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## WISCONSIN LEGISLATIVE COUNCIL

### 2005-06 SESSION IN REVIEW

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## ***Local Government***

The Wisconsin Legislature considered many items in the 2005-06 Session relating to local government. Because of the large number of proposals, the number summarized in this memorandum is limited. Legislative Council Act Memos provide a more thorough description of the acts described in this memorandum and are available at [www.legis.state.wi.us/lc](http://www.legis.state.wi.us/lc).

The 2005-06 Legislature enacted various provisions affecting local government operations and local officials.

***Four-Year Terms for Certain Local Elected Officers*** - Early in the session, the Legislature adopted on second consideration a constitutional amendment to extend from two to four years the term of office for district attorneys, coroners, elected surveyors, registers of deeds, county treasurers, county clerks, and clerks of circuit court. Enrolled Joint Resolution 2. That amendment to the Wisconsin Constitution was ratified by the electorate at the spring election of 2005.

***County Board Size*** - 2005 Wisconsin Act 100 allows, in counties other than Milwaukee and Menominee Counties, the county board, or the electors of the county by petition and referendum, to decrease the number of county board supervisors between the time the county board ordinarily enacts decennial supervisory district plans following the decennial census. Under the Act, the number of county board supervisors may be decreased only one time between the decennial supervisory district plans. Prior to Act 100, the number of supervisory districts could not be changed until the next decennial supervisory district plan (with the exception of Milwaukee County which was allowed to decrease the size of the Milwaukee County Board once prior to November 15, 2010). The Act sets forth criteria and procedures for decreasing the number of county supervisors.

***County Participation in Revenue Sharing Agreements*** - Act 98 authorizes counties to enter into revenue sharing agreements under ss. 66.0305, Stats., with cities, villages, and towns and federally recognized American Indian tribes or bands in order to share revenues derived from taxes and special charges. Previously, only cities, villages, towns, and American Indian tribes or bands were authorized to enter into such agreements.

Revenue sharing agreements must meet specified statutory requirements (these are unaffected by Act 98). These requirements include a term of at least 10 years, specifying the boundaries of the area within which revenues are to be shared, and specifying the means of determining the amount of

revenues to be shared under the agreement. The law also sets forth the procedure for holding an advisory referendum on an agreement and requires a public hearing before entering into an agreement.

***Provision of Law Enforcement Services to Cities and Villages by County Sheriff*** – Act 40 authorizes a city or village to abolish its police department if it enters into a contract with the county for the sheriff to provide law enforcement services to the entire city or village. Prior law was unclear regarding the authority of cities and villages to do so. Under the Act, a contract between a city or village and a county must address division of assets and liabilities, the law enforcement services that will be provided and the cost of those services, the procedure for requesting or requiring additional law enforcement services from the county and the cost for those services, the term of the contract, and procedures for renewing, extending, and terminating the contract. A contract must be approved by the governing bodies of the city or village and the county and the contract may not take effect until any collective bargaining agreement between the city or village and its police department expires.

***Different Tax Rates Following Consolidation or Boundary Changes*** - The Legislature adopted on first consideration a proposed amendment to the Wisconsin Constitution to allow different tax rates following attachments, consolidations, or cooperative boundary changes. [2005 Assembly Joint Resolution 98.] The proposed constitutional amendment would apply under the following circumstances: if all or a portion of a city, village, or town becomes part of another city, village, or town pursuant to law authorizing consolidations or boundary changes under cooperative agreements; if all or a portion of a county becomes part of another county pursuant to law authorizing consolidations or boundary changes under cooperative agreements; or if all or a portion of a school district becomes part of another school district pursuant to law authorizing attachments, consolidations, or boundary changes under cooperative agreements. In those circumstances, the proposed amendment allows the governing body of the city, village, town, county, or school district to set property tax levy rates for the additional part that are different from the rates set for the other parts of the city, village, town, county, or school district for not more than 12 years after the attachment, consolidation, or boundary change, but the rates for each part must be uniform within that part. This authorization would be an exception to the general uniformity requirement that applies to property taxes. It is anticipated that, if adopted, the proposal will provide incentive for consolidations and mergers. If adopted by the Legislature next session on second consideration, the proposed amendment would go before the voters who then must ratify the amendment for it to become part of the Wisconsin Constitution.

***Restriction on Condemnation of Property*** - Act 233 prohibits the condemnation of property that is not blighted if the condemnor intends to convey or lease the condemned property to a private entity.

The Act defines “blighted property” as property that has various conditions, such as dilapidation, deterioration, age, or obsolescence. In addition to this “blighted property” definition, which applies to all property, the Act adds an additional requirement for property that consists of only one dwelling unit. Even if property that contains only one dwelling unit otherwise meets the conditions for the “blighted property” definition, the property is not deemed to be “blighted property” unless it also meets either of the following conditions: (1) it is not occupied by the owner, the owner’s spouse, or specified individuals related to the owner; or (2) the crime rate in, on, or adjacent to the property is at least three times higher than in the remainder of the municipality in which the property is located.

Before commencing the condemnation of property that the condemnor intends to convey or lease to a private entity, the Act requires the condemnor to make written findings and provide a copy of the findings to the owner of the property. The findings must include all of the following: (1) the scope of

the redevelopment project encompassing the owner's property; (2) a legal description of the redevelopment area that includes the owner's property; (3) the purpose of the condemnation; and (4) a finding that the owner's property is blighted and the reasons for that finding.

***Neighborhood Improvement Districts*** - Act 186 authorizes a city, village, or town to establish a neighborhood improvement district (NID) to support improvements for the neighborhood. The Act is patterned after the business improvement district law. It is anticipated that an NID will be used to finance public area improvements such as lighting, distinctive signage, park equipment, and landscaping. The Act includes the procedure for a municipality to create an NID, describes the area that comprises an NID, and provides for the creation of an NID board with specified duties and powers.

Funding of an NID is through special assessment. The method of specially assessing property is set forth in the NID operating plan. Real property used exclusively for less than eight residential dwelling units and real property that is exempt from general property taxes may not be specially assessed for purposes of an NID. Special assessments received from an NID and all other appropriations by a municipality or other moneys received for the benefit of an NID must be placed in a segregated account in the municipal treasury.

***Impact Fees*** - Act 203 generally requires that impact fees not used within seven years after collection to pay the capital costs for which the fees were imposed be refunded to the current property owner. Prior law required that impact fees imposed and collected but not used within a reasonable period of time to pay the capital costs be refunded to the current property owner. Under the Act, the seven-year time limit may be extended for three years if the city, village, town, or county adopts a resolution stating that due to extenuating circumstances or hardship in meeting the seven-year limit, it needs an additional three years to use the impact fees.

Act 477 eliminates counties from the governmental entities that may impose impact fees. The Act deletes "other recreational facilities" from and adds land for athletic fields to the list of approved public facilities for which municipalities may levy impact fees. The Act also prohibits municipalities and counties from imposing fees or charges as a condition of approval under ch. 236, Stats. (subdivision of land), and requires any public improvement required by a municipality or a county as a condition of approval under that chapter to bear a rational relationship to a need resulting from the proposed division of land.

***Competitive Bidding Threshold*** - Act 202 addresses the minimum amount that triggers the competitive bidding requirement for certain public contracts entered into by cities, villages, towns, town sanitary districts, technical college districts, and certain federated library systems. The Act increases the competitive bidding threshold for the municipalities and special purpose districts covered by the Act from \$15,000 to \$25,000. In addition, by increasing the competitive bidding threshold, the Act expands those contracts for which public notice must be given to now include contracts from \$15,000 to \$25,000.

***Collection of Fines, Forfeitures, and Related Debts*** - Act 59 facilitates the collection of unpaid fines, forfeitures, and related debts as follows:

- Authorizes a clerk of circuit court to hire a debt collector to collect unpaid fines and forfeitures.

- Authorizes a clerk of circuit court to accept a credit card or debit card for any required payment to the county, and to charge a reasonable fee for that service.
- Authorizes the Department of Revenue (DOR) to charge the administrative fee for certifying unpaid debts under the DOR's tax refund intercept program to the person who owes the unpaid debt rather than the governmental unit to whom the debt is owed.

***Location of Town Meetings*** - Act 312 expands the authorized location for certain town meetings; the Act provides that town board meetings, annual town meetings, and special town meetings may be held in the town or in any other town, village, or city in the same county or in an adjoining county.

***Appointment of Town Plan Commission Members*** - Act 207 addresses the appointment of members to a town plan commission. Members continue to be appointed by the town board chairperson, but are subject to confirmation by the town board.

***Zoning*** - Several proposal enacted during the legislative session address zoning issues.

Act 34 provides that the quorum requirement for a board of appeals or adjustment is a majority of the members of the zoning board. Prior law did not include a quorum requirement. The Act also provides that the zoning board may take action by a majority of the members present, if a quorum is present. Prior law required a city, village, or town board of appeals to take action by a vote of four out of five members, while a county board of adjustment could take action by a majority of all members. Finally, the Act requires each city, village, town, or county that has a board of appeals or adjustment to appoint two alternate members to the board.

Act 208 specifies additional content for the public notice of proposed zoning ordinances or amendments that is placed in newspapers. If the proposed ordinance or amendment has the effect of changing the allowable use of any property, the notice must contain a map showing the property affected by the ordinance or a description of the property affected by the ordinance and a statement that a map may be obtained from the local agency responsible for zoning. The Act also creates a new procedure that allows a person to request personal notice of any proposed zoning ordinance or amendment that affects the allowable use of property owned by the person. A similar provision is established under the comprehensive planning statute for proposed ordinances adopting or amending the comprehensive plan.

Act 81 restricts the application of zoning ordinances to a nonconforming building, premises, structure, or fixture. The Act does this by prohibiting "amortization ordinances." This term is defined in the new statute as follows:

“[A]mortization ordinance” means an ordinance that allows the continuance of the lawful use of a nonconforming building, premises, structure, or fixture that may be lawfully used...but only for a specified period of time, after which the lawful use of such building, premises, structure, or fixture must be discontinued without the payment of just compensation.

The Act prohibits the use of provisions in a zoning ordinance that require removal of a nonconforming building, premises, structure, or fixture by means of an amortization ordinance.

Act 171 prohibits local governments from conditioning or withholding approval of a permit requested by a property owner based upon the property owner entering into, discontinuing, modifying, extending, or renewing a contract with a third party (for example, an outdoor advertising company), under which the third party is engaging in a lawful use of the property.

***Municipal Purchase of Department of Transportation (DOT) Surplus Real Property*** – Among other things, Act 392 requires the DOT to offer a county, municipality, local school district, or the Department of Natural Resources DOT-owned surplus real property at its assessed value if the entity has expressed interest in the land and identifies the proposed public use for the parcel that would benefit a cross-section of the population and if the land will not be purchased with the intention of profiting by the purchaser either through the sale price or long-term intended public use. The Act also contains a procedure for DOT to offer a county, municipality, or school district surplus property for less than the appraised value if the county, municipality, or school district identifies the proposed use of the property for transportation or infrastructure and agrees to a permanent restriction on the use of the land for the purpose identified.

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