

Pewaukeeans for Better Government

PBG Network

Report Regarding City of Pewaukee Spending Cap Ordinance

The Situation:

On July 8, 2003 the Wisconsin Supreme Court affirmed the decision of the Court of Appeals in Mount Horeb Community Alert (citizens group) v. Village Board of Mt. Horeb, compelling the Village Board of Mt. Horeb to adopt or send to referendum the petition of Mount Horeb Community Alert requiring public approval by referendum of any municipal building project costing \$1,000,000 or more.

On August 4th, 2003 former Mayor Jeff Nowak signed ordinance #03-12: An Ordinance Regarding Common Council Planning And Approval of Building And Public Works Projects. The ordinance granted the Common Council sole and exclusive power to determine whether to authorize expenditures on behalf of the City pertaining to public building and public works projects, with no referendum required unless the individual building or public works project has an estimated cost that exceeds \$10,000,000.

Ordinance 03-12 was adopted during the time the Nowak administration was under fire for over-runs of a City Hall renovation/expansion project (the \$2.2Million estimated cost ended up in excess of \$4Million), and as a precursor to the Nowak administration's attempt to build a (3-story, approx 33,000 square foot, approx \$6Million+) fire station at WCTC which would house a firearms firing range and classroom space for WCTC.

On March 19, 2007 Alderman David Mokros confirmed Ordinance 03-12 was enacted to preempt the citizens statutory right to action under SS 9.20.

In accordance with PBG research, about ten municipalities out of 580 (Villages & Cities) in Wisconsin have spending cap ordinances initiated by Direct Legislation; and are aware of only one which has a spending cap ordinance enacted by it's governing body. That municipality is the City of Pewaukee.

The Recommendation:

Ordinance #03-12 takes away the basic legislative right of the citizens to participate in their government. The ordinance was clearly designed to protect the powers of the Council, and not the will of the people. We recommend that above referenced ordinance be repealed.

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Key points of Direct Legislation under State Statute 9.20:

In order for an ordinance via Direct Legislation to be valid: it must be legislative rather than administrative in nature; cannot repeal any existing ordinance; it must fall within the authority of the Village or City; it cannot modify or conflict with state statutes that would bind the Board or Council if it tried to legislate in the same area

(1) A number of electors equal to at least 15% of the votes cast for governor at the last general election in their city or village may sign and file a petition with the city or village clerk requesting that an attached proposed ordinance or resolution, without alteration, either be adopted by the common council or village board or be referred to a vote of the electors.

(4) The common council or village board shall, without alteration, either pass the ordinance or resolution within 30 days following the date of the clerk's final certificate, or submit it to the electors at the next spring or general election, if the election is more than 6 weeks after the date of the council's or board's action on the petition or the expiration of the 30-day period, whichever first occurs. If there are 6 weeks or less before the election, the ordinance or resolution shall be voted on at the next election thereafter. The council or board by a three-fourths vote of the members-elect may order a special election for the purpose of voting on the ordinance or resolution at any time prior to the next election, but not more than one special election for direct legislation may be ordered in any 6-month period.

(7) If a majority vote in favor of adoption, the proposed ordinance or resolution shall take effect upon publication under [sub. \(5\)](#). Publication shall be made within 10 days after the election.

(8) City ordinances or resolutions adopted under this section shall not be subject to the veto power of the mayor and city or village ordinances or resolutions adopted under this section shall not be repealed or amended within 2 years of adoption except by a vote of the electors. The common council or village board may submit a proposition to repeal or amend the ordinance or resolution at any election.

For complete statute see:

<http://nxt.legis.state.wi.us/nxt/gateway.dll?f=templates&fn=default.htm&vid=WI:Default&d=stats&jd=9.20>

To view the Spending Cap Ordinance see:

http://www.cityofpewaukee.us/fileCabinet/Ch01_Government.pdf

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Comparisons:

| COMMUNITY | TYPE | SPENDING CAP | ORDINANCE ENACTED BY | 2000 US CENSUS POPULATION |
|---------------------------------|-------------|-------------------------|---------------------------------|--|
| Columbus (current) * | City | \$200,000 | Direct Legislation | 4,479 |
| Columbus (proposed) ** | City | \$1,000,000 | Direct Legislation | 4,479 |
| Delafield | City | \$1,000,000 | Direct Legislation | 6,472 |
| Fontana | Village | \$1,000,000 | Direct Legislation | 1,754 |
| Hobart | Village | \$1,000,000 | Direct Legislation | 5,090 |
| Lake Geneva | City | \$1,000,000 | Direct Legislation | 7,148 |
| McFarland | Village | \$1,000,000 | Direct Legislation | 6,416 |
| Mount Horeb | Village | \$1,000,000 | Direct Legislation | 5,860 |
| North Hudson | Village | \$150,000 | Direct Legislation | 3,463 |
| Pardeeville (contracts only)*** | Village | \$100,000 | Direct Legislation | 1,982 |
| Platteville **** | City | \$1,000,000 | Direct Legislation | 9,989 |
| Pewaukee | City | \$10,000,000 | Common Council | 11,783 |

NOTE:

* Columbus spending cap includes public works projects

** Columbus spending cap ordinance is up for reconsideration in 2007. The Council has asked the voters to approve \$1 Million spending cap on capital building projects as a referendum question on the April 3rd ballot.

*** Pardeeville Village Board is required to obtain 2/3 vote of the Village Board or put to referendum any contract for services that exceed 6 months in duration. They do not have a cap on capital expenditures. Pardeeville contracts for police services.

**** Platteville spending cap ordinance was reconsidered in 2006. The ordinance was revised to allow a majority vote of the Common Council to override the spending cap.

WI League of Municipalities, WI Taxpayers Alliance & WI Legislative Reference Bureau do not track spending cap ordinances. The above information was compiled based on collective information shared by above referenced organizations, internet search and contact with various municipalities; as such list may not be complete.