



HOWARD MARKLEIN

STATE SENATOR • 17TH SENATE DISTRICT

Senator Howard Marklein Testimony in Support of Senate Bill 227

Good morning Senators, and thank you for being here today to hear testimony in favor of Senate Bill 227. Under current law, construction materials are exempt from sales tax when they are purchased for projects for tax exempt entities including counties, cities, towns, villages, school districts, churches, and hospitals.

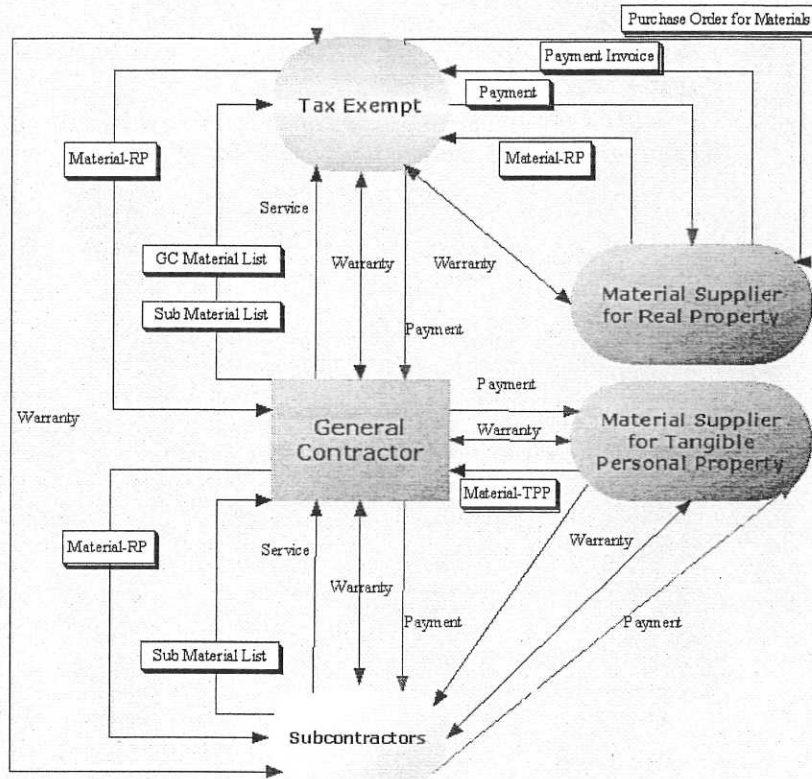
The law as currently written requires tax exempt entities, such as a school, to purchase materials directly for a building project. You can imagine how complicated the process would be for a school district in a typical construction project. Every cement block, brick, steel beam, drywall, etc. needs to be purchased directly by the school. A contractor working on a project cannot directly purchase the material needed and still take advantage of the sales tax exemption. In practice, this greatly complicates many building projects, burdens staff of both contractors and local entities with hours of paperwork, and needlessly complicates a savings tool for many local governments and civic organizations.

Contractors, and CPA firms, have figured out a way to get around the direct purchase requirement. This “work around” involves the contractor setting up a separate entity to purchase the materials. The end result is the same, no sales tax paid. However, this is a complicated process.

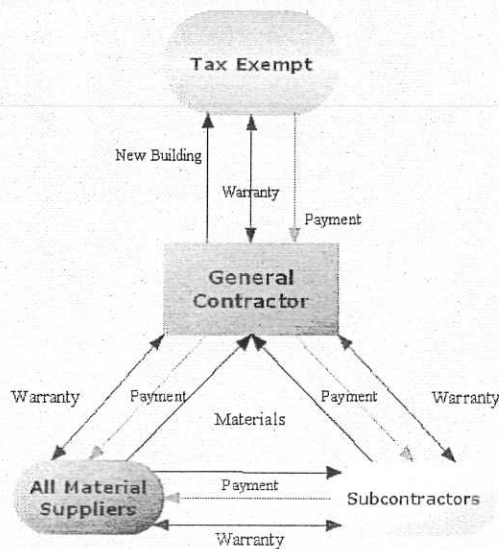
Senate Bill 227 streamlines this exemption and makes the system easier for everyone involved by allowing contractors to directly purchase materials on behalf of local tax exempt entities. This bill is similar to Iowa’s law and process.

Thank you again for allowing me the opportunity to testify in support of this bill, and I would welcome any questions.

**- Current Law -
Tax Exempt "Direct" Purchase**



**- Proposed -
Flow Through Purchase for all Materials**





AGC of Wisconsin

S K I L L R E S P O N S I B I L I T Y I N T E G R I T Y

4814 East Broadway, Madison, WI 53716 • (608) 221-3821 • (608) 221-4446 FAX • www.agcwi.org

Date: September 2, 2015

To: Senate Committee on Revenue, Financial Institutions and Rural Issues

From: Jim Boullion, Director of Government Affairs

Re: Support SB 227 - Sales Tax on Construction Materials for Tax Exempt Projects

The issue – The Wisconsin Dept. of Revenue has determined that if a contractor purchases the “real property” (bricks, windows, etc...) that go into a construction project for a tax-exempt owner the contractor is the final consumer of these materials and must pay the sales tax. However, if the tax-exempt owner directly purchases the materials from the supplier they do not pay the sales tax. This legislation will allow contractors to directly purchase these “real property” materials for tax-exempt owners just as the contractor can currently purchase the tangible personal property (cabinets, desks, etc...) and resell them without charging the sales tax on those materials.

Who is affected? – Any public or private tax-exempt entity that contracts for a building such as counties, cities, towns, villages, school districts, churches, civic groups, etc... In addition, every contractor who works on one of these jobs is affected because their risk and paperwork load is greatly increased. It is especially difficult for smaller contractors to deal with.

What do they do now? - To utilize their tax-exemption, tax-exempt entities are allowed to make a “direct purchase” of all of the materials for their building from the suppliers and transfer those materials to their contractor. While most tax-exempts and their contractors are able to complete the costly and time consuming paperwork necessary to make the direct purchase option work, some decide to have the building contractors purchase the materials and add the cost of the 5% state sales tax to their buildings.

Why don't all tax-exempt entities directly purchase materials to save this cost?

- **Lack of Time** - The most common reason is the time and effort it takes to have employees handle the paperwork. It can take hundreds of hours of staff time to handle the purchase orders, invoicing and contractor coordination necessary for just one project.
- **Lack of Expertise** - Even if a school, local government or other tax-exempt wants to purchase materials directly to save the 5% tax, they often lack the expertise to handle it. Contractors do what they can to assist, but it takes a knowledgeable person on the owner's side to be sure everything is taken care of properly and prevent costly errors from occurring.
- **Liability problems** – Under the direct purchase method that tax-exempts are currently forced to use, if an error is made in the material ordering or if a warrantee issue develops and the entities that actually purchased these items are different that the one who installed them, conflicts can arise.

Why this solution? - The DOR already allows contractors to purchase “tangible personal property” for tax-exempt projects without paying sales taxes. Tangible personal property includes things like gym lockers, appliances, desks, and other items that can be easily replaced in a building. The proposal would simply allow the use of the same process for the purchase of the rest of the materials used in these buildings like bricks, mortar, windows and steel. It is also a system that the State currently allows for the construction of waste treatment facilities [*Wis. Stats. §77.54(26)*] and special district stadiums such as Lambeau Field and Miller Park [*Wis. Stats. §70.11(36)*].

Is this a new tax exemption? – No. The real world effect of this bill is not to create a new tax exemption. It simply reduces government “red-tape,” streamlines the current tax procedures and provides a cost effective way for schools, local governments and other tax-exempt entities to provide more services at a lower cost. In this era of trying to save money, cut costs and get more efficiency out of the employees we have, this bill is a winner for everyone!

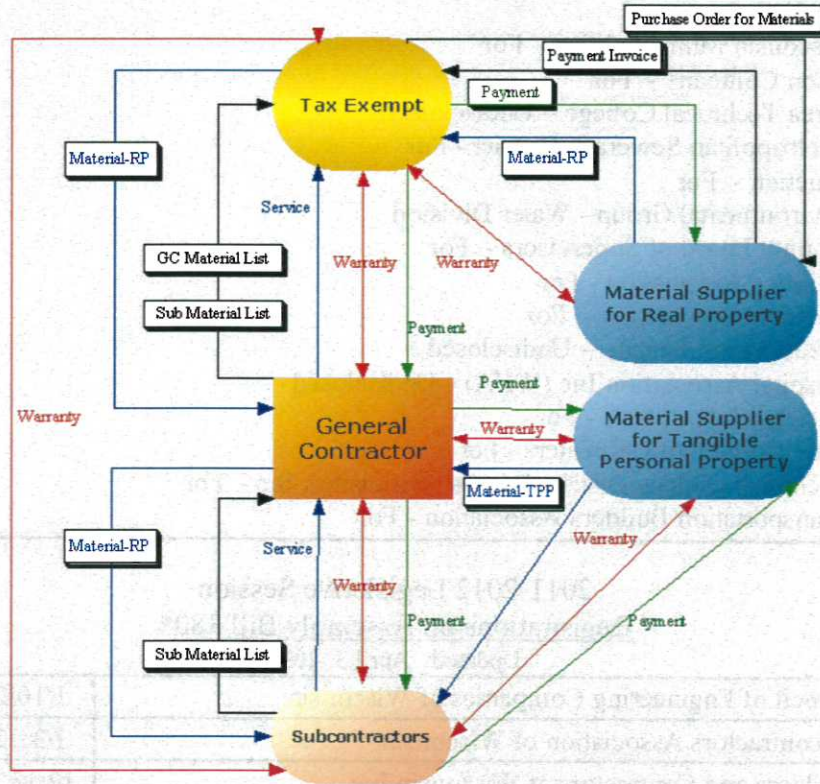
Will there be “cheating”? – While no one can guarantee that someone will not try to take advantage of this rule change, it is very unlikely that it will create any new problems. Contractors can already purchase any of these materials for “resale” and not pay the sales tax. The main question is this, why would a contractor take the risk of violating state tax laws and criminal charges simply to save 5% on the purchase of some additional materials? If someone does try to take advantage of the system, there is a very accurate paper trail that is left with every vendor who they buy from. When the DOR audits either the contractor or vendor the odds are very good that they will be found out. The risk/reward calculation just isn't there for most contractors to try and cheat.

Who supports the bill? – Last session 15 groups registered in support of AB 76, and it was adopted by the Assembly as an amendment to Special Session Bill 1 (later removed in the Senate). During the 2011 session 20 organizations registered in support of AB 380, and the bill passed the Assembly Ways and Means Committee unanimously on a bipartisan vote. In 2006, 43 groups registered in favor of the bill. There has been no registered opposition to the bill in any of those sessions.

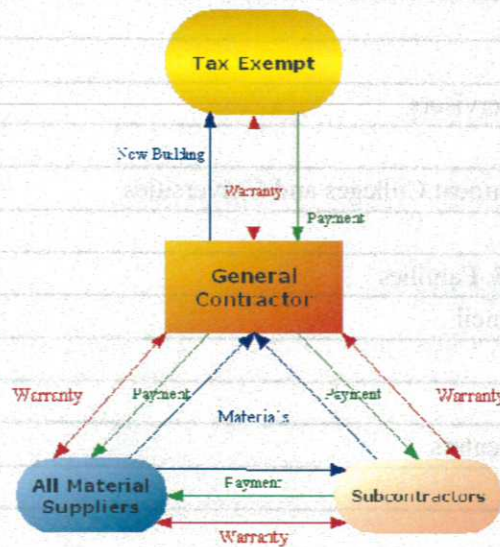
What is the cost? – In 2014 the Dept. of Revenue estimated that 20% of tax-exempt projects in Wisconsin pay the sales tax resulting in \$6 million of revenue per year. This was truly an estimate because there is no reporting of how many tax exempt's actually direct purchase materials vs. paying the sales tax. However, based on three surveys done by AGC of Wisconsin in 2000, 2004 and in 2013 we are confident that the cost is actually much less. Those surveys showed that the well over 90% of the dollar value of non-road construction projects done by tax-exempts already avoid paying the sales tax by doing the extra paperwork. These surveys also show that the vast majority of this money comes from local public/municipal projects. The private sector tax-exempts overwhelmingly (over 95%) use the direct purchase option and don't pay the tax. We would be glad to share the details of those surveys with anyone who is interested.

Summary – Allowing contractors to directly purchase materials will reduce red tape, save time and save money for all tax-exempt clients. None of the savings goes to the contractors. The vast majority of the savings will go to local municipalities who are investing in their aging infrastructure. These savings will reduce local property taxes and leave more money to deliver other important services.

**- Current Law -
Tax Exempt "Direct" Purchase**



**- Proposed -
Flow Through Purchase for all Materials**



2013-2014 Legislative Session
Registrations on Assembly Bill 76*

Updated February 10, 2014

1. Associated Builders and Contractors of Wisconsin Inc - For
2. Associated General Contractors of Wisconsin Inc – For
3. Dane County - For
4. League of Wisconsin Municipalities - For
5. M.A. Mortenson Company - For
6. Milwaukee Area Technical College – Undisclosed
7. Milwaukee Metropolitan Sewerage District - For
8. Miron Construction - For
9. Municipal Environmental Group - Water Division
10. Outagamie County Board of Supervisors - For
11. Wisconsin Builders Association - For
12. Wisconsin Counties Association - For
13. Wisconsin Credit Union League – Undisclosed
14. Wisconsin Hospital Association Inc (WHA) - Undisclosed
15. Wisconsin Society of Architects - For
16. Wisconsin State Council of Carpenters - For
17. Wisconsin Technical College District Boards Association Inc - For
18. Wisconsin Transportation Builders Association - For

2011-2012 Legislative Session
Registrations on Assembly Bill 380*

Updated: April 3, 2012

American Council of Engineering Companies of Wisconsin	1/10/2012	↑
American Subcontractors Association of Wisconsin	1/31/2012	↑
Associated Builders and Contractors of Wisconsin Inc	12/13/2011	↑
Associated General Contractors of Greater Milwaukee Inc	12/7/2011	↑
Associated General Contractors of Wisconsin Inc	11/28/2011	↑
Association of Wisconsin Tourism Attractions	12/16/2011	↑
Construction Business Group	12/7/2011	?
League of Wisconsin Municipalities	11/21/2011	↑
Medical College of Wisconsin	12/14/2011	↑
Milwaukee Metropolitan Sewerage District	12/13/2011	↑
Miron Construction	12/12/2011	↑
Operating Engineers Local #139	12/7/2011	↔
Outagamie County Board of Supervisors	12/6/2011	↑
Waukesha County	12/2/2011	↑
Wisconsin Association of Independent Colleges and Universities	12/22/2011	↑
Wisconsin Builders Association	12/9/2011	↑
Wisconsin Council on Children & Families	2/8/2012	↑
Wisconsin Laborers District Council	12/2/2011	↑
Wisconsin Realtors Association	12/12/2011	↑
Wisconsin Society of Architects	11/18/2011	↑
Wisconsin State Council of Carpenters	12/15/2011	↑
Wisconsin Towns Association	12/3/2011	↑

* There were no registered opponents of the bill in either session.

Supporters of Changing the Sales Tax on Construction Materials Rule 2005-06 Legislative Session

SENATE BILL 57 / ASSEMBLY BILL 126*

Updated: October 13, 2005

Construction Associations

1. Associated General Contractors of Wisconsin - AGC-Wis
2. Associated General Contractors of Greater Milwaukee - AGC-GM
3. Associated Builders and Contractors of Wisconsin – ABC
4. Wisconsin Builders Association – WBA
5. Wisconsin Society of Architects - AIA-Wis
6. American Council of Engineering Companies of Wis. – ACEC-Wis
7. National Electrical Contractors Association of Wisconsin – NECA-Wis
8. National Electrical Contractors Association of Milwaukee – NECA-Milwaukee
9. Mechanical Contractors Association of Wisconsin – MCA
10. Plumbing Heating Cooling Contractors of Wisconsin – PHCC-Wis
11. American Subcontractors Association – ASA
12. Wisconsin Transportation Builders Association - WTBA
13. Wisconsin Underground Contractors Association - WUCA
14. Aggregate Producers of Wisconsin, Inc.

Business Organizations

15. Wisconsin Manufacturers and Commerce – WMC
16. National Federation of Independent Business - NFIB
17. Wisconsin Hospital Association - WHA
18. Aurora Health Care
19. American Red Cross

Labor Unions

20. Wisconsin State Council of Carpenters
21. Operating Engineers Local 139
22. Wisconsin Laborers District Council
23. International Brotherhood of Electrical Workers Construction Electrician Local Unions

Local Government

24. League of Wisconsin Municipalities
25. Wisconsin Alliance of Cities, Inc.
26. Wisconsin Towns Association
27. Wisconsin Counties Association
28. Dane County Cities & Villages Association
29. Kenosha County
30. Waukesha County
31. Outagamie County Board of Supervisors

Schools and Not for Profits

32. Milwaukee Public Schools
33. Wisconsin Association of Independent Colleges and Universities
34. Wisconsin Association of School Boards Inc
35. Wisconsin Alliance of School District Administrators
36. Wisconsin Association of School Business Officials
37. Association of Wisconsin School Administrators
38. Wisconsin Council for Administrators of Special Services
39. Wisconsin Technical College District Board Association
40. Wisconsin Library Association
41. Municipal Environmental Group - Water Division
42. Waukesha County Technical College
43. Municipal Electric Utilities of Wisconsin

* There were no registered opponents of the bill

SB 227 GAB Registrations

Updated: September 2, 2015

1 Associated General Contractors of Wisconsin Inc



For Notified Date: 8/20/2015

2 Associated General Contractors of Greater Milwaukee Inc



For Notified Date: 8/24/2015

3 Associated Builders and Contractors of Wisconsin Inc



For Notified Date: 8/27/2015

4 City of Madison



For Notified Date: 8/20/2015

5 Leading Age Wisconsin



For Notified Date: 9/1/2015

6 League of Wisconsin Municipalities



For Notified Date: 8/25/2015

7 M.A. Mortenson Company



For Notified Date: 8/18/2015

8 Milwaukee County



Undisclosed Notified Date: 8/31/2015

9 Municipal Environmental Group - Water Division



For Notified Date: 9/1/2015

10 Outagamie County Board of Supervisors



For Notified Date: 8/24/2015

11 Wisconsin Association of Independent Colleges and Universities



For Notified Date: 8/31/2015

12 Wisconsin Association of School Boards Inc



For Notified Date: 9/1/2015

13 Wisconsin Counties Association



For Notified Date: 8/19/2015

14 Wisconsin Ready Mixed Concrete Association



For Notified Date: 8/19/2015

15 Wisconsin Rural Water Association



For Notified Date: 8/19/2015

16 Wisconsin Society of Architects



For Notified Date: 8/18/2015

17 Wisconsin Transportation Builders Association



For Notified Date: 8/23/2015



MEMORANDUM

TO: Honorable Members of the Senate Committee on Revenue, Financial Institutions, and Rural Issues

FROM: Kyle Christianson, Director of Government Affairs *yc*

DATE: September 2, 2015

SUBJECT: Support Senate Bill 227

The Wisconsin Counties Association (WCA) supports Senate Bill 227, which streamlines local government purchasing procedures for infrastructure projects. This bill does not adopt new tax exemptions, but ensures local government purchasing is done as efficiently and cost-effective as possible.

Under current law, tax-exempt entities making infrastructure improvements must purchase materials directly from suppliers in order to avoid paying sales tax. The bill allows building contractors to use the sales tax exempt status of an exempt entity when purchasing goods or services exclusively for construction for the exempt entity.

Although counties can avoid paying sales tax on these materials by making the purchase themselves, this is often a logistical and administrative burden at a time when counties are looking for efficiencies and cost-saving measures. Waukesha County recently built a new Health and Human Services building. The county made \$8.2 million in direct purchases on behalf of its contractor for a tax savings of \$418,362. To realize these savings, the county had to complete its own purchase orders and cut separate checks directly to 58 vendors in order to avoid paying the state sales tax.

It is advantageous to counties and other units of local government to allow contractors to purchase materials when constructing or remodeling facilities because it saves the time of county employees and eliminates an additional step in the construction process.

WCA respectfully requests that the Committee support Senate Bill 227.

Please feel free to contact WCA if you need additional information.

ALVERNO COLLEGE
BELLIN COLLEGE
BELOIT COLLEGE
CARDINAL STRITCH UNIVERSITY
CARROLL UNIVERSITY
CARTHAGE COLLEGE
COLUMBIA COLLEGE OF NURSING
CONCORDIA UNIVERSITY
EDGEWOOD COLLEGE
LAKELAND COLLEGE
LAWRENCE UNIVERSITY
MARIAN UNIVERSITY



WISCONSIN'S PRIVATE, NONPROFIT COLLEGES AND UNIVERSITIES
WORKING TOGETHER FOR EDUCATIONAL OPPORTUNITY

MARQUETTE UNIVERSITY
MEDICAL COLLEGE OF WISCONSIN
MILWAUKEE INSTITUTE OF ART & DESIGN
MILWAUKEE SCHOOL OF ENGINEERING
MOUNT MARY UNIVERSITY
NASHOTAH HOUSE
NORTHLAND COLLEGE
RIPON COLLEGE
ST. NORBERT COLLEGE
SILVER LAKE COLLEGE
VITERBO UNIVERSITY
WISCONSIN LUTHERAN COLLEGE

Senate Committee on Revenue, Financial Institutions and Rural Issues

TESTIMONY

By

Dr. Rolf Wegenke, President

Wisconsin Association of Independent Colleges and Universities (WAICU)

September 2, 2015

Senate Bill 227 – relating to a sales and use tax exemption for building materials that become a part of a facility for a local unit of government or nonprofit organization.

Chair Marklein and members of the Committee, my name is Rolf Wegenke, I am president of the Wisconsin Association of Independent Colleges and Universities or WAICU, representing Wisconsin's 24 private, nonprofit institutions of higher learning. WAICU's mission is: "Wisconsin's private, nonprofit colleges and universities working together for educational opportunity." Operating without taxpayer support, WAICU members provide a public service – educating nearly 60,000 students each year.

On behalf of WAICU's members, I want to thank you for holding this hearing on Senate Bill 227, a bill to create a sales and use tax exemption for building materials that become a part of a facility for a local unit of government or non-profit organization.

This tax exemption will serve as an important complement to WAICU members' efforts to help control college costs. Through the *WAICU Collaboration Project*, we are leading the nation in keeping college affordable. The U.S. Congress has called WAICU's efforts "transformative." The WAICU Collaboration Project can document an annual \$18 million in savings for our membership, these savings help hold down college costs. Your bill will help us do more.

Additionally, institutions of higher learning face significant regulation and are always looking for ways to reduce costs associated with government red tape. This bill will help reduce staff time dedicated to these activities and instead focus on advancing educational opportunity and preparing our next generation of workers.

This legislation will directly benefit students attending Wisconsin private colleges and universities as the money saved will enable us to support ever-increasing amount of privately funded student aid – our fastest growing expenditure. Senate Bill 227 has WAICU's strong support.



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To: Senate Committee on Revenue, Financial Institutions, and Rural Issues

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

Date: September 2, 2015

Re: SB 227, Sales Tax Exemption for Building Materials Used in Municipal Construction Projects

The League of Wisconsin Municipalities supports SB 227, clarifying and making it easier for materials purchased for use in municipal construction projects to qualify as exempt from the state and county sales tax. While direct municipal purchases are exempt from the sales tax under current law, the process for obtaining the exemption in municipal construction projects being built by a contractor is complicated and time consuming.

For example, recently the City of Oshkosh was able to save \$200,000 on the construction of a public works facility by working with the contractor to obtain the sales tax exemption on material purchased for use in the project. However, city staff needed to spend a lot of time doing the necessary paperwork to achieve the savings. The city had to do a change order to remove the materials from the contract, and then separately contract with a company set up by the contractor to purchase the same construction materials to qualify for the tax exemption.

Because the current process for obtaining the sales tax exemption is difficult, many communities don't take advantage of the exemption. This is particularly true for small communities that lack the staff and resources to take the steps necessary to accomplish the exemption. It is also particularly true for small projects and those on a short time line.

SB 227 greatly simplifies the process and is a much more efficient method for municipalities to obtain the savings from the sales tax exemption.

The League urges you to recommend passage of SB 227. Thanks for considering our comments.



Wisconsin Rural Water Association
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715-344-7778 • Fax: 715-344-5555 • E-mail: wrwa@wrwa.org

To: Chairperson Howard Marklein
Members, Senate Committee on Revenue, Financial Institutions and Rural Issues

From: David Lawrence, Executive Director, Wisconsin Rural Water Association

Date: September 2, 2015

Subject: **Support for Senate Bill 227**

The Wisconsin Rural Water Association (WRWA) is a nonprofit organization that represents 676 water & wastewater systems providing services to over four million Wisconsin residents. We are also the leading provider of training and technical assistance to water & wastewater system operators, managers and administrative personnel in the state of Wisconsin.

WRWA supports SB 227, which would allow contractors to directly purchase construction materials without paying sales tax on behalf of the tax-exempt customers. This change would ensure that the project costs for critical water system projects would remain tax-exempt regardless if the local government or a hired contractor purchases the materials.

Allowing contractors to directly purchase construction and facility materials will streamline projects and reduce unnecessary costs from being added onto projects. Water utilities across the state are executing multi-stage projects to replace water infrastructure and improve water quality. This bill ensures there are no further delays, costs or administrative work necessary for water utilities to acquire the materials necessary for improvements of water and wastewater facilities.

Currently, in order to utilize the tax-exempt status on projects, the local water utility would need to purchase the materials directly and pass them along to the contractor. This creates several administrative requirements, including additional staff time and paperwork. Especially in small communities, these obstacles may be so prohibitive that the local water utility may opt to have the contractor purchase the materials and pay the additional sales tax on the project.

This bill cuts burdensome red tape and will save money for local water utilities, as well as other tax-exempt entities. On behalf of WRWA, I ask for your support of SB 227.

Thank you for your time and consideration.