



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2017 Wisconsin Act 68
[2017 Assembly Bill 480]

**Various Changes Relating to
Land Use, Impact Fees, the
Electrical Wiring Code,
Highway Weight Limitations,
and Housing Impact Reports**

2017 Wisconsin Act 68 makes various changes, described below, relating to land use, impact fees, the electrical wiring code, highway weight limitations, and housing impact reports.

FREEZING OF POLITICAL SUBDIVISION REQUIREMENTS UPON INITIAL APPLICATION

Under **prior law**, generally retained by the Act, if a project requires more than one approval¹ from more than one political subdivision (city, village, county, or town), the requirements that applied in those political subdivisions at the time the first application for an approval is filed apply to all subsequent approvals for the project, if the applicant identifies the full scope of the project at the time it files the first application, and unless the applicant and a political subdivision agree otherwise. [s. 66.10015 (2) (b), Stats.]

The **Act** similarly “freezes” regulations in place at the time of an initial filing if multiple approvals are required by the same jurisdiction.

RECORDING OF EASEMENTS FOR SEWER MAINTENANCE

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

¹ In this context, “approval” means a permit or authorization before building, zoning, driveway, stormwater, or other activity related to a project. [s. 66.10015 (1) (a), Stats.]

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

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 from the requirement to provide a full legal description for recording descriptions of easements for the construction, operation, or maintenance of sewers.

PERIODIC REVIEW OF CERTAIN PROVISIONS OF THE ELECTRICAL WIRING CODE

Prior law, retained by the Act, requires the Department of Safety and Professional Services (DSPS) to promulgate, by rule, a state electrical wiring code that establishes standards for installing, repairing, and maintaining electrical wiring. [s. 101.82 (1), Stats.]

The **Act** requires DSPS to review certain portions of the electrical wiring code every six years. Specifically, DSPS must review the portions of the code that apply to buildings that contain one or two dwelling units. In its review, DSPS must consult with the Uniform Dwelling Code Council and any council or committee created by the Secretary of DSPS to advise the department regarding the electrical wiring code.

EXEMPTION FROM HIGHWAY WEIGHT LIMITATIONS FOR CERTAIN VEHICLES TRANSPORTING PROPANE

With some exceptions, **prior law**, generally retained by the Act, provides weight limitations applicable to vehicles on class “B” highways.² Prior law also authorizes the state, county highway committees, and municipal highway officers to impose special weight limitations on the highways they maintain when needed to prevent serious damage or destruction to a highway. [ss. 348.16 (2) and 349.16 (1) (a), Stats.]

The **Act** exempts certain motor vehicles that are being operated to deliver propane for heating purposes from the vehicle weight limitations, described above. Specifically, such vehicles are exempt from the above weight limitations if both of the following criteria apply:

- The gross weight imposed on the highway by the vehicle does not exceed 30,000 pounds, for a vehicle with a single rear axle, or 40,000 pounds for a vehicle with tandem rear axles.
- If the motor vehicle is a tank vehicle, the tank is loaded to no more than 50% of the capacity of the tank.

The Act also requires a tank vehicle operating under the exceptions to be equipped with a gauge on the tank that shows the amount of propane in the tank as a percent of the tank’s capacity and to carry documentation of the tank’s capacity either on the cargo tank or in the cab of the vehicle.

² Class “B” highways include portions of county trunk highways, town highways, and city and village streets that have been designated as class “B” highways by the relevant local authorities. [s. 348.16 (1), Stats.]

HOUSING IMPACT ANALYSES FOR PROPOSED LEGISLATION AND ADMINISTRATIVE RULES

Prior law required the Department of Administration (DOA) to prepare a report on any introduced bill or proposed administrative rule that directly or substantially affects the development, construction, cost, or availability of housing in this state.

The **Act** terms such reports “housing impact analyses” and expands the scope of their application. Specifically, under the Act, DOA must prepare a housing impact analysis for any introduced bill that may increase or decrease, either directly or indirectly, the cost of the development construction, financing, purchasing, sale, ownership, or availability of housing in this state. The Act requires an agency promulgating a rule, rather than DOA, to prepare a housing impact analysis for a proposed rule promulgation, if those same criteria apply.

The Act also makes several modifications to the findings required to be contained in a housing impact analysis. Specifically, the Act adds a new finding regarding the density, location, setback, size, or height of development on a lot, parcel, land division, or subdivision, and it modifies a finding regarding purchase price to specify that an analysis must contain a finding regarding the purchase price of new homes or the fair market value of existing homes. The Act also specifies that a housing impact analysis must provide reasonable estimates in dollar figures (or a statement setting forth the reasons why such estimates are not possible) and include descriptions of both immediate and long-term effects, if ascertainable. In addition, the Act specifies that a housing impact analysis must be prepared on the basis of a median-priced single-family residence but may include estimates for larger developments as an analysis of the long-term effect of the bill or rule.

CHALLENGING TAX ASSESSMENTS

Prior law prohibited a tax assessor from entering a person’s real property to conduct an assessment more than once a year, unless the owner consents. Additionally, the statute specified that a property owner may deny entry to the assessor if the owner has given prior notice that the assessor may not enter the property without the owner’s permission. However, prior law also specified that the review and appeal procedures before the board of review and circuit court relating to property assessment are not available to a property owner if that owner has denied the assessor entry to the property.³

The **Act** repeals 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

³ In *Milewski v. Town of Dover*, 2017 WI 79, the Wisconsin Supreme Court considered the question of whether a property owner’s constitutional rights under the Fourth and Fourteenth Amendments of the U.S. Constitution were violated when state statutes relating to the property tax assessment process deny the property owner the ability to appear before the board of review and subsequently seek other judicial review of an assessment following the owner’s refusal to allow the assessor to inspect the interior of the property owner’s residence. In separate opinions, a majority of the justices concluded that the statutory prohibition on appearance before the board of review violated the constitutional rights of the property owner.

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.

SHORELAND ZONING EXEMPTION

Prior law, retained by the Act, generally requires county shoreland zoning ordinances to establish a setback of 75 feet from the ordinary high water mark. However, if a structure⁴ within the shoreland setback area is nonconforming (i.e., if it was constructed before the setback requirement took effect), or if it was placed pursuant to a variance granted before July 13, 2015, then a county (and the state) generally cannot prohibit the landowner from maintaining, repairing, replacing, restoring, rebuilding, or remodeling the structure under its shoreland zoning ordinance, if the activity does not expand the structure's original footprint. [s. 59.692 (1n) (am) and (1k) (a) 2., Stats.]

The **Act** also prohibits state and county regulation of the maintenance, repair, replacement, restoration, rebuilding, or remodeling of structures for which the county and state did not bring an enforcement action for at least 10 years after the structure was constructed.

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⁴ For purposes of shoreland zoning, "structure" means a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, stairway, walkway, patio, deck, retaining wall, porch, or fire pit. [s. 59.692 (1) (e), Stats.]