

RECENT LEGISLATION AFFECTING MUNICIPALITIES

2018 Municipal Attorneys Institute

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Introduction. This outline summarizes new state laws affecting municipalities enacted during the 2017-2018 legislative session. As of April 1, when the session effectively ended, legislators had introduced 1,950 bills. 367 of which were enacted into law. 65 of those new laws affect municipalities and are described below.

Most of the Act summaries provided below were adapted from Act Memos prepared by Wisconsin Legislative Council Staff, which are posted online under each Act's legislative history.

Changes to state law made by 2017 Wisconsin Act 59, the State Budget Act, are not described in this outline but are described in an article that was published in the September 2017 issue of *the Municipality*. A copy of that article is attached to this outline.

Copies of the Acts described in this outline can be viewed on the Wisconsin state legislature's web site: <https://docs.legis.wisconsin.gov/2017/related/acts>

If you are interested in keeping informed about legislative activity affecting municipalities during the legislative session, subscribe to the League's *Legislative Bulletin* and *Capitol Buzz*. Both are complimentary for elected and appointed officials and staff of League member municipalities and are distributed by e-mail. Send me your e-mail address and I'll add you to the list of subscribers. My e-mail: witynski@lwm-info.org.

This outline lists new state laws under subject categories that are listed alphabetically beginning with **Alcohol Beverage Licensing** and ending with **Zoning**.

Alcohol Beverage Licensing

Act 7 – Allowing Underage Persons to attend Certain Music Festivals on Alcohol Beverage Licensed Premises. Provides that the general prohibition against unaccompanied minors on alcohol beverage licensed premises does not apply to a music festival venue during an event with a projected attendance of at least 2,500 persons. *Effective date:* May 26, 2017.

Act 17 – Definition of Restaurant for Alcohol Beverage Purposes. Modifies the definition of “restaurant” for the purposes of alcohol regulation to mean any place where meals are prepared or served or sold to transients or the general public even if it is not the predominant activity at the location. *Effective Date:* June 23, 2018.

Act 126 -- Prohibiting Adults from Hosting Underage Drinking Parties. Clarifies that adults are prohibited from knowingly permitting or failing to take action to prevent the illegal consumption of alcohol beverages by an underage person on property the adult

owns and occupies or controls and occupies. The Act makes it clear that municipalities may implement and enforce social host ordinances prohibiting adults from hosting underage drinking parties. *Effective date:* December 2, 2017.

Act 278 – Basing Licensure Denial on arrest or conviction record under the Fair Employment Law. Makes the following changes to the circumstances under which a licensing agency may base its decisions on an individual’s arrest and conviction record.

1. In addition to requiring that the circumstances of an arrest or conviction substantially relate to the circumstances of the licensed activity, the Act also prohibits a licensing agency from:
 - a) Refusing to license an individual, or suspending an existing license, based on a substantially related pending criminal charge, unless the charge is for one of certain specified crimes against a child or life and bodily security, or a violent crime against a child.
 - b) Refusing to license an individual, or barring or terminating an individual from licensing because the individual was adjudicated delinquent of an offense under the Juvenile Justice Code, unless the offense was one of certain specified crimes against a child or life and bodily security.
2. The Act requires a licensing agency that denies or terminates a license based on a prior conviction to state in writing its reasons for doing so and allow the individual to show evidence of rehabilitation and fitness to engage in the licensed activity. The licensing agency must consider a list of factors, such as the seriousness of the crime and relevant mitigating circumstances. In addition, either of the following must be accepted as competent evidence of sufficient rehabilitation and fitness: (a) documentation showing that the person was honorably discharged or separated under honorable conditions from the military and had no subsequent criminal convictions; or (b) documentation showing that the person completed his or her probation, extended release or parole and, if the person served time in a correctional institute, that one year has passed since his or her release without subsequent conviction of a crime.
3. The Act allows an individual to obtain a predetermination of whether he or she would be disqualified from obtaining a license due to a prior conviction before submitting a full license application. The licensing agency must also publish a document on its website indicating the offenses or kinds of offenses that may cause the agency to refuse or bar a person from licensure or terminate an existing license.

Effective date: August 1, 2018.

Act 289 – Alcohol Beverage and Cigarette Licensing Application Forms. Removes the requirement that an application for an alcohol beverages license be sworn to by the applicant, and prohibits DOR from: (1) requiring the signature of more than one person on any application for an alcohol beverage license or permit; (2) requiring that an applicant’s signature be notarized; or (3) requiring the signature of more than one person

on any form relating to the appointment or cancellation of an agent for a corporation or limited liability company. The Act provides that any person who knowingly provides materially false information in an application for an alcohol beverages license or permit may be required to forfeit up to \$1,000.

The Act also prohibits local governments and clerks from requiring that an applicant's signature on a cigarette and tobacco retailer license be notarized. In addition, the Act provides that any person who knowingly provides materially false information in an application for a cigarette and tobacco retailer license may be required to forfeit up to \$1,000. *Effective date:* July 1, 2018.

Boundary Updates

Act 360 – Municipal Boundary Information Updates. This remedial legislation introduced by the Law Revision Committee, at the request of the Legislative Technology Services Bureau (LTSB), makes changes relating to municipal boundary information. The Act requires LTSB to update the statewide municipal boundary information database twice a year, rather than after the federal census once every 10 years. The Act also clarifies that a municipal clerk must transfer a report to the county clerk confirming the boundaries of a municipality and all wards in the municipality within five days after any boundary changes. *Effective date:* April 18, 2018.

Building Regulation

Act 198 – Delegation to Municipalities of commercial Building and Plumbing Plan Review. Codifies certain practices of the Department of Safety and Professional Services, relating to delegation of plumbing and commercial building plan review and inspection to local units of government, and creates an electronic renewal process for these delegations. Additionally, the Act revises state law to provide authority for certain local units of government to review alterations of spaces involving less than 100,000 cubic feet of volume. Under prior law, this authority applied to review of buildings containing less than 100,000 cubic feet of volume. *Effective date:* April 5, 2018.

Contracts and Competitive Bidding

Act 167 – Exempting Improvements Donated to a Municipality from the Competitive Bidding Process. Exempts from the competitive bidding process any improvements constructed by a person other than the local government and donated to the local government after the completion of construction. Makes it clear that roads, park shelters, playgrounds and other improvements constructed by a private party and then donated to a local government are not subject to the competitive bidding requirements that apply to the local government. The exemption applies to public bidding by cities (other than the City of Milwaukee), villages, technical college system boards, and federated public library systems. *Effective date:* March 30, 2018.

Elections

Act 120 – Petitioning for a Recount. Under the Act, a candidate must be an “aggrieved party” to petition for a recount. An “aggrieved party” means any of the following: (1) for

an election at which 4,000 or fewer votes are cast for the office that the candidate seeks, a candidate who trails the leading candidate by no more than 40 votes; or (2) for an election at which more than 4,000 votes are cast for the office that the candidate seeks, a candidate who trails the leading candidate by no more than 1% of the total votes cast for that office. In addition, if a candidate requests a recount, the candidate must state in the recount petition that he or she is an aggrieved party.

Deadline. The Act provides that with regard to an election for president, a petitioner must file a recount petition by 5 p.m. on the first business day following the day on which the Elections Commission receives the last statement from a county board of canvassers for the election. The Act does not change the petition deadline for other elections.

Recount Fee. Under the Act, the actual cost incurred by the Elections Commission to provide services for performing the recount is also calculated into the recount fee paid by a petitioner. In addition, the Act extends the time period for a petitioner to pay any outstanding recount fee balance owed and the time for a clerk or body to refund any recount fee overpayment to 45 days.

Effective date: December 2, 2017.

Intergovernmental Cooperation Agreements

Act 6 – Sharing the cost of Multiple Jurisdiction Health Departments. Clarifies that the amount of funding to be contributed by each local government participating in a multiple jurisdiction health department is to be determined in a manner agreed upon by the relevant governing bodies of the participating local governments. *Effective date:* April 26, 2017.

Libraries

Act 142 –TEACH Grants for Rural Public Libraries. Expands eligibility for information technology block grants and technology training grants to include certain rural public libraries. The Act authorizes DOA to award an information technology block grant to a public library or public library branch if it meets both of the following requirements: (a) the library or branch is located within a municipality that has a population of 20,000 or less; and (b) the library or branch is located within certain rural territories, as defined by the U.S. Census Bureau. The total amount DOA may award to an eligible library during a fiscal biennium is \$5,000, \$7,500, or \$10,000, depending upon the population of the municipality within which the eligible library or branch is located.

The Act also authorizes DOA to award technology training grants to consortia of eligible public libraries and to eligible public library systems for the costs of training librarians to use educational technology. To be eligible, a consortium of public libraries or public library system must consist of or contain three or more public libraries or branches that: (a) are located within a municipality that has a population of 20,000 or less; and (b) are located within certain rural territories, as defined by the U.S. Census Bureau. The total amount DOA may award to a consortium of eligible public libraries or an eligible library system is \$500, \$750, or \$1,000, depending upon the population of the municipality

within which the eligible library or branch in the consortium or system is located.
Effective date: March 16, 2018.

Municipal Employees

Act 65 – Sales by the State or a Political Subdivision to Employees. Creates an exception to the general prohibition against the state or local governments selling items to their employees as long as both of the following apply: (1) the sale is of a surplus or discarded item that is no longer needed and the item is available for sale to the public using a publicly available method; and (2) the sale is of an item that is regularly available from the governmental entity for sale to the public at the same cost. The Act requires the Department of Administration (DOA) to post a list of auction or sale Internet sites for compliance with the Act and authorizes DOA to limit the types of items that may be sold on any particular Internet site. The Act also provides that a political subdivision may enact an ordinance that prohibits a sale to an employee that is otherwise permitted in accordance with the Act. *Effective date:* November 29, 2017.

Act 153 – Allowing 15 year olds to be hired as Life Guards. Requires the Department of Workforce Development to permit minors at least 15 years of age to be employed as lifeguards. Whenever a 15-year old is employed as a lifeguard, an adult employee must be present on the premises. *Effective date:* March 30.

Act 154 – State and Local Employee Background Checks. Requires a background check to be performed on public employees who have access to federal tax information in order to comply with requirements issued by the federal Internal Revenue Service in its Tax Information Security Guidelines for Federal, State, and Local Agencies. The background checks may include fingerprinting, and may be repeated at any appropriate interval. The employees for whom the background check is required for access to federal tax information include state employees, local employees of a city, village, town, or county and employees under contractual service to the state. *Effective date:* October 1, 2018.

Municipal Officials

Act 51 – Modifying the Requirement that certain City and Village Officials Execute an Official Bond. Allows city and village officials to forego executing a bond as a condition of taking office as long as the municipality has acquired employee dishonesty insurance policies covering such officials. *Effective date:* August 4, 2017.

Act 52 – Modifying Amount of Municipal Treasurers Bond for Tax Distribution to the County. Under sec. 70.67, Stats., unless exempt by local ordinance, a municipal treasurer must provide a bond under which the treasurer promises to pay over all taxes that are required to be paid to the county treasurer. Act 52 requires that bond to be in an amount no less than the amount of state and county taxes apportioned to the town, village, or city. Prior to the Act, the size of the bond was capped at \$500,000 or \$250,000, depending on whether the bond was personally guaranteed or guaranteed by a surety company. *Effective date:* August 4, 2017.

Act 112 – Ethics Law Exception for Local Officials. Under current law a state official may receive and retain anything of value from the Wisconsin Economic Development Commission (WEDC) as part of a trade promotion trip sponsored by WEDC or for the purpose of hosting individuals to promote business, economic development, or certain conferences. A state official may also receive and retain anything of value from the Department of Tourism for the purpose of hosting individuals in order to promote tourism. Act 112 authorizes local officials to receive things of value from WEDC or the Department of Tourism in the same circumstances as apply to state officials. *Effective date:* December 2, 2017.

Act 150 – Removal of County and City Appointed Officials.

County Appointed Officials: Prior to the Act, county officers appointed by the Governor, county board, or county board chairperson could generally only be removed by the appointing authority for cause, meaning for inefficiency, neglect of duty, official misconduct, or malfeasance in office. Act 150 generally allows the appointing authority to remove these county officers at pleasure, except for individuals who are subject to a civil service law. Removals by the county board require an affirmative two-thirds vote, and the county board may only remove personnel supported by federal funds as authorized by applicable federal law. In addition, a county may enact an ordinance to impose a for cause removal standard for any county officer who is appointed by the county board or county board chairperson. The Act also provides that any member of the governing body of a joint county school, hospital, sanatorium, asylum, or other joint county institution who is appointed by a county board may be removed at pleasure by the appointing authority. The appointing authority may also remove any officer of one of these institutions at pleasure.

City Appointed Officials: Modifies the default standard for removing city officers appointed by the mayor with council confirmation from for cause to at pleasure. Specifically, the Act provides that an appointed city officer may be removed in any of the following manners:

1. An officer appointed by the common council, by the common council, at pleasure (requires a $\frac{3}{4}$ extraordinary vote).
2. An officer appointed by an officer or body other than the common council, regardless of whether the appointment was confirmed by the common council, in any of the following manners:
 - a. By the appointing officer or body, at pleasure.
 - b. By the common council, for cause.

--Act 150 retains the $\frac{3}{4}$ extraordinary vote requirement for anytime the council removes an appointed officer, whether at pleasure or for cause.

--Act 150 includes language stating that a city may provide by ordinance that any appointed officials may only be removed for cause.

--Act 150 specifies that a member of the board of police and fire commissioners may only be removed for cause.

Effective date: March 30, 2018.

Act 326 -- Public Officials serving as Election Officials. Clarifies that a person holding a local public office may be appointed to serve as an election official without having to vacate their public office under the incompatibility doctrine. *Effective date:* April 18, 2018.

Police, Fire, Dispatch, and EMT

Act 23 – Requirements for Law Enforcement Dogs that have bitten a Person.

Eliminates the requirement that if a dog used by a law enforcement agency bites a person, the law enforcement agency must have the dog examined by a veterinarian on three separate dates. The Act also eliminates the requirement that the law enforcement agency ensure that the dog is confined when not performing law enforcement functions until the third examination is performed. Instead, under the Act, the law enforcement agency must: (1) make the dog available for examination at any reasonable time; and (2) notify the local health department if the dog exhibits any abnormal behavior. *Effective date:* June 25, 2017.

Act 66 – Community Emergency Medical Services. Creates processes for EMS programs and practitioners to obtain approval from DHS to provide Community Emergency Medical Services (CEMS), as follows:

- An EMS program may obtain approval to provide CEMS as a CEMS provider. The program must be licensed as an ambulance service provider or nontransporting EMS provider, and it must establish patient care protocols corresponding to the level of CEMS to be provided. The program must meet other requirements specified by DHS as authorized under the Act.
- An individual licensed as a paramedic may obtain approval to provide CEMS as a community paramedic. The individual must successfully complete an approved training program for community paramedics and meet other requirements specified by DHS as authorized under the Act.
- An individual licensed as an EMS practitioner at any level may obtain approval to provide CEMS as a CEMS practitioner. The individual must successfully complete an approved training program for CEMS practitioners and meet other requirements specified by DHS as authorized under the Act.

The Act specifies that a community paramedic or CEMS practitioner may be employed by or volunteer for a CEMS provider, and may perform CEMS that are incorporated in the patient care protocol established by the CEMS provider. Otherwise, he or she must be employed by or under contract with a hospital, clinic, or physician, and perform CEMS that are approved under the employment arrangement or contract. *Effective date:* November 29, 2017.

Act 96 – First Responder and EMT Training and Certification. Permits the Department of Health Services to pay certain aid toward emergency medical service practitioner and emergency medical responder training and examinations at all levels. The Act permits ambulance service providers who receive this aid from DHS to escrow unused aid from prior years and use it for such trainings and examinations in subsequent years. *Effective date:* December 2, 2017.

Act 97 – Upgrading Ambulance Service Levels in Rural Areas. Permits a rural ambulance service provider to upgrade its service level to the highest level of any emergency medical services practitioner staffing an ambulance for the provider if the service provider’s medical director approves. A rural ambulance service provider that upgrades its service may only advertise for the level of service the provider is able to provide 24 hours per day. “Rural ambulance service provider” means an ambulance service provider for which the population of the largest single municipality, as defined in s. 5.02 (11), in the ambulance service provider's service area is less than 10,000. *Effective date:* December 2, 2017.

Act 140 – Transfer for Emergency Detention and Warning of Dangerousness. Under current law, a law enforcement officer, or other person authorized to take a child or juvenile into custody under chs. 48 or 938, Stats., may take an individual into custody for purposes of emergency detention based on criteria specified in the statutes. Act 140 provides that if an individual is in a hospital’s emergency department, the law enforcement officer is prohibited from transporting the individual for emergency detention until a hospital employee or medical staff member determines that the transfer is medically appropriate and communicates that determination to the law enforcement officer or other authorized person.

Act 140 also authorizes any health care provider or law enforcement officer to disclose information that an individual poses a substantial probability of serious bodily harm to another person in a good faith effort to prevent or lessen a serious and imminent threat to the health or safety of a person or the public. *Effective date:* March 9, 2018.

Act 166 – Rendering of First Aid to Animals by EMTs or first responders. Current law generally prohibits the practice of veterinary medicine without a license or temporary permit to practice veterinary medicine. Act 166 authorizes an emergency medical technician (EMT) or first responder to render first aid service to a domestic animal under certain circumstances. Under the Act, an EMT or first responder who, in the course of responding to a call for service, encounters a domestic animal that is sick or injured may render any first aid service to the domestic animal before the animal is transferred to a veterinarian for further treatment if the first aid service is in the scope of practice of the license or certification of that EMT or first responder when applied to human beings. The Act also provides that an ambulance service provider, EMT, or first responder is immune from civil or criminal liability for any outcomes resulting from rendering first aid to an animal or from declining to render first aid to an animal. *Effective date:* March 30, 2018.

Act 211 – Asset Forfeiture. The Act makes extensive changes to two forfeiture statutes: (1) the forfeiture statutes under the Controlled Substances Act, which govern the forfeiture of property seized in connection with a drug-related crime; and (2) the forfeiture statutes under the criminal sentencing laws, which relate to property seized in relation to other (non-drug-related) crimes. *Effective date:* April 5, 2018.

See the Legislative Council memo for a comprehensive description of the Act: <https://docs.legis.wisconsin.gov/2017/related/lcactmemo/act211.pdf>

Act 261 – Grants for Substance Abuse Prevention, Prosecution, and Treatment. Relates to substance abuse prevention, prosecution, and treatment, and creates several

grant programs related to those issues. The Act also makes changes in the criminal justice system related to victim impact panels and search warrants. The Act creates an appropriation of \$1,000,000 of GPR in fiscal year 2018-19 to DOJ to establish a grant program for Wisconsin law enforcement agencies and tribal law enforcement agencies to fund law enforcement response to drug trafficking. *Effective date:* April 11, 2018.

Act 296 – Dispatcher Assisted Bystander Cardiopulmonary Resuscitation. Requires, beginning on May 1, 2021, every public safety answering point, in appropriate circumstances, to provide telephonic assistance on administering cardiopulmonary resuscitation (CPR) by doing either of the following:

1. Providing each dispatcher with training in CPR that includes all of the following:
 - a. Certification in CPR.
 - b. Use of an evidence-based protocol or script for providing CPR instruction recommended by an academic institution or a nationally recognized organization specializing in medical dispatch.
 - c. Appropriate continuing education, as determined by the Department of Health Services (DHS).
2. Transferring callers to a dedicated telephone line, telephone center, or another public safety answering point to provide the caller with assistance on administering CPR. If a public safety answering point transfers callers it must do all of the following:
 - a. Use an evidence-based protocol for the identification of a person in need of CPR.
 - b. Provide appropriate training and continuing education, as determined by DHS, on the protocol for identification of a person in need of CPR.
 - c. Ensure that any dedicated telephone line, telephone center, or public safety answering point to which calls are transferred uses dispatchers that meet the training requirements, described above, to provide assistance on administering CPR.

The Act provides civil immunity to a dispatcher who provides telephonic assistance on administering CPR for any outcomes resulting from the administration of CPR, or failure to administer CPR, if all of the following conditions exist:

1. The dispatcher who provides telephonic assistance on administering CPR has been trained in accordance with the standards described above.
2. The dispatcher provides telephonic assistance on administering CPR by doing any of the following:
 - a. Using an evidence-based protocol or script, as described above.
 - b. Transferring the caller to a dedicated telephone line, telephone center, or another public safety answering point, as described above.

- c. The injury claimed is not the result of an act or omission that constitutes gross negligence or willful or wanton misconduct by the dispatcher or public safety answering point.

Effective date: April 18, 2018.

Act 350 – Renewal Period for Emergency Medical Services Licensure or Certificate Renewal. Requires that ambulance service providers, emergency medical services practitioners, and emergency medical responders renew their licenses or certifications at three-year intervals, as opposed to two years under prior law. *Effective date:* April 18, 2018.

Powers of Municipalities and Counties

Act 3 – Project Labor Agreements and Public Contracts. Prohibits the state and municipalities from requiring an agreement with a labor organization on a project of public works. Also prohibits the state and municipalities from considering, when reviewing bids, whether or not an agreement is in place with a labor organization. An agreement includes any type of collective bargaining agreement, project labor agreement, or community workforce agreement. The Act further specifies that the state and municipalities of the state cannot require an agreement on union membership, affiliation, dues, or payments to benefit plans. *Effective date:* April 19, 2017.

Act 78 -- Municipal Investment Options. Removes the three-year maximum term on certificates of deposit that municipalities may invest in, and instead allows cities and villages to invest in time deposits with any length of maturity. *Effective date:* November 29, 2017.

Act 207 – Increasing the Population Standard for Populous Counties. Certain provisions of the statutes apply to populous counties only. The Act changes the population standard for a “populous county” from 500,000 to 750,000 or more (currently only Milwaukee County). *Effective date:* April 5, 2018.

Act 208 – Authorizing Counties to Conduct Foreclosure Sales using an Internet Based Auction. Allows a county to enact an ordinance requiring mortgage foreclosure sales to be conducted online using an Internet-based auction. If such an ordinance is enacted, all mortgage foreclosure sales in the county must be performed online. The sheriff or referee may engage a registered auctioneer to conduct the Internet-based auction. For auctions that are performed online, additional notice requirements apply, including that the notice must contain certain information about how to participate in or observe the Internet-based auction. Any priority liens or encumbrances on the property must be identified in the notice of sale, and must also be identified in a conspicuous statement on the Internet site on which the auction is conducted. *Effective date:* April 5, 2018.

Act 243 – Limiting Local Regulation of Property Development; Changes to Eminent Domain Law; Changes to Levy Limit Law. Makes numerous changes to many aspects of local government law, including eminent domain, impact fees, plat approval, stormwater regulation, municipal powers to regulate construction noise on weekends, and

levy limits. The Act also imposes new annual reporting requirements for communities exceeding 10,000 in population relating to housing development regulations and fees.

See the attached memo summarizing Act 243 prepared by Claire Silverman and the Legislative Council memo explaining the Act:

<https://docs.legis.wisconsin.gov/2017/related/lcactmemo/act243.pdf>

Effective date: April 5, 2018. However, provisions of the Act affecting the sunset of treatments relating to just compensation for condemnation take effect January 1, 2019.

Act 317 – Limiting Municipal Regulation of Landlords and Apartments. Makes several significant changes, described below, to state law relating to rental housing, landlord-tenant law, local government authority, and levy limit law.

- 1. Municipal Inspection of Rental Property.** Removes the general authority under prior law to conduct inspections as part of a “program of regularly scheduled inspections.” However, the Act authorizes a city, village, town, or county to establish a rental property inspection program in designated districts in which there is evidence of blight, high rates of building code complaints or violations, deteriorating property values, or increases in single-family home conversions to rental units. No inspection of a unit may be conducted under the program if the occupant of that unit does not consent to allow access, unless the inspection is under a special inspection warrant. Also, a local government is prohibited from inspecting rental property that is less than eight years old as part of the inspection program.

Under such a rental property inspection, if no “habitability violation” is discovered during an inspection, or if such a violation is corrected within a period designated by the municipality (but generally not less than 30 days), then the local government may not inspect the same property again for at least five years.

The Act generally limits the amount of a fee charged under the inspection program described above to \$75 for an inspection of a vacant unit or an inspection of exterior or common areas, \$90 for any other initial inspection, and \$150 for a second or subsequent inspection with an allowance for a 2% annual increase to those amounts.

- 2. Landlord Registration Fees.** Under the Act, local governments may charge a one-time registration fee that reflects the actual costs of operating a registration program (which may only consist of obtaining the owner’s or owner’s agent’s contact information), but such fee may not exceed \$10 per building. The registration fee may also be charged anytime there is a change of ownership or management of a building or change of contact information for a building. (Note: The \$10 registration fee cap does not apply to the City of Milwaukee.)
- 3. Levy Limit Law Changes.** Under the levy limit law, if a municipality receives fee revenues designated to pay for a covered service (i.e., garbage collection, fire protection, snow plowing, street sweeping, or storm water management) that was funded partially or wholly in 2013 by property taxes, the municipality must reduce its levy limit in the current year by an amount equal to the estimated amount of fee

revenue collected for providing the covered service, less any previous reductions made under this provision. Act 317 limits the amount by which a municipality must reduce its levy to the amount of levy dollars expended in 2013 for providing the covered service.

More Information: See the attached memo summarizing Act 317 prepared by Curt Witynski and the Legislative Council memo explaining the Act:
<https://docs.legis.wisconsin.gov/2017/related/lcactmemo/act317.pdf>

Effective date: April 18, 2018.

Act 322 – Local Regulation of Drones Disallowed. Creates a new definition of the term “drone” for the purposes of local regulation of a drone, law enforcement use of a drone, and drone privacy regulations. Under the Act, the term “drone” is defined to mean an aircraft operated without the possibility of direct human intervention from within or on the aircraft.

Under prior law, a political subdivision could adopt an ordinance relating to aeronautics and astronautics that strictly conformed to state laws. The Act prohibits a political subdivision from regulating the ownership or operation of a drone, unless such a regulation limits the use of drones by the political subdivision.

The Act also clarifies that flight of an aircraft or spacecraft over the lands and waters of the state is generally lawful unless: (1) at such low altitude as to intentionally interfere with the then-existing use to which the land or water, or space over the land or water, is put by the owner; or (2) unless so conducted as to be imminently dangerous or damaging to persons or property lawfully on the land or water beneath.

Effective date: April 18, 2018.

Act 327 – Preventing Local Governments from Adopting Employment Regulations Inconsistent with State Law. Specifies certain areas of employment law for which statewide uniformity applies and for which any local regulation is preempted. Under the Act, a local government may not:

- Use an ordinance, policy, regulation, contract, zoning, permitting, licensing, or any other condition, to require a person to accept provisions of a collective bargaining agreement or to waive rights under state or federal labor relations laws.
- Use an ordinance to regulate hours of labor or overtime, including shift schedules.
- Use an ordinance to require an employer to provide certain employment benefits, including retirement, pension, profit sharing, insurance, or leave benefits.
- Use an ordinance to prohibit an employer from requesting the salary history of a prospective employee.
- Use an ordinance to require a minimum wage for employees under contractual service to the local governmental unit or employees performing work that is funded by financial assistance from the local governmental unit.
- Use an ordinance to regulate wage claims or collections.

- In addition, the Act specifies that a local government may not impose any occupational licensing requirements on an individual that are more stringent than state imposed licensing requirements for the profession.

Under the Act, a person who knowingly violates the provision regarding a collective bargaining agreement and rights under state or federal labor relations laws is subject to a Class A misdemeanor.

Effective date: April 18, 2018.

Property Taxes, Tax Exemptions, Board of Review, Foreclosures

Act 68 – Challenging Tax Assessments; Recording Sewer Easements. Makes various changes relating to local government, including the following:

1. The Act codifies *Milewski v. Town of Dover*, 2017 WI 79 by repealing the prohibition on appearing before the board of review to object to an assessment when a property owner has refused to allow the assessor to enter the interior of the owner’s residence. Under the Act, the prohibition continues to apply if a person has refused a reasonable written request to entry onto property to conduct an exterior view of the property being assessed. Because appearing before the board of review is a condition precedent for judicial review, the Act also has the effect of permitting a taxpayer to file a claim for excessive assessment in circuit court if an interior entry has been refused. For residential property owners, the Act specifies that an assessor must provide written notice to the property owner of the owner’s rights regarding the inspection of the interior of the owner’s residence. The Act also specifies that an assessor may not increase a property’s valuation based solely on an owner’s refusal to allow entry to the assessor.
2. Prior law, retained by the Act, generally requires a document submitted for recording by a county register of deeds to include a full legal description of the property to which the document relates, if the document is intended to relate to a particular parcel of land. However, the requirement to include a full legal description does not apply to descriptions of easements for the construction, operation, or maintenance of electric, gas, railroad, water, telecommunications, or telephone lines or facilities. [s. 706.05 (2m) (a) and (b) 1., Stats.] The Act provides a similar exception for recording descriptions of easements for the construction, operation, or maintenance of sewers.

Effective date: November 29, 2017.

Act 104 – Procedures Related to Sale of Foreclosed Property by a Sheriff. Extends statewide, with slight modification, the process for confirming a foreclosure by sheriff sale and recording of the sheriff’s deed that previously applied only to property located in Milwaukee County. Under the Act, in all counties following confirmation of sale and compliance with the terms of sale, the Clerk of Courts must either provide the Register of Deeds with notice that a sheriff’s deed is available, or transmit the deed to the Register of Deeds for recording. If the second option is chosen, the Register of Deeds must retrieve the documents and fees from the Clerk of Courts within a reasonable period of time. The

Act also revises the notice of a foreclosure sale to require the inclusion of the street address of the property and the sum of the judgment. *Effective date:* December 2, 2017

Act 316 – Tax Exempt Property of Housing Authorities. State law exempts the property of housing authorities from state and local taxes. Act 316 specifies that property of an authority includes property in which an authority operating within a first class city or an entity in which the authority operating within a first class city holds an ownership interest holds a partial ownership interest, if the property is held as part of a financing or equity plan that includes state or federal tax credits, financing, funding or rent subsidy, or if the property is held for a purpose related to the conversion of a housing project to a rental or housing assistance program under a contract with the federal government.

Effective date: April 18, 2018, and first applies to property tax assessments as of January 1, 2018.

Act 339 -- Establishing Standards for eligible bidders at foreclosure sales.

Establishes minimum qualifications for third-party bidders seeking to participate in mortgage foreclosure sales. Under the Act, a third party may not bid at a foreclosure sale if the third party: (1) is more than 120 days delinquent on property taxes; or (2) has an unsatisfied court judgment related to a violation of a state or local building code. The Act also requires third party bidders to file an affidavit with the court affirming that the bidder meets minimum bidding qualifications, and allows the sheriff or referee to require that third party bidders make a list of prebidding acknowledgements. *Effective date:* October 1, 2018.

Act 358 – Updating Board of Review Related Statutes. This remedial legislation was introduced by the Law Revision Committee, at the request of the Department of Revenue, and makes changes relating to board of review proceedings and property tax assessments. The Act does the following:

- Deletes a property tax assessment freeze applicable to certain replacement property that was found unconstitutional by the Wisconsin Supreme Court in *Gottlieb v. City of Milwaukee*, 33 Wis. 2d 408, 147 N.W.2d 633 (1967).
- Repeals language the Wisconsin Supreme Court found unconstitutional in *Metropolitan Associates v. City of Milwaukee*, 2011 WI 20, and reinstates statutory language that existed prior to the modifications made by 2007 Wisconsin Act 86 deemed unconstitutional by the court.
- Deletes a provision preventing residents of a county with a population of 500,000 or more from using the process for filing a claim or action for excessive assessment established in s. 74.37, Stats. The Wisconsin Supreme Court found this subsection unconstitutional in *Nankin v. Village of Shorewood*, 2001 WI 92.

Effective date: April 18, 2018, but the deletion of a property tax assessment freeze applicable to certain replacement property first applies to taxes based on the assessment as of January 1, 2019.

Public Utilities

Act 136 –Regulation of water utility advertising. Prohibits a municipal water utility from charging ratepayers for any expenditure for advertising, unless the advertising produces a demonstrated, direct, and substantial benefit for ratepayers. The Act specifies that advertising provides such a benefit, if it:

- Demonstrates water conservation methods.
- Conveys health or safety information related to a water system or the use of water, including information on preventing frozen water laterals.
- Identifies the public utility on public utility property or the location of public utility property.
- Is required by permit or administrative rule.

The Act also authorizes a public utility to charge its ratepayers for expenditures for reasonable direct communication to ratepayers that will be directly and substantially impacted by ongoing or future water public utility operations or construction

Effective date: March 1, 2018.

Act 137 – Allowing Municipalities to Establish Financial Assistance Programs for Replacing Water Service Lines Containing Lead. Allows a municipal water utility to provide a grant, a loan, or both to a property owner for the purpose of assisting the property owner in replacing the portion of a lead water service pipe that is owned by the property owner, if all of the following requirements are satisfied:

1. The municipal governing body has enacted an ordinance that: (a) permits the water public utility to provide a grant, a loan, or both; and (b) requires each owner of a premises located in the city, town, or village that is serviced by a customer-side water service line containing lead to replace that water service line.
2. The portion of the water service line that is owned by the public utility and the water main pipe that are connected to the property either do not contain lead or are replaced at the same time as the portion that is owned by the property owner.
3. The Public Service Commission (PSC) approves the public utility’s plan for providing the financial assistance.

PSC Approval process. To obtain PSC approval, a water utility must submit an application to the PSC that includes a description of the proposed financial assistance to be provided to property owners, a description of the method for funding the financial assistance, a description of the customers served by the public utility that would be eligible for financial assistance, and any other information that the PSC requests. Once the PSC has received a complete application, the PSC is required to investigate the application. As part of its investigation, the PSC may hold a public hearing on the application. The PSC must complete its investigation within 90 days if it does not hold a public hearing, and 180 days if it does hold a public hearing, unless the chairperson of the PSC extends the review period for good cause.

The PSC must grant its approval if it finds that a utility's proposal is not unjust, unreasonable, or unfairly discriminatory; and the proposal satisfies all of the following conditions:

1. The amount of any grant provided to a property owner does not exceed one-half of the total cost of replacing the owner's portion of the water service line.
2. Any loan provided may not be forgiven by the utility or the municipality.
3. If a water utility intends to provide a grant, a loan, or both as a percentage of the cost of replacing the property owner's portion of a water service line, the percentage is the same for each owner in a class of customers.
4. If a water utility intends to provide a grant, a loan, or both as a specified dollar amount, the dollar amount is the same for each owner in a class of customers.

Utility employee work on private service line. Act 137 creates an exception to the general prohibition against using public employees to perform private work for work ancillary to replacing a utility-side water service line containing lead that is performed with the consent of a private property owner and that does not involve replacing the customer-side water service line. *Effective date:* February 23, 2018.

Act 342 – Telecommuter Forward Community Certification Program. Creates a process for certification, granted by the Public Service Commission (PSC), for a political subdivision to become a Telecommuter Forward! community. Under the Act, PSC must certify a political subdivision as a Telecommuter Forward! community if the community adopts a resolution stating its support and commitment to promoting the availability of telecommuting options and that provides for a single point of contact, subject to certain requirements, for coordinating telecommuting opportunities. PSC must prescribe the form and manner for making an application and a process for public notice and comment. *Effective date:* April 18, 2018.

Public Depository

Act 340 – Security Provided by Public Depositories. Makes numerous changes to the laws applicable to financial institutions, including changes relating to security required of public depositories. The Act provides that the type of security that may be provided by a public depository to secure the repayment of deposits exceeding deposit insurance includes an irrevocable letter of credit issued by a Federal Home Loan Bank, state bank, national bank, federal or state savings bank, federal or state credit union, or federal or state savings and loan association. *Effective date:* April 18, 2018.

Publication of Legal Notices & Meeting Notices

Act 50 – Notice to Council Members of Special Meeting. Modernizes the manner in which a mayor may convene a special meeting of the city council. Under the Act, a mayor may call a special meeting by notifying city council members at least six hours prior to the meeting in a manner likely to give each member notice of the meeting (e.g., text, phone call, email). Prior to Act 50, a mayor was required to provide written notice that was delivered personally to each member or left at the member's usual abode. *Effective date:* August 4, 2017.

Act 353 -- Class 2 and Class 3 Legal Notices. Allows local governments the option to publish a summary notice, instead of the full content that may be required under current law, for the second and third insertions of Class 2 and 3 notices, if the summary indicates that the full notices can be viewed on the municipal website and other specified places.
Effective date: April 18, 2018.

Sex Offenders

Act 184 – Supervised Release of Sexually Violent Persons (SVP). Eliminates ability of a court to place a sexually violent person released from treatment under chap. 980 outside his or her home county. A court must select a county to prepare a report identifying prospective residential options for an SVP after the court authorizes supervised release for that SVP. Under prior law, a court was required to select the SVP’s county of residence unless the court had “good cause” to select another county. The Act eliminates the provision allowing a court to select a county other than an SVP’s county of residence for “good cause.” Under the Act, the court must order the SVP’s county of residence to prepare a report identifying an appropriate residential option within that county. Note: If an SVP’s county of residence is Milwaukee County, then the Act requires that any residential option for the SVP identified by the county must also be in the SVP’s city or village of residence.

Determining County of Residence. Act 184 directs DHS to determine an SVP’s county of residence according to where the SVP would have been a resident for Social Security disability insurance, if other factors are insufficient to make a determination.

County Report Identifying SVP Housing. An SVP’s county of residence must prepare a report identifying an appropriate residential option for the SVP. Act 184 imposes requirements relating to preparation of the county report and the deadline for submission of the report to DHS.

County Committee. Act 184 requires an SVP’s county of residence to form a temporary committee for identifying prospective housing for the SVP in that county. The committee must consist of the following: (1) the county human services department; (2) a DHS representative; (3) a local probation or parole officer; (4) the county corporation counsel or his or her designee; and (5) a representative of the county that is responsible for land use planning or the county department that is responsible for land information.

County Report Requirements. A county’s report must demonstrate that the county contacted the landlord for a residential option identified for an SVP, and that the landlord committed to enter into a lease. The Act further requires that if a law enforcement agency submits a report to the county providing information relating to the identified residence, then the county must include that law enforcement report when submitting the county’s report to DHS.

Report Deadline and Penalties. The Act extends the time period for a county to submit its report to DHS from 60 days to 120 days. However, the Act includes a grace period for counties during the first year that Act 184 is effective. Beginning on March 30, 2018, and ending on April 1, 2019, a county must submit its report to DHS within 180 days, rather than 120 days. Under the Act, a county that must submit a report identifying a residential option for the SVP, but fails to do so by the deadline, violates the SVP’s patient rights

under s. 51.61, Stats. The county may then be subject to statutory penalties for each day the county fails to submit the report after the 120 days have expired. An SVP may receive costs and reasonable actual attorney fees from a county that fails to submit a report to DHS within 120 days, but may not directly receive any damages. Instead, any damages recovered by the SVP are given to the state and deposited into an appropriation for DHS to use to fund payments of costs associated with housing SVPs on supervised release.

Effective date: March 30, 2018.

Streets and Highways; Traffic Regulation; Parking; Transit

Act 37 – Advertising on Bus Shelters Located on State Trunk Highways. Requires that the Department of Transportation (DOT) allow any sign to be placed on a bus shelter on a state trunk highway as long as the sign does not impair the highway or impede vehicular traffic on the highway and any applicable federal regulations are followed. Under the Act, “bus shelter” is defined as a shelter or bench located at a transit stop for use by passengers of public transportation systems owned or operated by governmental units or public authorities that was placed in accordance with s. 86.07 (2), Stats., applicable rules promulgated by DOT, and any applicable federal regulations. *Effective date:* August 4, 2017.

Act 87 – Authorizing ATVs and UTVs Operating on Highways with in Municipalities. Allows a city, village, or town to enact an ordinance authorizing the operation of all-terrain vehicles (ATVs) and utility terrain vehicles (UTVs) on a highway that has a speed limit of 35 miles per hour or less and is located within the territorial boundaries of the community. The Act provides that a city, village, or town may authorize ATV or UTV operation on a highway regardless of whether the community has jurisdiction over the highway, but it may not authorize ATV or UTV operation on a highway that is part of the national system of interstate and defense highways. *Effective date:* December 2, 2017.

Act 193 – All-terrain Vehicle Route Signage. Provides that, if a local government designates specific highways within its jurisdiction as ATV routes, the local government is required to do one of the following:

- Erect a sign at each point on a highway where the ATV route begins and at each point where the ATV route intersects an ATV trail or a highway that is not designated as an ATV route (Note: The town, village, city, or county is not required to erect a sign at a point that is not more than one-half mile from a sign marking the same ATV route on the same highway); or
- Erect a sign on each highway under its jurisdiction that crosses its territorial boundary in a position to be viewed by motorists as they enter the town, village, city, or county.

Effective date: April 5, 2018

Act 232 – Municipal Welcome Signs. Allows a municipality to erect and maintain a municipal welcome sign within the right-of-way of any highway, except interstate

highways, within a municipality's boundaries. Under the Act, a "municipal welcome sign" is defined as an official sign erected and maintained by a municipality that the municipality determines is necessary to inform motorists of the territorial boundaries of the municipality. The Act specifies that a municipal welcome sign is not a traffic control device and is therefore not subject to the Wisconsin manual on traffic control devices. Also, state law generally provides that no sign visible from the main-traveled way of any interstate or federal-aid highway may be erected or maintained, unless one of several exceptions apply. "Directional and other official signs" are one of these exceptions. Under the Act, municipal welcome signs are considered a type of directional and other official sign. *Effective date:* April 5, 2018.

Act 286 -- Towing Vehicles owned by Habitual Parking Violators. Allows any municipality or county to enact an ordinance providing for the immobilization (usually by booting) or towing, impoundment, and disposal of vehicles owned by "habitual parking violators." A habitual parking violator is defined to mean a person who has received, more than 60 days previously, five or more citations for nonmoving traffic violations that remain unpaid and for which the person has not scheduled a court appearance. Such an ordinance would authorize any municipal parking officer or contracted third party to immobilize or remove, impound, and dispose of a vehicle owned by a habitual traffic violator that is legally or illegally parked on any portion of a street, highway, or publicly owned or leased parking facility, but only after the municipality has mailed at least one notice to the vehicle owner. The notice must identify certain information such as the date and amount of each citation, the means by which the citations may be contested, and the circumstances under which a vehicle may be immobilized or removed and impounded. The Act provides that a vehicle owner is responsible for reasonable charges and fees associated with immobilizing, removing, impounding, or disposing of a vehicle. In addition, the Act requires a parking officer to submit a notification to the sheriff or chief of police when a vehicle has been immobilized or removed and impounded. The Act imposes other notice and procedural requirements with which the community must comply prior to and after immobilization or towing. *Effective date:* April 18, 2018.

TIFs, BIDs, Historic Tax Credits

Act 15 – Technical Changes to TIF Law. Makes several technical changes to tax incremental financing (TIF) law sought by DOR, including:

- Excludes certain town property from the base value for a town TID.
- Adds to list of eligible project costs for mixed-use TIDS costs that directly serve to promote mixed-use development.
- Under current law, a town or city clerk is required to provide written notice to DOR of any amendment to a TID project plan that has been adopted, both: (1) within 60 days after the adoption; and (2) annually, after May 1 but before May 21. The Act retains the first notice requirement, and it repeals the second notice requirement effective January 1, 2018.
- Makes the effective date of the termination of a TID, the date on which DOR receives the notice of termination, if the notice is received during the period from January 1 to April 15. The effective date of the termination of a TID is the first

January 1 after the notice is received by DOR, if the notice is received during the period from April 16 to December 31.

- Makes April 15 instead of May 15 the deadline by which communities must pay to DOR an annual TIF district administrative fee of \$150.
- Clarifies that a community may only request a 60-day extension beyond the July 1 deadline for filing the annual TIF status reports.
- Current law, unchanged by the Act, authorizes DOR to charge a fee of \$100 per day for each day that a TIF status report is past due. Beginning on January 1, 2018, the Act limits the total amount of fees that may be charged to \$6,000. If the fees are not paid, the Act requires DOR to reduce and withhold the amount of shared revenue payments to a political subdivision by an amount equal to the unpaid fees.

Effective date and initial applicability: Took effect June 23, 2017. However, generally the provisions of the Act first apply January 1, 2018.

Act 70 – Creation of Environmental Remediation TIDs; Brownfield Revitalization. Makes various changes relating to remediation of brownfields as recommended by DOR’s Brownfields Study Group, including the following:

Environmental Remediation TIF Districts (ERTIDs). Sunsets the special provisions governing ERTIDs in current law as of the effective date of the Act. Authorizes the creation of an ERTID under the general TIF statute, with some special conditions and requirements. Specifically, ERTIDs authorized under the Act differ from other TIDs in the following ways:

- A municipality must obtain a certified site investigation report from the DNR before creating an ERTID.
- An ERTID is exempt from the 12% equalized value limitation, but that exemption applies to only one ERTID in a given municipality at any given time.
- The tax incremental base of the ERTID would be \$1 when the ERTID is created.
- An ERTID is prohibited from serving as a “donor TID.”
- Before designating an ERTID, a municipality must provide one of the following items to the Department of Revenue:
 - A certification that the project plan specifies that the municipality expects all project costs to be paid within 90% of the ERTID’s remaining life.
 - A certification that the project plan specifies that the expenditures may be made only within the first half of the ERTID’s remaining life, except that the limitation does not apply to expenditures made to address significant environmental pollution that was not identified in the original certified site investigation report.

Annexation of property to Business Improvement District (BID) or Neighborhood Improvement District (NID). Authorizes municipalities to annex property to a BID or NID, following a procedure similar to the procedure

for the creation or a BID or NID under current law. In addition, the Act authorizes a municipality to convert a BID into a NID if a residential property owner petitions a municipality for the conversion.

Effective date: November 29, 2017.

Act 189 –Business Improvement District Annual Report. Eliminates requirement that the annual report of a business improvement district (BID) include an independent certified audit of the implementation of the district’s operating plan if the cash balance of a BID’s segregated account remains under \$300,000 during the entirety of the reporting period. Such a BID must obtain a financial statement reviewed by an independent certified public accountant in accordance with generally accepted accounting principles. The Act also specifies that the \$300,000 threshold must be indexed for inflation on an annual basis for years beginning after December 31, 2018. The Act retains the requirement that all BIDs must obtain an independent certified audit of the implementation of the BID’s operating plan upon termination of the BID. *Effective date:* April 5, 2018.

Act 223 -- Allowing municipalities to make the same levy limit adjustment when subtracting territory from a TIF district as allowed when closing a district. Allows communities to increase their allowable levy in the year that territory is subtracted from a tax incremental district by 50% of the value increment within the subtracted territory. *Effective date:* April 5, 2018, and first applies to levies imposed in December 2018.

Act 280 -- Per-Parcel Limit on State Historic Tax Credits. Increases the per-parcel cap on the state’s historic building rehabilitation tax credit program from \$500,000 (as established by the state budget) to \$3.5 million. *Effective date:* July 1, 2018.

Wetlands, Wells, Drainage Districts

Act 69 – Local Assistance for Remediating Contaminated Wells and Failing Septic Systems. Authorizes cities, villages, towns, and counties to remediate contaminated wells, fill and seal contaminated wells subject to abandonment, or rehabilitate, replace, or abandon failing private on-site wastewater treatment systems, with the agreement of the owner of the well or system. Alternatively, the Act authorizes local governments to make loans at or below market rates, including interest-free loans, to owners for those purposes. If a local government takes either of those actions, the Act authorizes the local government to recover its costs or collect the loan repayment as a special charge or special assessment. The Act authorizes special assessments collected for those purposes to be collected in installments, and it also authorizes special charges collected for those purposes to be included in a current or next tax roll even if a special charge is not delinquent. *Effective date:* November 29, 2017.

Act 115 – Drainage Districts. Makes numerous changes to the laws governing drainage districts and maintenance of drainage ditches for agricultural lands, including the following:

- Modifies the requirements in previous law related to the transfer of part of a drainage district to a municipality to require that the municipality and the district

enter into an agreement describing ongoing responsibilities for maintenance and repair of district infrastructure and costs associated with those activities. This agreement must include a number of specified provisions, including authority for the drainage district to conduct maintenance work in the transferred area if the municipality fails to do so, and a method for the drainage district to recoup its cost from the municipality if certain requirements are met.

- For drainage districts located at least in part within one or more cities or villages, the Act allows each city or village to recommend its chief executive (or the chief executive's designee) for appointment to the county drainage board. If at least one such recommendation is made in a county, the county drainage board must change from a three-member board to a five-member board if it is not already a five-member board, and the county circuit court is required to appoint one of the five drainage board members from the list of those recommended by cities and villages under this process. If there comes a time when no such cities or villages wish to recommend board members, the board may choose to transition back to a three-member board.
- Prohibits the creation of a drainage district that includes property within a city or village or expansion of a drainage district in a city or village unless the governing body of the city or village approves. The Act also prohibits the creation or expansion of a drainage district in areas of a town, if the town is permitted for storm water management, unless the town approves. In addition, the Act prohibits expansion of a drainage district into a county in which no portion of the drainage district is already located.

Effective date: December 2, 2017.

Act 183 – Changes to Wetlands Law. Makes numerous changes to laws regulating state wetlands (non-federal wetlands), including the following:

1. **Small Urban Area Discharges Exempt:** Act 183 exempts from state wetland permit requirements a discharge into a state wetland that occurs in an urban area (i.e., within an incorporated area, within 1.5 miles of an incorporated area, or town areas served by a sewer system) if the discharge does not affect more than one acre of wetland per parcel; does not affect a rare and high quality wetland, and the development related to the discharge is done in compliance with any applicable storm water management zoning ordinance or storm water discharge permit.
2. **Agriculture Wetlands Exemption:** The Act exempts from state permitting requirements a discharge into a state wetland that occurs outside an urban area, if all of the following criteria are satisfied: a) The discharge does not affect more than three acres of wetland per parcel; b) The discharge does not affect a rare and high quality wetland; and c) The development related to the discharge is a structure, such as a building, driveway, or road, with an agricultural purpose.
3. **Artificial wetlands.** The Act exempts artificial wetlands from state permit requirements. "Artificial wetland" is defined to mean a landscape feature where

hydrophitic vegetation may be present as a result of human modification to the landscape or hydrology and for which the DNR has no definitive evidence showing prior wetland or stream history that existed before August 1, 1991. This definition excludes wetlands that serve as a fish spawning area or a passage to a fish spawning area and wetlands created as a result of a mitigation program.

4. **Wetland Mitigation.** The Act requires the portion of impacts on state wetlands in urban areas that exceed 10,000 square feet per parcel to be mitigated. Any off-site mitigation, including any mitigation conducted by a mitigation bank or under the in-lieu fee program, must be completed within the same compensation search area, as defined by DNR rule, as the discharge. The substitute amendment does not require mitigation for activities in artificial wetlands.
5. **Preemption of Local Regulation.** The Act prohibits a local government from enacting an ordinance or adopting a resolution regulating a matter regulated by the wetland permitting exemptions and mitigation requirements created under the Act.
6. **Wetland Identification, Confirmation, and Delineation.** The Act creates a wetland confirmation process for state regulated wetlands. Under this process, a person who owns or leases land may ask the DNR to provide a wetland confirmation, based on the DNR's review of the wetland boundaries as delineated by a qualified third person and not based upon an on-site inspection by the DNR, of whether the DNR concurs with the delineation. DNR must concur with the delineation unless it determines that the location and boundaries of the state wetland identified in the delineation are not accurate, based on maps, aerial photographs, surveys, wetland delineations, or hydrophitic soil conditions. The DNR must provide this type of wetland confirmation no later than 15 days after receiving a request.

The Act modifies the length of time certain wetland identifications and wetland confirmations are effective. Under the Act, wetland identifications and wetland confirmations remain effective for 15 years from the date provided by the DNR if all of the following apply:

- The wetland is a state wetland.
- The parcel of land is subject to a storm water management zoning ordinance or storm water discharge permit.

Also under the Act, wetland identifications and wetland confirmations provided by the DNR for state wetlands on or after January 1, 2003 are effective for 15 years, instead of five years.

More Information. More details about the bill are provided in a Legislative Council memo: <https://docs.legis.wisconsin.gov/2017/related/lcactmemo/act183.pdf>

Effective date: Provisions of the Act relating to wetlands permit exemptions take effect July 1, 2018. All other provisions of the Act took effect March 30, 2018.

Zoning and Land Use

Act 67 -- Conditional Use Permits; Variances, and Substandard Lots. Establishes standards and procedures for issuing or denying conditional use permits; codifies definition and standards for granting use and area variances; and limits local government regulation of the use and conveyance of substandard lots.

For more information and a detailed description of the Act see the Legislative Council memo: <https://docs.legis.wisconsin.gov/2017/related/lcactmemo/act067.pdf>, a copy of which is attached to this outline.

See also Daniel Olson's article, *Legislature Curtails Municipal Conditional Use Permit Authority*, in the February 2018 issue of the Municipality magazine, a copy of which is attached to this outline.

For an alternative perspective, see attorney Andrew Phillips and Bennett Conard's attached memo regarding *2017 Act 67 and Conditional Use Permit Standards*.

Act 242 – Conforming a Floodplain Zoning Ordinance to a federal letter of map amendment (LOMA). The Federal Emergency Management Agency (FEMA) may grant a request to amend a flood insurance map by issuing a letter of map amendment (LOMA). Under prior law, a LOMA affected requirements related to flood insurance but did not necessarily affect a local floodplain determination or floodplain zoning ordinance. Act 242 generally requires a city, village, town, or county to amend its floodplain determination as necessary to conform with a LOMA. The Act requires the Department of Natural Resources to consent to such an amendment. After such an amendment, the Act prohibits a city, village, town, or county from enforcing its floodplain zoning ordinance with respect to the relevant property or area of a city, village, town, or county, to the extent that the ordinance is contrary to the LOMA. However, the Act provides an exception to the required amendment and nonenforcement provisions in instances in which amending a local floodplain determination would conflict with the city, village, town, or county's eligibility to participate in the National Flood Insurance Program. *Effective date:* April 5, 2018.

Act 320 – Removal of Nonconforming Outdoor Advertising Signs along Highways. Under state and federal law, certain types of nonconforming signs are not subject to removal and may be customarily maintained. Under prior law, pursuant to rules promulgated by DOT, customary maintenance ceased and a substantial change occurred if repairs or maintenance, excluding message changes, on a sign exceeded 50% of the replacement costs of the sign. Act 320 specifies that certain types of signs, including directional and other official signs, business area signs, and signs located in urban areas outside the adjacent area, that were lawfully erected but that no longer conform to applicable requirements are declared nonconforming upon notice from DOT to the sign owner by registered mail. Such a sign must remain substantially the same as it was on the date it became nonconforming. Nonconforming signs covered by the Act are not subject to removal unless a "substantial change," as defined in the Act, is made to the sign or the sign is destroyed. Maintenance or a change in sign's advertising message is not cause for removal. *Effective date:* April 18, 2018.