



# Newsletter

November 2016

*Wisconsin Independent Businesses...Helping you where you need it.*

## Affordable Care Act (ACA) Reference Guide Now Available To WIB Members

Three years ago, we created a reference guide entitled: "ACA 101 – What Small Employers and Their Employees Need to Know."

This publication highlights aspects of the ACA which apply to and/or impact small employers and their employees. It is intended to provide you with basic knowledge of the law – knowledge to help you ask the right questions of your insurance agent/broker, provide guidance to your employees or purchase health care coverage through the federal exchange.



We have updated this guide to include newly-released publicly available information as of October 1, 2016.

It is available at no cost to WIB members. If you would like a copy, please contact Brian Dake toll-free at 1-800-362-9644 or via e-mail at [bdake@wibiz.org](mailto:bdake@wibiz.org).

## WIB Joins DRIVE Coalition

From time to time, WIB partners with other trade organizations and advocacy groups to lobby on behalf of our shared goals and common interests. These strategic alliances are particularly useful when trying to solve difficult public policy problems.

Recently, WIB became a member of DRIVE (Devote Resources, Invest for a Vibrant Economy). Our common goal is the enactment of a sustainable, long-term transportation plan that will keep Wisconsin's economy strong.



DRIVE is comprised of nearly two dozen organizations with prominent representation from the state's three key economic sectors – agriculture, manufacturing and tourism. Collectively, we have united behind the following core principles:

- 1 Wisconsin Department of Transportation (DOT) spending should be reviewed to ensure that incoming tax and fee revenues are being invested efficiently and effectively;
- 2 Nearly 1.5 million full-time jobs in Wisconsin, in key industries like tourism, retail sales, agriculture and manufacturing, are completely dependent on the state's transportation infrastructure network;

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Before the polls close on  
Tuesday, November 8 at  
8:00 p.m., please VOTE!

If you have voting-  
related questions,  
please visit the State  
of Wisconsin's official  
source of voting  
information –  
MyVote Wisconsin at  
[myvote.wi.gov](http://myvote.wi.gov).

On this site, you can  
check your voter  
registration status,  
find your polling place  
and see what's on  
your ballot.

# ELECTIONS MATTER

## Let Your Voice be Heard

**B**y now, even the most devoted political observers have tuned out the campaign commercials, stopped listening to the robocalls left on the answering machine and put the political mail in the circular file. Soon, it will be over.

Before the polls close on Tuesday,  
November 8 at 8:00 p.m., please VOTE!

There are plenty of candidates to choose from up and down the ballot. Those who are elected to a federal or state office will have a tremendous impact on your businesses' bottom line. For instance....

The next President of the United States will appoint people to lead 15 cabinet-level agencies and more than 50 independent commissions. Collectively, the President and his or her leadership team manage the day-to-day activities of more than 4 million federal government employees.

The next President will nominate at least one member to the nation's highest court. In the near future, the United States Supreme Court is expected to rule on the scope and authority of the executive branch of the federal government to regulate energy production and enforce immigration laws.

The President has the final say on whether legislation approved by Congress becomes law and oversees the administration of federal government regulations (175,000 pages and counting).

The "Power of the Purse" rests with the United States Congress. As such, it is up to them to decide whether your federal taxes go up or down as well as how and where your federal tax dollars are spent. Last year, the federal government collected more than \$3.2 trillion in taxes and spent even more.

Congress has the constitutional authority to borrow money on the credit of the United States and regulate commerce with foreign nations and among the states.

The Wisconsin State Legislature determines whether state taxes go up or down as well as how and where your state tax dollars are spent. In fiscal year 2016, the State of Wisconsin took in \$15.1 billion in taxes and ended the year with a \$313 million budget surplus.

State lawmakers have broad policymaking authority exercised through the enactment of laws and the passage of resolutions. Before state government agency regulations can go into effect, they must be reviewed and approved by the Wisconsin State Legislature.

In this great country, voters decide who will govern all of us. Please exercise your right to vote.



*Brian Dake is the Legislative Director for WIB. With nearly 15 years in the Wisconsin State Assembly as a legislative aide, Brian has a broad understanding of the legislative process and how state government operates.*

# Share Your Ideas and Suggestions for Unemployment Insurance Reform

Wisconsin's Unemployment Insurance Advisory Council (UIAC) advises the Department of Workforce Development on the administration of the state's Unemployment Insurance law and submits its recommended changes in this law to the Wisconsin State Legislature every two years.

## The UIAC is now accepting public comments on suggested reforms to Wisconsin's Unemployment Insurance (UI) program.

We encourage members to share their concerns, ideas and suggestions for UI reform with the UIAC. In particular, we urge seasonal employers to comment on the impact that the new work search waiver requirements are having on their business.

The public comment period ends on November 18. Comments may be submitted by email to [UILawChange@dwd.wisconsin.gov](mailto:UILawChange@dwd.wisconsin.gov) or mailed to Unemployment Insurance Advisory Council, Attn: Janell Knutson, Chair, P.O. Box 8942, Madison, WI 53708

## The UIAC will also take public comments at a statewide public hearing on November 17, 2016 from 3:00 p.m. to 6:00 p.m.

The hearing will be administered in Madison and broadcast live through web video at the following locations throughout the state:

**Eau Claire:** UW-Eau Claire, Old Library, 105 Garfield Avenue, Room 2110



## Unemployment Insurance Reform

SUBMIT YOUR IDEAS  
AND SUGGESTIONS

**Email:** [UILawChange@dwd.wisconsin.gov](mailto:UILawChange@dwd.wisconsin.gov)

**Mail:** Unemployment Insurance Advisory Council  
Attn: Janell Knutson, Chair  
P.O. Box 8942, Madison, WI 53708

DEADLINE NOVEMBER 18, 2016

**Green Bay:** UW-Green Bay, Instructional Services Building, 2420 Nicolet Drive, Room 1034

**La Crosse:** Western Technical College, Health Science Center, 1300 Badger Street, Room 2002

**Madison:** UW-Extension, Pyle Center, 702 Langdon Street, Room 227

**Milwaukee:** UW-Milwaukee, Lubar Hall, 3202 North Maryland Avenue, Room S250

**Superior:** WITC-Superior Campus, Conference Center B, 600 North 21st Street, Room C-108

**Wausau:** Northcentral Technical College, Center for Business and Industry, 1000 West Campus Drive, Room 127

## WIB Joins DRIVE Coalition *continued from page 1*

**3** Wisconsin road conditions are deteriorating as revenues have remained flat.

The state is facing once-in-a-generation costs to rebuild substantial segments

of our 50+ year-old Interstate System, and crucial road projects are underway that, if delayed further, will cause major disruptions to the traveling public and significant damage to state commerce;

**4** Excessive debt will not solve Wisconsin's transportation funding problem; and

**5** The transportation funding solution must meet the needs of the entire state.



# Legal Line

## *Bankruptcy Tips for Business Owners*

Sooner or later, every business is affected by a bankruptcy whether it is a customer, supplier, vendor or even employees. Typically the first question the business owner has is, "I received a bankruptcy notice in the mail, now what do I do." Bankruptcy law is a specialty legal area far too complicated to completely address in the space available. Nonetheless, I will try to identify a few things to address the situation.

### IDENTIFY BANKRUPTCY TYPE

Trying not to oversimplify, there are basically two types of bankruptcies:

- 1) liquidation; and
- 2) reorganization.

In the first type the debtor (business or individual) turns over all of its non-exempt assets to a trustee who liquidates the assets to pay creditors as much as possible, and after which, remaining debts are discharged. This is generally referred to as a Chapter 7 filing.

Reorganizations generally include Chapter 11 for businesses and Chapter 13 for individuals. In reorganizations, debtors seek approval of reorganization plans to provide debt relief while continuing business and/or employment. The plans are subject to creditor review and court approval and may cover several years. Under either type of bankruptcy, some or all of the debts owed you may be reduced or discharged.

### BANKRUPTCY PROCEEDINGS

Bankruptcy proceedings are court proceedings governed by judicial rules of both procedure and evidence.

Any creditor can participate in the proceedings but generally, attorneys are needed. The extent of how much to participate may well be determined by how much is owed you since attorney fees incurred are not generally recoverable. Nonetheless, you have the right to challenge any part of the filing or proposed debt relief to the extent court rules are followed. You cannot just go and talk to the judge, all contacts must be through judicial proceedings. Once you receive a bankruptcy notice, even contact with the debtor about the debt owed must only be through the courts.

### AUTOMATIC STAY

The filing of a bankruptcy petition creates an "Automatic Stay" or injunction prohibiting creditors from taking any actions to collect the debt owed them except through the bankruptcy proceedings. Upon receiving notice of the bankruptcy, creditors are prohibited from:

- Beginning or continuing lawsuits against the debtor;
- Making collection calls;
- Repossessing any goods;
- Foreclosing on property;
- Garnishing or levying on any assets.

The Automatic Stay generally lasts until a judge lifts



the stay on behalf of a creditor; the debtor receives a discharge; or the bankruptcy case is dismissed. The bottom line is that any collection activities are through the court.

## PROOF OF CLAIM

Receipt of a bankruptcy notice is acknowledgement that the debtor has named you as a creditor of some sort. This does not mean you and the debtor agree on the entire claim. There could still be differences as to the claim amount, whether the claim is secured, whether the claim is entitled to a preference or whether the claim is non-dischargeable. To address this, in most cases you are invited to file a proof of claim with the court setting forth the amount of the debt, any security and underlying documents supporting the claim. Information on when, where and how to file a proof of claim is found in the notice. It is very important to look at these instructions.

There is a possibility that in some Chapter 7 cases, the notice will state that you should not file a proof of claim at this time. These are cases where the debtor claims there are no assets from which to pay creditors anything. Unless assets are found, the debts will generally be discharged.

## PREFERENCES

Debtors are not permitted to give preference to certain creditors over others prior to petitioning for bankruptcy. Generally, if you receive a payment from a debtor within 90 days prior to the debtor filing for bankruptcy protection you may be required to return that payment

to the bankruptcy estate to be shared by all the creditors. This is adding insult to injury in many cases as not only do you have a bad debt, but also have to return money previously collected. The bottom line is that upon receiving a bankruptcy notice you should check what payments were made in the 90 days preceding and whether there may be claims of preference.



## PROTECTION AGAINST BANKRUPTCY LOSSES

There is no fool proof way for a business to fully protect itself from losses in bankruptcy other than to never extend credit. Secured creditors (properly filed liens on collateral) are protected at least to the value of the collateral. Once an unsecured debt is created, there is little that can be done to protect against bankruptcy. Even court judgments are

considered unsecured debts in bankruptcy, so suing a debtor threatening bankruptcy may do no good. Similarly, demanding collateral to secure an old debt may also fail as a preference or change of a preexisting debt without new consideration. The best protections against bankruptcies are good lending practices at the time the debt is initially entered.

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*Gary Antoniewicz is an attorney with the Madison-based law firm Boardman & Clark LLP. Gary practices business and dealership law. For over 30 years, Gary has provided legal advice and counsel to small and family-held businesses throughout Wisconsin.*

# WIB Supports Rural Broadband Committee's Recommendations

Earlier this year, state lawmakers created a Rural Broadband Study Committee and directed it to review Wisconsin's Broadband Expansion Grant (BEXG) program and the extent to which this program has encouraged construction of broadband infrastructure in underserved areas of Wisconsin.

The Committee has completed its review. They have concluded the BEXG program is helping provide reliable high-speed Internet service to rural Wisconsin, but are recommending several changes including:

## 1. Permanent BEXG Program Funding

Beginning in 2015 and continuing through 2018, the Wisconsin Public Service Commission (PSC), the state government agency which administers the BEXG program, is authorized to award up to \$1.5 million annually in BEXG grants. The Committee recommends permanent annual funding for BEXG grants at the \$1.5 million level beginning in 2019.

## 2. Prioritizing BEXG Projects for Unserved Areas

Broadband service is defined by the rate at which information is received (download speed) and the rate at which information is sent (upload speed). The national broadband service standard set by the Federal Communications Commission (FCC) is 25Mbps/3Mbps.

The vast majority of small businesses do not need Broadband service at this rate. For example, downloading e-mails requires only 0.5 Mbps, viewing interactive webpages and video conferencing can be done at 1 Mbps. Even streaming feature movies only requires 1.5 Mbps of download speed.

Under the existing BEXG program, the PSC is required to prioritize grant projects which deploy broadband service to "unserved areas" - areas without a provider who offers service at the FCC standard rate.

The Committee recommends an unserved area be redefined to mean an area of Wisconsin that is not served by a provider offering service that is:

- a) wired service or fixed wireless service; and
- b) provided at actual speeds of at least 20% of the FCC standard rate - 5 Mbps download speed / 0.6 Mbps upload speed.

The Committee will report their recommendations, in the form of legislation, to the Joint Legislative Council for approval and subsequent consideration by state lawmakers during the 2017-2018 legislative session.

WIB will be lobbying state lawmakers to support the Committee's recommendations. From our perspective, establishing a permanent funding source for the BEXG program ensures broadband deployment to rural Wisconsin remains an ongoing state

priority. Redefining the term unserved area will help deliver functional broadband service to small businesses that currently do not have any access to high-speed service.

With that said, we believe additional state funding for the BEXG program is warranted. It is costly to deploy broadband service to remote areas of this state and a larger state investment is needed to help provide all Wisconsin businesses and homeowners with access to broadband service.



WIB will be lobbying state lawmakers to support the Committee's recommendations.



## Securing Your Data and Your Business

WIB has partnered with Master Your Card – a non-profit public education initiative – to provide members with practical information and guidance on electronic payment processing. Outlined below are helpful tips from Master Your Card to protect your business from a costly data breach.

### Stay Secure

Follow these tips to protect your business and prevent potential security issues:

**Update your business software regularly** ■ Publishers will update their software as new vulnerabilities are detected and fixed.

**Install firewalls to prevent unauthorized visitors into your Internet network** ■ Installing firewall software is yet another line of defense your small business can use to prevent data breaches.

**Need-to-know access** ■ Data access should be on a need-to-know basis, so assign appropriate system permissions to each employee.

**Use multi-factor authentication** ■ A two-step authentication

requirement to access sensitive information in your systems is a major defense against hacking. You can learn more about this free security feature at <https://www.turnon2fa.com/>.

### Automatically scan all emails and attachments

Install and use email security software to scan all incoming emails for malware. Ask your processor for any recommended malware software your small business should be using.

### Attack Response

Take these immediate and long-term actions if you find your business or website under attack from hackers:

### Disconnect your systems immediately

Make sure you disconnect from the network to keep the attack

from continuing while you resolve the problem.

### Notify your payment partners

If you suspect a data breach, notify your bank, your processor, and the payment networks you use to make them aware of the issue. They can diagnose the issue and provide specific steps to stop the attack and minimize any liability. Fix the cause: After isolating the entry point of the hacking attempt, you might have to uninstall then re-install the affected system to remove the virus from your networks.

### Communicate with customers

It's important to be as transparent as possible about the issue, especially if your customers are affected. Notify those who have been affected and work with them to resolve any issues they may have stemming from the data breach.



## Personal Property Tax

SUBMIT YOUR CONCERNS AND SUGGESTIONS

<https://www.linkedin.com/groups/8551812>  
(registration required)

# New Federal Overtime Pay Regulations Take Effect December 1

The new federal overtime pay regulations, which go into effect on December 1, are likely to be burdensome for many WIB members. Compliance may also be challenging for small employers.

By way of background, these regulations are applicable to employers covered by the federal Fair Labor Standards Act (FLSA) which includes businesses with two or more employees and annual business dollar volume of \$500,000 or more.

These regulations modify the minimum salary requirements for

employees exempt from overtime pay under the managerial, administrative and professional exemptions.

The key changes include:

- a) The minimum salary threshold is increased from \$455/week to \$913/week (\$47,476 for a full year worker);
- b) Non-discretionary bonuses, incentive pay, and commissions can be counted as salary (up to 10%) providing the payments are made on at least a quarterly basis; and

- c) Salary levels will automatically be updated every three years starting January 1, 2020.



**WIB toll-free hotline**  
**1-800-362-9644**

Please call our WIB toll-free hotline at 1-800-362-9644. Our WIB legal and accounting professionals are available at no cost to you to answer your questions and help your business comply with the new federal overtime pay exemption regulations.

Wisconsin Independent Businesses...Helping you where you need it.

*If you have questions about these issues or any workplace problems, call the **WIB toll-free member HOTLINE at 800-362-9644***



PO Box 2135, Madison, WI 53701

