

WILL: Sues Town of Buchanan for adopting, implementing unlawful tax

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The town adopted a “transportation utility fee” to circumvent strict levy limits. The News: The Wisconsin Institute for Law & Liberty (WILL) filed a [lawsuit](#) against the Town of Buchanan, in Outagamie County, after the municipality adopted and implemented a “[transportation utility fee](#)” that violates state law and circumvents strict levy limits. WILL represents [Wisconsin Property Taxpayers, Inc.](#), a non-partisan membership organization consisting of thousands of small business, farm, and property owners, in the lawsuit filed in Outagamie County Circuit Court.

The Quotes: WILL Deputy Counsel, Luke Berg, said, “The ‘fee’ adopted by the Town of Buchanan is an unlawful tax intended to circumvent levy limits and uniformity requirements. Wisconsin municipalities cannot charge a fee, or implement a tax, without statutory authorization.” “Now more than ever, Wisconsin’s small businesses and homeowners need to invest every dollar they earn back into their businesses and families,” said John Jacobson, WPT Government & Member Relations Director. “Implementing and mislabeling an unlawful tax to circumvent levy limits and rake in even more money from those individuals who already fund our local communities is misleading and insulting.”

Background: The Town of Buchanan adopted a “[transportation utility fee](#)” in late 2019 to generate revenue to pay for its roads. The “transportation utility fee” is charged to “all developed properties” and is used to fund “the cost of utility district highways, stormwater management, sidewalks, street lighting, traffic control” and “any other convenience or public improvement.” But this fee – despite its name – is really an unlawful tax. Nothing in [state law](#) authorizes municipalities to charge a road-use fee; rather, road costs are financed primarily through property taxes, which are subject to [strict levy limits and uniformity requirements](#). The Town of Buchanan appears to be using this fee to circumvent those limits on property taxes.

According to the Wisconsin Department of Revenue, Buchanan was at its levy limit of \$2.4 million last year. They are using this additional tax to levy \$850,000 more from taxpayers—homeowners pay \$315 annually and businesses and other properties pay between \$200 and \$8,000.

WILL filed a [notice of claim](#) with the Town of Buchanan in May 2021 warning the town that the transportation utility fee is an unlawful tax and must be eliminated. The town denied the notice of claim in late August.

WILL is asking the court to declare the Town of Buchanan’s “transportation utility fee” illegal and issue an injunction to prevent Buchanan from levying, enforcing, or collecting the fee.

Read More:

- [WILL's Complaint](#), September 16, 2021
- [Notice of Claim](#), May 4, 2021