

# trustee tale

## Newsletter for Public Library Trustees

### **The Impact of Governor Walker's Budget Proposal on Public Libraries**

*By Rick Krumwiede, Director  
Outagamie Waupaca Library System*

Recently, Governor Walker introduced his 2011-2013 Executive State Budget. The proposed budget contains a number of provisions that are likely to have a significant impact on Wisconsin's public libraries.

Because public libraries are operated by local government units, the proposed \$96 million reduction in county and municipal aid payments, combined with a cap on local levy increases, will make it difficult, if not impossible, for most local governments to continue providing their current levels of service. With all local services being closely scrutinized, libraries will have to compete with other local government services for scarce resources. However, the provisions of the Governor's proposed budget repair bill are intended to provide local governments with the tools and flexibility they need to deal with the reduction in aid payments. (According to the budget document, the adjustments in aids are aligned with "the ability of local governments to realize savings on employee compensation to offset any potentially negative impact on municipal and county budgets.")

The Governor's budget also recommends "eliminating the requirement that municipalities and counties maintain annual local expenditures for public libraries at the average of the prior three years as a condition for being a member of a public library system." Since the establishment of public library systems, the maintenance of effort requirement has protected public libraries from wide fluctuations in local funding. Without this requirement municipalities would be free to make severe cuts in library funding. It should be noted that the Governor's proposal does not repeal the maintenance of effort requirement for emergency services spending, which would make it even more difficult for libraries to secure sufficient local funding.

At the county level, even without the maintenance of effort requirement, counties would continue to be required to reimburse municipal libraries for 70% of their costs for providing service to people who live outside of communities that operate libraries. Also, county library reimbursements to municipal libraries would remain exempt from levy limits.



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Public libraries would also experience cuts in the services provided to them by their systems. The Governor has proposed to decrease public library system aids by 10 percent in the first year of the biennium, with flat funding in the second year. This proposal would reduce state aid to OWLS by \$67,501 and state aid to Winnefox by \$98,430 in 2012.

The budget proposal also includes a 10% first-year funding reduction for BadgerLink, NewsLine for the Blind, and statewide service contracts with Wisconsin Talking Book and Braille Library, Wisconsin Library Services (WILS), Milwaukee Public Library, and the Cooperative Children's Book Center. Flat funding is proposed for the second year. The impact of these cuts on local public libraries is not clear at this time.

The proposed budget will go next to the Joint Committee on Finance for consideration before being considered by the full legislature.



## Library Meeting Room Policies

By Mark Arend, Assistant Director  
Winnefox Library System

It is common for libraries with meeting rooms to allow other organizations in the community to use those rooms. It's a great way to involve the library in the community and to bring people into the building. Occasionally though, the library may be reluctant to allow a group to use the meeting room.

Problems can arise when a library denies an organization's request to use its meeting room. Sometimes requests are denied because the organization, or its proposed program, is of a controversial nature. Other times use is denied a religious organization in the mistaken belief that the First Amendment prohibition of an establishment of religion means that religious groups cannot use public facilities.

When a library chooses to allow its meeting room to be used by other organizations it creates what is known as a "designated public forum" or "limited public forum." This means that a library cannot refuse an organization the use of its meeting room based on the nature of the organization, the topic of the proposed program, or a concern that their use of the room may generate controversy in the community.

The law in this area is very clear. Although libraries may limit the purposes for which meeting rooms may be used, they should not make distinctions based on the nature of the group which wishes to use the facilities or the content of its material.

The important thing to remember that the library's meeting room policy, both as written and as applied, must be "content-neutral."

Certain types of restrictions are permissible, as long as they are necessary for the reasonable regulation of the meeting room and are uniformly applied to all organizations using the library's meeting room. Some examples of permissible regulations include:

- Limiting use to the library's regular open hours
- Limiting use to non-profit organizations and denying use to commercial entities or for purely social uses
- Insisting that youth organizations have appropriate adult supervision
- Denying use to organizations that have caused damage in the past
- Limiting the frequency that organizations may use the room
- Limiting or denying use because an organization's use would seriously disrupt the library's normal operations, for example if they would be using a powerful sound system. You may *not*, however, deny use because of fears that the program would be controversial and would draw protesters.

Similar guidelines would apply to policies regulating the use of a public bulletin board.

The key thing to remember is that restrictions needed for the reasonable regulation of the room are permissible as long as they are "content-neutral" and are applied equally regardless of the type of organization or the viewpoints they espouse. You may want to ask your municipal attorney to review your meeting room policy to insure that it is in compliance with the law.

## Libraries & 501(c)3 Status and Certificates of Exempt Status

By Mark Arend, Assistant Director  
Winnefox Library System

I regularly receive inquiries at Winnefox about how a library can register for 501(c)3 status. Potential donors sometimes ask if the library has 501(c)3 status and some foundations limit grants to organizations with a 501(c)3 status.

501(c)3 is a section of the Internal Revenue Service Code that grants exemption from federal income taxes to nonprofit organizations that are operated for religious, charitable, scientific, literary, or educational purposes. A further provision of the IRS Code provides an income tax deduction to individuals and companies who donate to these organizations.

Generally, government entities do not qualify for 501(c)3 status. Chapter 3 of IRS Publication 557 <http://www.irs.gov/pub/irs-pdf/p557.pdf> states: "A state or municipal instrumentality may qualify under section 501(c)(3) if it is organized as a separate entity from the governmental unit that created it and if it otherwise meets the organizational and operational of section 501(c)(3). . . . However, if an organization is an integral part of the local government or possesses governmental powers, it does not qualify for exemption. A state or municipality itself does not qualify for exemption" (page 19, bottom of middle column).

Because the public library would likely be considered "an integral part of the local government" it probably would not qualify for 501(c)3 status.

Donations to the library do, however, qualify for tax deductions. IRS Publication 526 <http://www.irs.gov/pub/irs-pdf/p526.pdf> states that "Money or property given to: Federal, state, and local governments, if your contribution is solely for public purposes" is deductible (page 2). Because the public library is a branch of a local government and most donations to the library would be solely for public purposes those donations would be deductible.

If someone wants to donate to the library but is reluctant because of your lack of 501(c)3 status there are two possible options:

- Discuss the above information with them and assure them that their donation is indeed tax deductible. A letter from an accountant or your municipal attorney verifying this information may be helpful.
- You can also get a "Government affirmation letter" from the IRS stating that donations to a government entity are tax deductible. Contact the IRS at 1-877-829-5500 to request a letter.

- Find a 501(c)3 organization acceptable to the donor that will receive the funds on your behalf (Friends group, community foundation, etc.).

**A Certificate of Exempt Status (CES)** is a certificate issued by the Wisconsin Department of Revenue certifying that an organization does not have to pay sales and use taxes. While the library does not need a CES to be exempt from paying sales tax, having a certificate can make purchasing easier, as the store may want proof of the library's tax exemption.

Certificates of Exempt Status are further explained on the Wisconsin Department of Revenue's website <http://www.revenue.wi.gov/faqs/pes/n-profit.html>

501(c)3 status was further discussed in the May-June 2001 issue of *Channel*, published by the Wisconsin Division of Libraries, Technology, and Community Learning. <http://dpi.wi.gov/channel/pdf/chn3605.pdf> - page=20. IRS Publications 557 "*Tax-Exempt Status for Your Organization*" and 526 "*Charitable Contributions*" may also be useful.



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## FAQ

### ***The bank says we need an EIN number for our trust fund account. What's an EIN and how do we get it?***

An Employer Identification Number (EIN) is also known as a Federal Tax Identification Number, and is used by the IRS to identify a business entity. As a unit of a larger government organization—a city, village, town, or county—the library does not need a separate EIN for employment purposes. However, in certain circumstances the library may need to register with the IRS and receive an EIN.

For most purposes the library can use the parent organization's EIN, but if the library is holding trust or other funds in interest-bearing accounts the bank may require a separate EIN in the library's name. If the bank doesn't have an EIN for the library it may be required to withhold a portion of the interest earned on the library's account.

The library may apply for an EIN online through the IRS website at no cost. For more information and the online application go to <http://www.irs.gov/businesses/small/article/0,,id=98350,00.html>

### ***Have questions?***

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***and we'll try to help.***

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System (WLS). Distribution to your board is funded by your

Waupaca Library System (OWLS) and Winnefox Library

trustee tale is written and distributed by Outagamie



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