State Representative

Samantha J. Kerkman

TESTIMONY ON SENATE BILL 36 – CHARTER TOWNS
BEFORE THE SENATE COMMITTEE ON COMMERCE,
UTILITIES AND RAIL
NOVEMBER 29, 2007

Good morning Chairman Plale, committee members and guests. Thank you for the opportunity to testify in support of Senate Bill 36, the charter towns bill. I have introduced the Assembly companion, Assembly Bill 79.

I represent the 66th Assembly District in the southeastern corner of the state. Two of my townships have paid dearly for boundary agreements and my strong support for this legislation is largely due to those situations. For example, the Town of Somers paid $5 million for a boundary agreement with the City of Kenosha. The Town of Bristol also has a boundary agreement with the City of Kenosha – again at a very steep price.

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During the past few years, I've worked closely with the Towns Association in trying to get this legislation passed. I will not repeat the technical merits of the bill, which have already been addressed.

An important component of the bill is the ability for those towns that qualify for charter town status to use Tax Incremental Financing (TIF). Currently, towns do not have the option to use TIF, as they use all private development money. Cities in our state use TIF's as an economic stimulant. Why shouldn't towns be allowed to receive the economic benefits resulting from the use of TIF's that cities are afforded?

In closing, I again want to thank Chairman Plale for scheduling this hearing and would appreciate the committee's consideration of AB 79. I would be happy to answer any questions you may have.

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Senate Commerce, Utilities and Rail Committee Hearing, November 29, 2007

SSA 1 to SB 36 – Charter Towns and TIF Powers (Sen. Breske)

Description of Current Law and Proposed Change

Under current law, if a town meeting authorizes a town board to do so, the town board may exercise certain powers relating to villages. A town board may not create a tax incremental finance district (TID), except under limited circumstances or for limited purposes. A town may create a TID if it has entered into a cooperative boundary agreement with a city or village for full or partial annexation in the future, the city or village has adopted a resolution approving the creation of the TID and the TID would be located entirely within territory that is to be annexed by the city or village. In addition, a town may create a targeted TID for the purpose of specific agricultural, forestry, manufacturing, and recreational projects. A town may also create an environmental remediation TID.

SSA 1 would allow certain towns that are authorized to exercise village powers to declare themselves, by referendum, to be charter towns. Charter towns could be declared only by towns with populations of at least 2,500 that have a town plan commission, a comprehensive land use plan, an official town map, a building code, a subdivision ordinance, a comprehensive zoning ordinance, and a construction site erosion control and storm water management ordinance. A charter town would not be subject to county zoning ordinances unless they were adopted by the town. Charter towns would not be subject to extraterritorial zoning jurisdiction or extraterritorial plat approval jurisdiction of a city or village but would continue to be subject to county zoning of wetlands in shorelands. Counties would be required to recognize a charter town's official map in the same way that it recognizes city and village maps.

SSA 1 would allow all charter towns to exercise the powers of a city to create tax incremental financing districts (TIDs). If a town had already created a TID under the town tax incremental financing (TIF) law, that TID would continue to operate under the town TIF law. If the charter town revoked its charter town status, the town and the Department would continue to administer the TID until it terminated as if the town had not revoked its charter town status.

SSA 1 does not include provisions from the original bill that would allow certain towns to be exempt from city or village annexation and land acquisition powers.

Fairness/Tax Equity

- SSA 1 would provide the same tax incremental financing tool for economic development in certain higher population towns that is currently available to all cities and villages.

Impact on Economic Development

- SSA 1 would allow certain towns to create TIDs to the same extent that cities may create them, allowing them additional economic development opportunities. Specifically, SSA 1 would expand the types of TIDs that may be created, and extend the expenditure period and maximum life of the TIDs.

- Increased development in towns may come at the expense of development in cities and villages.

Administrative Impact/Fiscal Effect

According to Department of Revenue data, 141 towns have populations over 2,500. These towns could, subject to voter approval, declare themselves charter towns upon enactments of the necessary land use plans, mapping requirements, and ordinances. Most towns are likely to have land use plans, maps, and zoning ordinances under the smart growth law. However, towns that do not already have land use plans and official maps would incur costs for basic land use plans and mapping. Towns that had not already enacted and enforced zoning ordinances would incur personnel costs for the staff required for enforcement. Fees associated with various zoning requirements could defray some costs.

Since the department does not have information to determine the number of charter town TIDs that would be created under the bill or the value of property that would be in the charter town tax incremental financing districts, an estimate of the tax base that would be unavailable to the overlying taxing jurisdictions during the life of the TIDs is not available. As with the creation of other new TIDs, overlying taxing jurisdictions will be given an opportunity to consider the impact of the creation of a charter town TID through the joint review board approval process.

A $1,000 fee is imposed for each TIF filing with the state. Filing fees may increase by an unknown amount under the bill as charter town TIDs are established. TIF filing fees are deposited to a program revenue appropriation to support the Department's TIF expenses.

The Department anticipates that an additional 1.0 FTE would be required to administer tax incremental financing law under the bill. In addition, the bill would require modification of forms, instructions, training, programming, and annual reports. The Department estimates that additional costs would be $49,200 annually. Since the number of charter town TIDs that would be created is unknown, the degree to which the Department's additional costs may be funded through increased program revenue from TID filings is unknown. GPR funding will likely be necessary to supplement the program revenue, as indicated in the Department's fiscal estimate.

Current town TIF law provides for payment of TIF-related infrastructure costs and redetermination of the tax incremental base when a town TID is annexed (section 60.85 (17)). SSA 1 does not have a similar provision for charter town TIDs so that towns would likely retain TIF-related debt when an underlying TID is annexed. Such a provision could be added to provide parallel treatment for charter town TIDs, providing that the annexing municipality would pay the town for TIF-related infrastructure costs.

In addition, a similar issue exists under current TIF law. Current law was largely crafted for city and village use and does not contain a general provision for payment of TIF-related costs or the base redetermination upon annexation. Since charter towns would be able to act under general

TIF law (section 66.1105) and towns can already act under the environmental remediation TIF law (section 66.1106), the substitute amendment could amend these sections with provisions similar to those in section. 60.85 (17) that would provide for payment of TIF-related costs and base redetermination anytime an annexation includes territory containing a town TIF district.

Adding provisions similar to those in section 60.85 (17) would eliminate the possibility that a TIF that increases in value could be annexed without payment of TIF-related debt by the annexing municipality.

Prepared by: Pam Walgren
November 26, 2007

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TESTIMONY ON SENATE BILL SB36 AND SB17, THE CHARTER TOWNS BILL NOVEMBER 29, 2007

Jeff Musche, Clerk/Administrator
Town of Lisbon, Waukesha County

I wish to thank members of the Senate Committee on Commerce, Utilities and Rail for holding a hearing on the Charter Towns Bill. I have worked in the public sector for twenty years, eleven years in the mayor's office in the City of Milwaukee when Henry Maier was mayor and nine years now as the Clerk/Administrator for the Town of Lisbon in Waukesha County. I do not exaggerate when I say the Charter Towns Bill is the most important legislation to urban towns in Wisconsin. Not only because it recognizes that town governments are capable of providing services to our residents in a professional and efficient manner, but more importantly because it levels the playing field between towns and our village and city neighbors which will lead to increased cooperation, trust and sharing among local governments. I should point out that while the Town of Lisbon has been successful in arriving at border agreements with two of our neighbors, these were accomplished because of unique circumstances. I submit, under current law, there is very little incentive for a city or village to sit down with a town and engage in meaningful border discussions. The Charter Towns Bill would change that paradigm.

I see several benefits to the Charter Towns Bill, which are enumerated below:

The Charter Towns Bill promotes intergovernmental cooperation. This is accomplished by eliminating extra territorial zoning and giving towns the ability to sit down with a village or city and jointly determine how a specific parcel should be developed. Currently, towns have no say in how villages and cities develop on lands they annex. And villages and cities have no incentive to talk with towns about growth and development because they currently have complete decision making control. As a result a challenge in court to an annexation is the only way for town residents to have any voice in development. This is expensive, confrontational and leads to an environment of distrust and lack of cooperation between towns and their incorporated neighbors.

The Charter Towns Bill will enables urban towns to provide meaningful long range planning. Currently, with the uncertainty of borders due to annexations, an urban town cannot put together a meaningful comprehensive plan as required under the States Smart Growth Law. Under current law, even if a town prepares a comprehensive plan which meets Wisconsin's Smart Growth requirements, a neighboring village or city is not bound by that plan. In fact, the city or village can ignore the plan, the wishes of the residents that approved the plan, and through annexation develop areas in conflict with the plan. This wastes the thousands of dollars expended to create the plan in the first place.

The Charter Towns Bill gives control of the Town's growth to the people who live there. The bill, through elimination of annexation without town approval, connects decisions about development to the people it affects. It gives the people who live in the town a voice in how lands that are annexed will be developed. Many people move into a town because of its unique appearance and amenities, and the bill helps these residents insure that development is not contrary to the lifestyle they desire.

On a policy level, if you believe in local control, you should support this bill. Think of it this way. Many times the state must meet mandates or directives which come from the federal government. Sometimes these mandates may be onerous, but at least state residents vote for representatives in Washington who we can contact to have our voice heard. Just think if the mandates came from Canada, where Wisconsin residents have no elected representation. It seems far fetched, but that is exactly the situation Town residents face. Development decisions are made in an abutting village or city and town residents have no voice through an elected representative regarding those decisions. This is contrary to the democratic ideals on which this nation was founded.

If it means the difference between passage and failure, I am willing to forgo the no annexation without town approval provision in the Charter Towns Bill despite the importance of this feature and role it would play for Towns.

The Charter Towns Bill enhances development and economic growth. Leveling the playing field between towns, villages and cities provides incentives for cooperative efforts in planning and development decisions. The result will be a more comprehensive planning effort that is more inclusive, considers the desires of more people and is better coordinated. The reduced conflict will lead to better development decisions and ultimately, more economic growth. Currently, villages and cities encourage annexation of lands through policies of not providing sewer and water services without annexation. However, annexation can only take place on lands contiguous to the village or city. Thus, even though it may make more sense to allow a particular activity on a parcel farther out in a town, a city or village may allow such use, which is not the highest and best use, on a plot because the land annexed is the only parcel currently available.

The Charter Towns Bill works to enhance regular borders. Since annexation cannot take place without approval from the town, there is a mechanism to assure that borders do not become confusing and irregular. This will also enhance the more efficient provision of local services. Currently, because annexations take place on a time schedule not within any planning control, the result has been irregular borders that are confusing and lead to inefficient service provision by local governments.

I thank the Committee members for this opportunity to submit this testimony and urge that the Bill be adopted.

Senator Jeff Plale
Room 313 South
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11/24/07

Dear Senator Plale,

I understand you are leading a sub-committee that will be considering Charter Town legislation. I presently serve as the Town Chairperson for the Town of Troy. Our Town Board strongly supports charter town legislation. We believe that it will offer us a viable option in securing the land management vision we have for our Town.

The Town of Troy is one of the fastest growing communities in Wisconsin, with one of the most innovative sub-division ordinances and land conservation programs in the state. Our sub-division ordinance fosters cluster development and the preservation of open space, which is encumbered by conservation easements. We also utilize the transfer of development rights to preserve local farmland. State representatives have invited us to speak at farmland preservation conferences because we have a working land preservation program that is entirely funded by development. There are no public dollars being used and we will set aside thousands of acres during the course of this program that will be green space forever.

Unfortunately, we are also a Town bordered by two Cities, River Falls and Hudson. Historically our relationship with Hudson has been fairly amiable, but fairly contentious with River Falls. To resolve this conflict the Town worked collaboratively with representatives from the City of River Falls for five years (at a cost of over $40,000) to develop a cooperative boundary agreement (CBA). However, after five years of collaborative effort the City Council rejected the agreement that was negotiated. We are again in the process of trying to work with the City, but only time will tell whether this renewed effort proves fruitful.

In the meantime the City of River Falls has imposed a subdivision density of one lot per every 35 acres within the city's extraterritorial plat approval jurisdiction. This has significantly impacted our growth management planning and the value of large tracts of land within the Town.

We believe that Charter Town legislation is a positive step for us and many other progressive communities. If the State of Wisconsin really wants to preserve farmland, create conservancy areas and foster high-quality communities like Troy, we need new options.

Sincerely,

Ray Knapp
Town of Troy Chairperson
715-381-0154

cc: Troy Town Board

WISCONSIN TOWNS ASSOCIATION
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Mailbox

November 2007 Volume 15, Number 11

The full market value of all taxable property in Wisconsin rose to nearly $500 billion this year and a closer look at growth in taxable values offers some interesting insights into how and where the state's economy is growing. From 2006 to 2007, for example, nearly one-half of all residential property value growth in the state was recorded in towns (in spite of the fact that towns have less than a third of the state's population).

Long Term Equalized Value Trends: Full market (or "equalized") property values are established each year by the state Department of Revenue (DOR). They're used to apportion school and county taxes, distribute major state aids and for other purposes. But they also offer one of the few data sets available that measures economic developments aggregated by towns, villages and cities. The first table shows equalized values in selected years over the past quarter century.

Equalized Values in Selected Years from 1982 to 2007
($ Billions)

Year	Towns	Villages	Cities
1982	$48.0	$12.9	$57.3
1992	55.5	21.3	82.9
1997	86.1	32.4	114.6
2002	129.6	47.3	158.4
2005	162.4	66.6	198.9
2006	176.9	75.0	217.1
2007	189.3	79.7	229.0

Sources: DOR: Town, City and Village Taxes: Levied 2006 – Collected 2007; and 2007 Statement of Changes in Equalized Values by Class and Item

Shifting Patterns: It shows that equalized values rose at different rates in towns, villages and cities over the 25-year period. Values in towns grew from $48 billion in 1982 to $189.3 billion this year, an increase of 294%. City values grew somewhat faster since 1962, from $57.3 billion to $229 billion, an increase of nearly 300%. But the gold star goes to villages, where values soared from under $13 billion in 1962 to $79.7 billion now – a phenomenal growth rate of 518%. The picture changes when growth rates are computed over ten- and five-year intervals: Since 1997 values grew 118%, 146% and 100% in towns, villages and cities respectively; since 2002 increases were 46%, 68% and 45%, respectively. Towns emerge at the top of the list when growth is measured from 2006 to 2007, with increases of 7%, 6.2% and 5.5%, respectively.

2007 Equalized Value Growth: The second table offers a more detailed look at increases in equalized values by major class between 2006 and 2007. The most striking revelation is that total taxable property values grew about $500 million more in towns than in cities: $12.4 billion versus $11.9 billion. Given the fact that towns have a significantly lower population than cities (less than 1.7 million versus 3.1 million), this is a surprising outcome that confirms the relatively strong economic growth underway in towns. Also note that residential property values increased by about $3.3 billion more in towns than cities.

Changes in Equalized Values by Major Class Between 2006 and 2007
($ Millions)

	Towns	Villages	Cities
Residential	$10,239.0	$3,508.8	$6,908.8
Commercial	597.8	988.7	4,378.8
Manufacturing	84.7	73.3	221.5
Agricultural	388.3	2.5	9.4
Forest	605.3	15.9	-4.4
Other	380.9	6.9	12.1
Personal	118.5	53.0	347.2
Total*	**12,414.7**	**4,649.0**	**11,873.4**

Source: 2007 Statement of Changes in Equalized Values by Class and Item

*May not sum due to rounding

The fact that property values grew faster in towns than cities in absolute dollar terms this year has many policy implications. Concerns about big property tax shifts to cities due use value assessment of farmland can be set aside. Claims that annexations are needed to sustain housing and other new construction appear to be unfounded. Finally, towns should brace for higher school and county taxes (see the October 2007 *Mailbox* for more on this).

Remember that year-to-year changes in equalized values reflect more than economic factors and new construction; growth patterns are also impacted by annexations and by the incorporation of towns into city or village status. Visit the WTA website (www.wisctowns.com) for links to the DOR reports.

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To: Senate Committee on Commerce, Utilities and Rail

From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities

Date: November 29, 2007

Re: Opposition to Charter Towns Legislation

The League of Wisconsin Municipalities opposes the substitute amendment to SB 36 and any other legislation allowing the creation of hybrid local governments known as charter towns. Under the substitute amendment, charter towns would have the same tax incremental financing powers as cities and villages and would be exempt from municipal extraterritorial zoning and subdivision approval powers.

While this is the least onerous version of the charter towns legislation yet, it nevertheless prohibits a municipality from exercising extraterritorial planning, zoning and plat approval powers within any adjacent charter towns. Also, the bill creates a new hybrid municipality at a time when Wisconsin already has an excessive number of local governments.

Moreover, we fear the next changes that towns will likely seek if this more modest bill becomes law and the concept of charter towns is established in the statutes. Undoubtedly, the next step will be to add language exempting charter towns from annexation by neighboring cities and villages.

For the above reasons, we believe the substitute amendment to SB 36 is bad public policy and should be rejected. Instead, we urge you to support legislative efforts, such as AB 254, making it easier for cities, villages and towns to enter into boundary agreements. Thanks for considering our comments on this legislation.