continue to have useful life for decades.

D. <u>Pursue putting a value on energy that is generated out of state.</u>

1. **OPTION TO PURSUE?** Ask for an increase in dollars based on actual energy generated in the state. (This needs to be flushed out further). The reality of many companies finding energy cheaper outside of Wisconsin and off the gird during peak hours --- so it is energy generated out of state—how would we capture that value? We would need to try to find some sort of mechanism to tax at a time when the state feels fees overall are going down and they don't want to impose new fees, just yet.

E. <u>Pursue a gross licensing fee for companies that generate energy under 50 megawatts</u>

1. There are increasingly many independent energy producers (wind, solar etc.) who pay nothing for state and local taxes. Some larger companies right now avoid paying taxes by working with these folks, for say 10 year, and then use 60 percent of their electricity. It is a built-in customer for a small producer. It saves a large utility money. It keeps costs down. After ten years, larger utilities buy these smaller operations but, in the meantime, have saved a ton of money and everyone has avoided being taxed.

2. We don't know how many electric suppliers are under 50 megawatts. We need to find out. We don't know if DOR knows? PSC? Requires follow up. Someone knows who is producing energy under 50 megawatts. Ask for help from the Fiscal Bureau?

3. Consider assigning the state to:

    a. Tax them. And they pay a gross licensing fee that the state collects, and counties get the money back from the various electric and gas companies.

    b. We could try for a graduated scale for those generators who produce under 50 megawatts? We need to know what revenue would be generated before we decide if it would be worth it. The larger utilities doing a work around in order not ot pay higher taxes is a separate issue that might be a way to capture some revenue.

    c. Also consider a grant so there is no more than 1 or for each county or no more than 12 (??) i.e. example in Jefferson county 1000 acres are eighteen off the property tax roles with both a 100-megawatt wind farm. In Iowa county a 3500 acres wind farm is producing 350 megawatts of electricity. Supervisor Keeney will try to find out what they are paying in taxes now and what might be off the rolls as one example.

<u>F. Options to pursue? Consider changing formula to a percent of sales, not production.</u>

1. CHALLENGE: What would percent be? How do we figure out the right number to get a percent of what number? What do we do if there is a recession and we are basing our revenue off the value of plant and the value of that plant goes down in a recession or shuts down.

CURRENT CHALLENGES

1. Each municipality has its own formula for how they assess the telephone pole value in their community. There are 1000 different valuations, but they do get something from phone companies. This is according to the Legislative Fiscal Bureau. We could likely find this out from the League of Municipalities, too. We don't have all the details about this. Counties receive nothing like the municipalities. There is no current methodology to assess pipelines and telephone companies under current statutes.
2. Where gas and oil are near a source, there is no shipping involved so they may not sell anything per se, but use what they produce. How could we not hurt ourselves under some formula affected by this?
3. We can't make a PILT argument, then say give us more money. Hard to sell according to Mark. How do we come up with what is the value of the structure in lieu of a property tax payment? How do we get to cost? Hard to do. Will see if Fiscal Bureau can help us. We know DOR won't.
4. What is the appropriate percent of state revenue that counties should receive? We would have to mobilize all counties to fight for this. We would have to be very clear about what the value is to each individual county of taking 500 acres off the Property tax rolls and what revenue do they get in return. DairyLand in Grant county took 12 acres. They went from use value ($200 per acre) to Commerical assessment ($10,000) per acre. Tax is going to disappear since they are going to name plate and the name plate is udner 50 megawatt.
5. As projected utility aid formula shrinks with declining book values, we don't yet know if the percent of decline will be bigger for counties than municipalities, (Municipalities typically always receive more than counties.) On a percentage basis, is it an equally shrinking pot? Is there a higher percentage of reduction likely to hit counites more than munis?
   Counties will get less with, of course, the consistent declining book value. To do nothing, counties can't complain then as revenues shrink. The law needs to be changed somehow.
6. There is no mechanism currently to come up with an appropriate value to tax energy that is moved across geographic lines. ATC has a monopoly on energy, so they are getting a sweetheart deal.
7. Mark of WCA said he is concerned we would have a challenging time trying to create a distribution mechanism when the energy environment is so dynamic and utility production and consumer consumption change. We don't want to win on 10 percent across the board of some number, then see that there is a loophole for those with a 1000 acre off the roles.

MISCELLANEOUS ITEMS

1. Railroads and car lines pay taxes, are small, and their fees go to the DOT highway funds. Not worth pursuing anything here.
2. Airline carriers are also exempt. Not much revenue, not worth pursuing.

WCA SUMMARY Mark O'Connell

1. At the WCA annual meeting in August, Mark will seek support for the overall WCA legislative platform that will include payment of utilities paid to counties. This way, it does not have it come through a specific county resolution to be approved.
2. Kyle and Alice are to work together to flush out more details and identify possible lawmakers who might help craft legislation. Two former WCUTA members who are now lawmakers come to mind—Rep. Rob Brooks and Rep. Paul Tittl. Lawmakers in the Senate would be picked based on the potential loss of sizable dollars to a specific county. They would be motivated. Several come to mind: Senator Dan Feyen (Fond du Lac), Senator Howard Marklein (Grant County), Senator Jerry Petrowski (Marathon); New Senator from Chippewa County, Senator Van Wanggaard

(Kenosha) Senator Dan LeMahieu (Manitowoc and Sheboygan), and Senator Scott Fitzgerald who has a chunk of Columbia County.

3. Two former members from the WCUTA Board who are now state representatives include Rick Gundrum and Paul Tittl. We would talk to them first.
4. WCA lobby day will occur in March 2019.. This would be a good time to push whatever we have determined can be pursued.
5. Agreement about long term negative fiscal impact to counties.
6. Path, once decided will likely be a budget amendment.
7. Work to get Towns and possibly Municipalities to join our efforts once we have flushed out our language. But with municipalities getting more money, not sure why they would want to join in our fight.
8. Mark and Kyle will be joining our next board meeting to further define this legislative agenda to discuss what is fair but politically unrealistic (so, why bother), and what might be plausible. (get the ask cleaner, tighter and message it, let's do it!). We seek more money, is our bottom line.

The next WCUTA Board meeting is FRIDAY OCTOBER 5TH AT THE WCA BOARD ROOM, 44 East Mifflin St. 9th floor. We may start at 10 instead of 10:30 to allow ample time for discussion.

NOTE: I met with Kyle Christiansen of the WCA on July 11 per the directive from the meeting. Agreement that we need to see if:

- Is there is any inventory of generators under 50 megawatts? If there is no inventory this might be one place to start with legislation.
- We need to find a way to identify what is the total pot we are talking about and have likely fiscal bureau crunch some numbers for us to see if possible scenarios we are interested in generating the kind of consistent revneue that would replace declining revenue for counties.
- Under current formula, it appears the state collected a total of $ 358,043,652 million from all utility tax collections in 2017-2018. The forecast Utility Aid was $72,339,796, (a -.08 from aid in 2016-2017.) This is overall 20 percent, given to local governments while the state keeps 80 percent. (We have known this for some time.).
- When you further break down the $72,339, based on the 9-mill rate distribution formula, the county portion ends up being .09 percent. (county portion in 2017 was $34,893,426.) Municipalities receive just over ten percent at $37,446,370.) 10.4%.
- What we didn't talk about much at the meeting but maybe room for more discussion is this fact. The state total utility tax collection was in 2017-2018 is estimated at $358,043,652. But the way the state calculates the distribution, it starts with a "Basis for Utility Aid" at $247,532,000 and therefore skims off the off the top $110,551,652 before it calculates distribution of money to counties. This, combined with the depreciation formula, is really shortchanging counties. That is a lot of money! (Note: They essentially eliminate any payment for Pipelines $45,295,000 and Telephones $64,817,000 in tax collections.

All WCUTA members should put their thinking caps on and read this memo before the October 5th meeting and come prepared to have a robust discussion.