

RESOLUTION NO. 2018-34

Conducting an Advisory Referendum to Require Accurate Value Comparisons When Establishing the Assessed Value of National Retail Stores (Dark Store Legislation)

Executive Summary

Current law allows the assessed value of certain retail stores to be based on comparing them to nearby vacant or abandoned commercial buildings even though the store is operating at full capacity. The reasoning behind this argument is that in many cases large retail stores are constructed according to a standard design which is unique to that particular retail store, i.e. Menards and Walgreens are built using a design specific to their business needs and if the building was sold on the open market, a purchaser would most likely need to make significant modifications in order to use the building for another business purpose. As a result, Courts have sided with national retail stores requiring communities to refund tax revenue. This method of valuation is known as the "Dark Store" theory of valuation.

This Resolution authorizes Jefferson County to conduct a county-wide advisory referendum to be held at the November 2018 general election. The Executive Committee considered this resolution at its July 25, 2018, meeting and voted to forward to the County Board for approval. Local governments object to the theory because it decreases revenue to the state while also increasing the burden of increased taxes on other property owners. Schools, roads, and other public services still need funding.

WHEREAS, the Executive Summary is hereby incorporated by reference into this resolution, and

WHEREAS, some national retail stores in Wisconsin have successfully argued that the assessed value of their property for property tax purposes should be based on the fair market value of the building if it was vacant or abandoned, and

WHEREAS, some national retail stores are using what is known as the "Dark Store" theory to argue that the assessed value of a new, thriving store should be based on comparing their buildings to nearby vacant or abandoned stores from a different market segment and in many cases, courts have sided with the national retail stores, requiring communities to refund tax revenue, and

WHEREAS, lawsuits in Wisconsin are forcing assessors to reduce the assessed value of thriving national retail stores, shifting the tax burden to local businesses and homeowners, and

WHEREAS, homeowners in Wisconsin pay over 70% of the total statewide property tax levy, and

WHEREAS, over the past several months, municipal, county, city, and town officials have been in contact with state legislators testifying against the Dark Store tax loophole in order to avoid a property tax burden shifting to other tax paying entities such as residential homeowners and other businesses and/or cuts in essential services provided by an affected municipality, and

WHEREAS, the disproportionate burden of property taxes on homeowners will worsen unless legislators take action to amend the property tax law and prevent some national retail stores from receiving significant reductions in the assessed value of their commercial stores resulting in a significant reduction in their property taxes, and

