

# **Bond Case Briefs**

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## **TAX - WISCONSIN**

### **Wisconsin Property Taxpayers, Inc. v. Town of Buchanan**

**Supreme Court of Wisconsin - June 29, 2023 - 408 Wis.2d 287 - 2023 WI 58 - 992 N.W.2d 100**

Plaintiff brought action for declaratory and injunctive relief from “transportation utility fee” that town imposed to fund its transportation utility district.

The Circuit Court entered summary judgment for plaintiff, finding that the fee was a property tax subject to the town’s levy limit, and permanently enjoining the town from levying, enforcing, or collecting the fee in any amount above its levy limit. Town appealed, and the parties filed a joint petition for bypass of the Court of Appeals, which the Supreme Court granted.

The Supreme Court held that:

- Pursuant to statute allowing the creation of utility districts, town could not base the fee on class of property and its commercial characteristics;
- State law precluded town from imposing the fee on tax-exempt properties; and
- The fee counted against town’s levy limit as set by state law.

When imposing “transportation utility fee” to fund its transportation utility district, which was fee that constituted property tax, town could not base fee on class of property and its commercial characteristics; statute allowing certain municipalities to set up utility districts and to fund them through “taxation of property” did not authorize such taxation to be based on anything other than property value.

“Transportation utility fee” that town imposed to fund its transportation utility district, which fee constituted property tax, counted against town’s levy limit as set by state law; despite argument that utility district had assumed responsibility for public improvement, town itself levied taxes to fund district.

Taxation of property funding utility district under statute allowing certain municipalities to set up utility districts is subject to municipal levy limits.