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Opposition to Senate Bill 182 and Assembly Bill 262 relating to: excluding permits and licenses from the definition of real property for property tax purposes.

Wisconsin Statutes currently allow a property tax assessor to include the value of permits and licenses in a real property's assessed valuation (Wis. Stat. 70.03). This has been repeatedly upheld in the Wisconsin courts, including the Supreme Court. In practice, this statutory provision can result in a greater assessed value for parcels of real estate where permits or licenses result in an increased market value - or selling price - of the attached real estate.

For example, billboard permits are frequently included in real property valuations. A billboard generates significant income, which is directly related to the location of the real estate on which it is constructed. A billboard located along a rural highway is not as valuable as a billboard located along the Marquette Interchange. Thus, billboard permits may be considered in the value of the property on which they are erected. This provision also applies to other uses of property, such as landfills, where the landfill license is specific to the landfill's location.

This legislation proposes to exclude the value derived from a license or permit from assessed value. It would significantly decrease the value of thousands of parcels of real estate statewide, thereby shifting property taxes onto the vast majority of Wisconsin taxpayers. The proposal would overturn principles outlined in multiple Wisconsin court decisions. Due to the broad nature of the proposed tax exemption, it would also expose local governmental units to a costly new spate of litigation. These concerns are outlined in more detail as follows:

1) Current Wisconsin law regarding license and permit value is clear and easily applied: when the value of a license or permit is directly dependent upon the location of a real estate parcel, that value is properly included in the total assessed valuation of the parcel.

- In *Adams Outdoor Advertising, Ltd. v. Madison* (2006), the Supreme Court set a clear framework for billboard valuation for assessment purposes:
 - a. The value of a billboard permit is part of real property value, not personal property value.
 - b. A billboard permit is real property because it "confers a right...to erect and operate a billboard on a designated piece of land."
 - c. Real property value attributable to the permit should not be transferred to the owner of land who entered into a lease with the billboard owner.
- In *Clear Channel Outdoor, Inc. v. Milwaukee* (2011), the Appeals Court concluded that a property tax valuation must include the "permit that allows the [billboard] to sit on the land."

2) Property taxes will be shifted onto all other taxpayers if the value of licenses and permits is excluded for some parcels, because total tax levies will remain the same.

- One property taxpayer should not be harmed for the benefit of another.
- In Milwaukee alone, property taxes related to \$55 million in reduced billboard value would be shifted to other taxpayers, both homeowners and businesses.
- In municipalities where permitted and/or licensed commercial parcels make up a significant portion of their tax base, this legislation would cause a large shift in property taxes to other taxpayers.
- This legislation may create a uniformity problem because all other parcels are assessed according to the fair market value (or selling price) of their properties.

3) Fair market value should have one consistent definition for both condemnation purposes and property tax assessment purposes.

- Real estate permits and licenses are currently included in the definition of fair market value of condemned property in Wis. Stat. 32.01.
- Creating this statutory inconsistency would unfairly require a governmental unit to pay out a larger fair market value in a condemnation action than the value used for property tax collections.
- In *Vivid, Inc. v. Fiedler et al.* (1998), the Supreme Court held that a billboard permit must be included in the fair market value of condemned real estate because “the value of the sign is derived largely from the location of the sign.”

4) This broad tax exemption would potentially impact the value of thousands of parcels statewide.

- Many types of real property have valuations based in part upon a locationally-specific permit or license.
- Drycleaners, oil terminals, landfills, hotels, motels, mobile home parks, theme parks, restaurants, taverns, and parking lots are all examples of property that have increased property value due to site-specific permits and licenses.
- In *Waste Management v. Kenosha* (1994), the Supreme Court held that a landfill license is part of the “inherent value” of the real estate and was properly included in the assessed valuation.

5) Local governments and their taxpayers cannot afford to be exposed to the foreseeable economic burden this legislation would create.

- “Me too” effect will incentivize other property owners holding licenses and permits to contest their property tax assessment under this provision.
- Overturns multiple Supreme Court precedents, creating a new landscape for property tax litigation. Local governments will spend years and millions in court over the uncertainty created by this blanket exclusion from taxation.
- Taxpayers and local governments both currently benefit from clear rules and legal precedent in this area of the law.