

# THE DEATH OF TPA

## AND THE END OF THE REPUBLICAN REVOLUTION

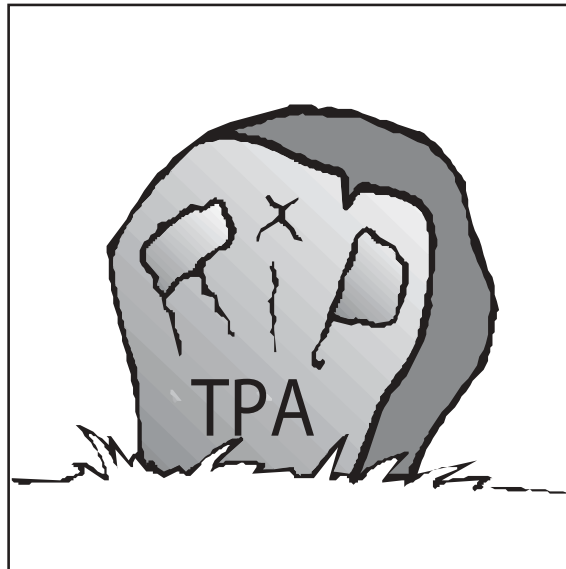
CHARLES J. SYKES

This was an issue that polled 60-70 percent statewide," the political observer said, shaking his head, "energized the conservative base, and attracted moderates, and it still failed in a legislature with big Republican majorities."

The defeat of the Taxpayer Protection Amendment was actually even more remarkable:

- Wisconsin continues to rank as one of the most heavily-taxed states in the country;
- Proposals for property tax freezes had galvanized grass roots taxpayer revolts in southeastern Wisconsin;
- Support for a constitutional amendment to cap taxes was so strong that GOP voters had ousted the former leader in the state senate by a dramatic 80-20 vote in a Republican primary; and
- The tax issue was supposed to be the Republican battle cry in both the 2006 legislative and gubernatorial campaigns.

But in May, after years of debate and months of intense maneuvering, legislative Republicans joined with Democrats to kill the Taxpayer Protection Amendment (TPA).



In the end, the amendment died not with a bang, but with a whimper, beaten down by the pressure from special interests and the unwillingness of many Republicans to endorse strong limits on spending.

Although it was formally killed by the Senate, the TPA effectively died in the middle of the night in the state Assembly in late April.

The watered-down version that passed the Assembly at around 4:30 a.m. on a Friday morning reflected the understandable desire of the Republican leadership not to come out of the session completely empty-handed after a stronger version backed by fiscal conservatives managed to garner only 33 votes out of 99. Even the watered-down version could muster only 50 votes in a house where Republicans had a 59-vote majority.

The weakened amendment that limped out of the Assembly would have limited spending growth to the quite loose cap of 90% of growth in personal income, rather than the

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tighter limit of inflation, plus growth. Todd Berry, the executive director of the Wisconsin Taxpayers Alliance later said that the growth in spending that would be allowed under the amendment was roughly similar to the actual growth in state taxes and fees over the last twenty years.

Even worse, the weakened version imposed no limits on local governments; applied only to the state's general fund, exempting other funds, such as the massive Transportation Fund; and left the door open to increases in numerous state taxes and fees.

It was, in short, virtually meaningless, more slogan than substance.

Republican leaders tried to put the best face on the fiasco. Assembly Speaker John Gard called the stripped down version that narrowly passed 50-48, "a significant step forward for taxpayers." Republican gubernatorial candidate Mark Green issued a statement praising the vote: "For the first time ever, the Assembly voted to permanently curtail the ability of government to spend taxpayer money—that is a step forward in our fight to lower taxes."

But this was simply making the best of an embarrassing situation. Democratic critics ripped the amendment as something developed after "bar time" but some conservative Republicans were even more scathing. Representative Steve Nass (R-Whitewater) charged that "The taxpayers were once again tossed aside by legislators to placate the special interests that feed out of their wallet." A business lobbyist put it bluntly: "The wheels just came off."

A week later, the state Senate delivered the final blow, killing every version of the TPA that came up for a floor vote. Supporters were able to muster only twelve votes.

"This," one longtime observer said, "is the end of the Republican Revolution in Wisconsin. It took only twelve short years for the Republican majority to go native."

What happened?

The week after the Assembly vote, I wrote that TPA died as a result of a lack of leadership, will, and principle. The collapse of the amendment in the Senate showed just how deep those failures were.

#### **Failure of leadership:**

Ask political observers to explain the failure of TPA and three names come up: Senate Leader Dale Schultz, Assembly Speaker John Gard, and former Speaker Scott Jensen.

When leadership was most needed Jensen was gone, Gard was distracted, and Schultz simply ineffectual.

Jensen, the GOP's most effective legislative leader was facing trial in the so-called caucus scandal, while his successor Gard was preoccupied with his campaign for Congress. As Senate leader, Schultz promised he would allow a vote on the amendment, but his support was lukewarm and he never provided any leadership or exerted any pressure on wavering Senators.

The job of crafting the amendment thus fell to two well-meaning back-benchers, Senator Glenn Grothman and State Representative Jeff Wood. As one insider noted, Grothman and Wood, were policy wonks who "couldn't get out of the green eye shade mode. They tried and God bless them."

But they took far too long to come up with a workable version and when it finally emerged was far too complex to take advantage of strong public support.

Noted the anonymous political blogger known as Dennis York:

The only way that this process would have worked would have been to find consensus on a bill that had leadership's buy-in. The amendment that was introduced should have been the one that passed. Instead, there was no serious attempt by leadership to work with legislators on anything that stood a chance.

#### **Failure of will:**

The delay in moving on the amendment was likely fatal. Instead of moving quickly

after the primary defeat of former GOP Leader Mary Panzer (who was ousted by Grothman after she failed to bring the amendment up for a vote), the issue languished. Months passed and momentum was lost.

As a result of the delay, supporters were divided and hesitant in the absence of a specific proposal around which they could rally. The business community was divided and, as one critic put it, some conservatives “let the perfect be the enemy of the good.”

As political web logger Owen Robison observed in a post-mortem on the TPA:

A full 464 days after the election, on February 4th of this year, Grothman and Wood released their long anticipated amendment. By this time, much of the energy had turned into frustration. This sapped some of the momentum for TABOR as a fair number of conservatives threw up their hands in disgust at the lethargy of the GOP. Furthermore, many conservatives viewed this lethargy as a deliberate attempt to sabotage the amendment. Because of the great delay, the passion and energy on this issue that carried Grothman into the Senate was squandered.

Into the vacuum stepped a united and well-organized opposition who unleashed a barrage of attacks against the still-unwritten proposal. According to the State Ethics Board, 109 special-interest groups registered to lobby on the amendment—the vast majority of them against it. According to the Ethics Board, 81 groups—ranging from local governments and unions to the AARP—descended on legislators in an effort to kill the TPA. Only five groups registered in favor of the amendment, including Wisconsin Manufacturers & Commerce, the state’s chamber of commerce. Another 23 special-interest groups were offi-

cially undecided, but that included some groups whose opposition was well known, including the Realtors and Wisconsin Builders.

The failure of supporters to unveil a workable, clear, easy-to-understand proposal meant that the amendment was a blank slate on which opponents could paint any scary picture they chose, including claims that it would result in draconian cuts in basic public services all the way from the University of Wisconsin to local fire houses.

From the beginning, Wisconsin’s amendment was also a victim of guilt by association. Originally called the Taxpayer Bill of Rights, it

was naturally (and not unfairly) linked to Colorado’s somewhat troubled TABOR. Even a last-minute change of the name to TPA and efforts to distinguish the Wisconsin amendment from the Colorado provision couldn’t sever the connection and all of the sins, real and imagined, of the Colorado TABOR were attributed to the Wisconsin alternative, to great effect.

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Legislators say that opposition from the so-called “munis”—local county, village, and city officials—was intense. “They targeted every legislator,” one insider says. Local officials carry considerable weight with out-state legislators, far more than is the case in southeastern Wisconsin, where Republicans know they will be held accountable by the alternative conservative media.

As a result, the debate over the amendment exposed the depth of the geographical divide in Republican ranks—between southeastern Wisconsin—known as the “land of the talk radio”—and the rest of the state. In the Assembly, all but one representative from the southeast (who was retiring) voted for the

tougher TPA. As in the Assembly, outstate Senate Republicans also voted with the Democrats to kill it.

But polls commissioned by Wisconsin Manufacturers & Commerce consistently showed overwhelming support for a spending limit, even in rural and outstate districts. A poll conducted in January by Public Opinion Strategies found that 70% of the voters in Republican Senator Ron Brown's Eau Claire-area district supported a Taxpayer Protection Amendment. Support was especially strong among Republican voters, 78% of whom backed the amendment. The poll also found overwhelming support for the TPA among Independents and "Soft Democrats" (75%) and women (69%) in Brown's district.

This should have been especially persuasive to Brown, whose own reelection numbers were below 50%, making him one of the Senate's most vulnerable Republicans. The poll found that among voters who were undecided about reelecting Brown, 77% backed the TPA.

The pollsters found similar results in the LaCrosse-area district represented by Republican Senator Dale Kapanke, where 70% of the voters said they backed the amendment and where support among the Republican base was even stronger.

Like Brown, Kapanke is considered a vulnerable Republican.

But in the end, both Brown and Kapanke joined with Democrats in killing the amendment.

"So you have a 70 percent issue fall into a political vacuum in a state with a tax and spend culture," says one Capitol observer. "I think it truly could have been different if the GOP had truly embraced this as a key plank of their agenda and said, 'we're running on this.' But that takes leadership and it wasn't there."

In the absence of that leadership, the amendment was bludgeoned by the sheer weight of the special interest lobbying. Local officials got legislators to eliminate limits on local governments; the road builders got an

exempt for the transportation fund, and so it went, until the amendment was effectively gutted.

Confusion surrounding competing drafts of the amendment also prevented supporters from being able to mount a coherent campaign. "So every time a new version came out, days of time was wasted in confusion, discovery, and disjointed debates that could have been spent in defense with a common message," wrote Robinson. "The Republicans had the initiative since they were the only ones who knew when the information was to be released. There is little excuse for them to not develop talking points and arguments."

The middle-of-the-night Assembly vote on a version that had never been the subject of a single public hearing reflected the confusion that surrounded the amendment.

### **Endgame**

The final hours of the TPA were messy. The version that had been narrowly passed by the Assembly Ways and Means Committee—the one developed by Grothman and Woods—never came to a vote in the full Assembly.

A last-minute alternative, a tough but simplified version of the TPA was presented by Representatives Frank Lasee and Leah Vukmir. But even before the Lasee/Vukmir version could be presented to the Republican caucus, weaker alternative versions began to circulate. Instead of an amendment that covered both state and local spending, the alternatives would cover only state government. And instead of tight caps based on inflation and growth, the alternatives would tie the caps to the much looser standard of personal income growth.

The effect of the alternatives was to give wavering legislators a fallback position if they voted against the tougher version. The last minute duelling versions almost certainly doomed the tougher TPA.

Nevertheless, on the floor the night before the vote, conservatives felt they were nevertheless gaining some momentum. Insiders say

that at one point they had commitments from more than 40 representatives to support Lasee/Vukmir. But they did not have the active support of the leadership and as leaders circulated among the representatives, support for the tough TPA seemed to evaporate. Fiscal conservatives were stunned when they got only 33 votes.

Representatives then returned to caucus to consider a watered-down version. "It was like brainstorming," one legislator later recalled, "people just throwing out ideas. Could you go for this? Or this?" Assembly leaders who had been publicly silent on the Lasee/Vukmir version, now became much more vocal, urging legislators to pass "something."

"They were desperate to pass something," says one legislator. "Anything at all."

When the weakened, state-only amendment was presented, legislators saw the sort of "arm-twisting" that had been notably absent when the conservative version was in play. "If John Gard wanted Frank's to pass," said one legislator referring to Lasee/Vukmir, "he could have twisted arms."

Said one observer. "He didn't."

Neither did Schultz in the Senate. Even before the Assembly vote, as many as five GOP senators had announced they would not support the spending limit, more than enough to kill the amendment. If voters had thought that ousting Panzer was going to send a message to the Capitol, at least part of the GOP senate caucus was determined to make it clear that it had fallen on deaf ears. In the end, seven Republican senators voted with the solid Democratic block of 14 to kill TPA.

### Failure of principle

Ultimately, the death of TPA was a failure of principle.

At both the national and state levels, Republicans have long campaigned as the party of smaller government and fiscal restraint. But in both Washington and Madison, long tenures in power have transformed at least some segments of the GOP into another party of government. In both the Assembly and Senate fiscal conservatives now represent only about a third of the representatives, and barely more than half of the GOP members.

Conservative supporters of a tough amendment found that they were unable to overcome the state GOP's aversion to genuine spending restraint, its reluctance to offend powerful interest groups, or its addiction to bumper sticker politics.

In the end, the GOP leadership gambled that fiscal conservatives could be persuaded to back a symbolic cap on taxes, rather than one with teeth. They miscalculated

badly and exposed deep fault-lines within the conservative movement.

### A victory for the status quo

Given the anti-tax mood among voters and the stakes for Republicans, the death of TPA was an extraordinary victory for the opposition.

But the lobbyist riot reflected what was at stake: a tough taxpayer amendment would have effectively changed the rules of politics in Wisconsin by shifting power from the special interests to the public.

By capping spending and requiring a referendum to exceed the limits, voters would

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have assumed a permanent seat at the table. Instead of being held accountable only once every two or four years, legislators would have to consider public opinion in every decision on spending and taxation.

For the special interest groups, it would no longer be enough to cut a deal with friendly legislators at 3 a.m. when no one was watching; they would also have to take the voters into account.

The last thing most politicians wanted to do was to rewrite the relationship of the government to the governed. Under the status quo, politicians decide how much to spend and then decide how to get it from taxpayers, through taxes, fees, or borrowing. Under a tough amendment, the process would have been reversed. The politicians would be limited in what they could spend without going to a referendum—so they would have to fit their wish lists into that amount.

The default position of the current system is what government wants; the default position under a real taxpayer protection amendment would have been what taxpayers could afford.

That would have been campaign finance reform with a vengeance. Most of passes for “reform” focuses on limiting the ability of the public to participate in politics. But a strong TPA could have reformed politics by limiting the power of government to reward interest groups with other people’s money.

The slogan of TPA supporters was “let the people decide,” but in the end the legislators decided that was simply too risky. They reverted to business as usual, and let the lobbyists decide.

### **The aftermath**

The reviews of the GOP legislature have been harsh. Wrote Dennis York:

So ends a shameful legislative session where the State Senate actually voted down bills in the last days of session that would have allowed the freedom to smoke in bars, eliminated government mandated gas gouging, and killed the one bill that mattered to conservatives (TPA). In the past, no bills ever came to the floor and failed. This session, it happened almost every day. Senate Republicans now head into the election with virtually no reason to vote for them and no consistent message.

In its “Political Stock Report” Wispolitics.com listed legislative Republicans as “falling”:

The GOP Legislature goes out with a whimper as the Taxpayer Protection Amendment, once promised as the crown jewel of the election-year agenda, dies a slow and agonizing death in the Senate. Now what will Republican leggies run on this November, and how will they motivate fiscal conservatives? And how is this helping Mark Green, who stuck his neck out in support of a constitutional tax cap? . . .

Now they worry GOP lawmakers will drop like tin soldiers this fall without anything to deflect the national wave of discontent some fear may roll in from D.C

Another political observer predicts that the “failure to deal with the tax issue with the biggest majorities since the 1950s will result in two lost senate seats and five in the assembly as the base will be suppressed in marginal districts.”

And Wisconsin continues to carry the seventh worst tax burden in the country, with no relief in sight.