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To: Senate Committee on Financial Institutions and Revenue
From: Toni Herkert, Government Affairs Director, League of Wisconsin Municipalities
Date: January 11, 2022
Re: SB 396 – Interest Claims of Excessive Assessment and the Recovery of Unlawful Property Taxes

The League of Wisconsin Municipalities supports SB 396 relating to the interest paid on property tax refunds. The League worked with the authors to draft this bill in an effort to modernize the calculation of interest and to make the treatment of interest consistent with how the tax refund is treated between the various taxing jurisdictions.

In this legislative effort two specific areas of the statutes are addressed relating to the calculation and payment of interest on tax refunds. Making both of these changes will positively impact city, village, and town taxpayers.

Calculation of Interest on Tax Refunds:

Currently there are two statutes that address the calculation of interest paid on tax refunds. The resulting amount of interest varies dramatically based on how the property owner challenges their assessment.

- Sec. 74.35, Wis. Stats, Recovery of Unlawful Taxes. One of the most common ways this provision is utilized is to claim that a property was exempt from taxation. Adhering to this section a municipality must calculate the interest rate at the rate of .8 percent a month from the date on which the person filed the claim. This equals a 9.6% annual interest rate.
- Sec. 74.37, Wis. Stats, Over Assessment. In this section of the statutes the interest on the refund payment is calculated at the average annual discount rate determined by the last auction of 6-month U.S. treasury bills for the period of time between when the tax was due and the date that the claim was paid.

From 1987 to 2007 the interest rate of .8% per month was the same under both statutes. Recognizing the two-decade span between updating the calculation, when the Legislature passed Act 86 in 2007, which made several changes to the process for challenging over assessments of property, the interest calculation under sec. 74.37 was modernized. The 2007 Law did not update sec. 74.35 and as a result the interest calculated under this statute is much higher than required to be refunded under the over assessment statute. SB 396 rectifies the variation in interest calculation by tying the interest rate in both provisions to the 6-month treasury bill.

Payment of Refunded Interest:

Current law requires all local taxing jurisdictions contribute proportionately to the cost of the municipal tax refunds. However, only the city, village, or town pays the interest on the refund. SB 396 aligns the interest refund to the process for refunding the actual property taxes and allows the city, village, or town to collect its proportionate share of the interest paid on property tax refunds from each underlying taxing jurisdiction including the county and school district. The League sought this change for the following reasons.

- The same fairness argument justifying sharing the cost of the tax refund with all taxing jurisdictions applies to sharing the cost of the interest on that refund.
- Under current law, the interest on tax refunds made to manufacturing properties can be charged back and shared with all taxing jurisdictions.
- Large tax refunds are relatively rare. Most tax assessment or tax exemption challenges are settled early in the process. However, when there is a court appearance, not only do municipalities pay the cost of assessing the property, but they also defend that assessment on behalf of all taxing jurisdictions. If everyone gains in an assessment victory, why is the loss solely absorbed by the municipality? We assert that the interest owed on the tax refund should be shared between all taxing jurisdictions.
- Shannon Krause, the City of Wauwatosa Assessor is here to provide an example involving a tax lawsuit brought by the Medical College of Wisconsin that will further explain the current disproportionate impact to municipal taxpayers. The court sided with the property owner and the city refunded the taxes paid. The litigation took 27 months. The interest owed was \$79,261. The city paid all of it. The tax refund itself was divided proportionally between the taxation districts. If the interest had been similarly shared, Milwaukee County's portion of the interest would have been 20.2% or \$16,010. The school district's share would have been 37.1 % or \$29,405. The city would have been responsible for 30.6% or \$24,253. MATC and MMSD would have picked up the remaining 12%.

We urge the committee to vote in favor of recommending passage of SB 396. Thank you.