

Talking Points Dark Store Bill, LRB 0373

- The goal of this bill is to avoid a large tax shift from commercial properties to other classes of property, primarily residential.
- Town residential property taxpayers currently already pay 78 percent of the statewide property tax levy.
- If this bill is enacted local governments will not receive one dollar more in tax revenue due to levy limits. The bill will, however, prevent more of the tax burden from being shifted to homeowners.
- Courts in other states like Michigan have upheld the “Dark Store” strategy, which argues that sales of closed, vacant stores can serve as comparables for determining the value of open, new stores, cutting property tax assessments for big box retail stores in some cases by as much as 50 percent.
- No appellate court in Wisconsin has endorsed the dark store strategy yet. However, if this strategy becomes successful in Wisconsin it could result in a shift of millions of dollars in tax burden from commercial property owners to homeowners and other taxpayers.
- The bill is modeled after similar legislation that the state of Indiana passed in 2016.
- It will ensure that the dark store tax strategy being used by big box retail chains to cut their property tax bills in half in Michigan and other states does not take hold in Wisconsin.
- The bill codifies language in Wisconsin case law and DOR’s Wisconsin Property Assessment Manual.
- The bill clarifies that when assessors use sales of comparable properties for determining the value of a property they must use properties that are within the same market segment and similar to the property being assessed with regard to age, condition, use, type of construction, location, design, and economic characteristics.
- The bill explicitly provides that assessors may not use a dark and vacant store as a comparable for property that is not dark or vacant.