

# Summary of the 2011–2012 Wisconsin Legislative Session

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## Wisconsin Legislative Reference Bureau

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## Abbreviations

AB .....	Assembly Bill	DSPS .....	Department of Safety and Professional Services
DATCP .....	Department of Agriculture, Trade and Consumer Protection	DVA .....	Department of Veterans Affairs
DCF .....	Department of Children and Families	DWD .....	Department of Workforce Development
DFI .....	Department of Financial Institutions	JCF .....	Joint Committee on Finance
DHS .....	Department of Health Services	OSER .....	Office of State Employment Relations
DNR .....	Department of Natural Resources	PSC .....	Public Service Commission
DOA .....	Department of Administration	SB .....	Senate Bill
DOC .....	Department of Corrections	UW .....	University of Wisconsin
DOJ .....	Department of Justice	WEDC .....	Wisconsin Economic Development Corporation
DOR .....	Department of Revenue	WHEDA .....	Wisconsin Housing and Economic Development Authority
DOT .....	Department of Transportation	WRS .....	Wisconsin Retirement System
DPI .....	Department of Public Instruction	WTCS .....	Wisconsin Technical College System

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## **Introduction**

This research bulletin provides an overview of the acts and joint resolutions of the 2011–2012 Wisconsin Legislative Session. Legislation is organized by topic with acts described under the appropriate subject heading or headings. Summaries of enrolled joint resolutions that propose amendments to the Wisconsin Constitution are found under the heading “Constitutional Amendments.” Significant acts and joint resolutions are highlighted by shading.



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# Administrative Law

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## Rule-Making Procedures

**Act 21** (January 2011 Special Session AB-8) makes the following changes relating to promulgating administrative rules:

1. Prohibits a state agency from implementing a standard, requirement, or threshold unless a statute or rule explicitly requires or permits the standard, requirement, or threshold.
2. Provides that a legislative intent statement or a description of a state agency's general powers or duties does not confer rule-making authority beyond what the legislature explicitly confers and that a statutory standard, requirement, or threshold does not confer the authority to promulgate by rule a more restrictive standard, requirement, or threshold.
3. Requires gubernatorial approval of the statement of the scope and the final draft of a proposed rule, including an emergency rule, and permits the Joint Committee for Review of Administrative Rules to review any proposed rule.
4. Extends to all state agencies the requirement that an economic impact analysis be prepared for a proposed rule, expands the information that must be included in an economic impact analysis, and requires DOA approval of a proposed rule if the proposed rule would incur \$20 million or more in implementation and compliance costs.
5. Provides that the venue for a declaratory judgment action on the validity of a rule is in the county where the party asserting the invalidity of the rule resides or has its principal place of business or, if that party does not reside in Wisconsin, in the county where the dispute arose. Under former law, venue for such an action was in Dane County.

**Act 32** (AB-40) prohibits DSPS from promulgating a rule that would increase the cost of constructing or remodeling a one- or two-family dwelling by more than \$1,000.

**Act 46** (SB-47) makes the following changes to the Small Business Regulatory Review Board and agency promulgation of rules affecting small businesses:

1. Eliminates representatives of state agencies from the board's membership and increases the number of board members who represent small businesses.
2. Requires a state agency to forward a copy of a proposed rule to the board if the rule could have an economic impact on small businesses.

3. Requires the board to determine whether a proposed rule will have a significant economic impact on a substantial number of small businesses. If so, the board may submit to the agency the board's suggestions for changes to the proposed rule or, except for an emergency rule, recommend that the proposed rule be withdrawn.

4. Requires that each state agency, to the extent possible, assist small businesses in complying with rules promulgated by the agency; establish reduced fines and alternative methods of enforcement for when a small business commits a minor violation of the agency's rules; consider the use of a written warning or alternative penalty if a small business violates a rule of the agency; and establish ways to encourage small businesses to participate in the agency's rule-making process.

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# Agriculture

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**Act 32** (AB-40) eliminates the requirement that a person who requests that land be rezoned out of a farmland preservation zoning district pay a conversion fee. The act also eliminates the requirement that DATCP establish a fee for funding its meat inspection responsibilities.

**Act 195** (SB-517) exempts a food-processing plant that makes prepared foods using dairy products from the requirement to be licensed as a dairy plant under specified conditions.

**Act 207** (SB-537) exempts the operator of a fish farm from paying the wastewater discharge environmental fee and from keeping records on the sale of fish to an individual for the individual's personal use. The act also exempts a person who brings fish from a fish farm in another state to a fish farm in this state from the requirement to have an importation permit from DATCP. See also *Natural Resources — Navigable Waters and Wetlands*.

**Act 229** (AB-46) eliminates the World Dairy Center Authority, which had become inactive.

**Act 253** (SB-497) authorizes DATCP to designate agricultural enterprise areas by order, rather than by emergency rule. Farms located in an agricultural enterprise area may qualify for the farmland preservation tax credit.

**Act 254** (SB-498) applies to all premises in this state DATCP's authority to order the treatment or destruction of plants and other materials that are infested by pests.

**Act 263** (SB-349) requires DATCP to maintain the confidentiality of information provided in a request for an exemption from the requirement to register with the Livestock Premises Registration Program, under which most places at which livestock are kept must be registered with DATCP.

**Act 278** (SB-396) provides funding for the Livestock Premises Registration Program.

**Act 281** (SB-496) eliminates the requirement that DATCP regularly test milk and cream for evidence of bovine brucellosis. The act also eliminates the requirement that a report of a negative brucellosis test accompany any American bison and certain other animals upon movement or sale.

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## Beverages

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### Brewer Sales and Distribution

**Act 32** (AB-40) authorizes DOR instead of municipalities to issue beer wholesaler's permits. Under the act, a brewer may not hold a wholesaler's permit but may, under its brewer's permit, sell, ship, transport, and deliver its own beer to wholesalers; transport beer between the brewery premises and the brewer's warehouse; and, if the brewer annually produces 300,000 or fewer barrels of beer, sell, ship, and deliver its own beer to retailers. Under the act, a brewer may not also hold a retail license, but the brewer's permit authorizes the brewer to make retail sales at the brewery premises and at one off-site retail outlet the brewer establishes. At these two retail locations, the brewer may make retail sales of its own beer and of other Wisconsin-made beer and, if the brewer held a retail liquor license on June 1, 2011, intoxicating liquor. The act also eliminates a provision that restricted some brewers from operating restaurants and instead authorizes a brewer to operate two restaurants, one on the brewery premises and one at an off-site retail outlet.

Act 32 also allows a movie theater to hold a retail beer or intoxicating liquor license and allows underage persons to go to movie theaters that hold these retail licenses.

**Act 97** (AB-63) changes the closing time for Class "A" and "Class A" retailers (such as liquor and grocery stores selling beer, wine, or spirits) from 8:00 a.m. to 6:00 a.m.

**Act 129** (AB-200) allows a winery to make retail sales and provide taste samples of wine on fairgrounds under a temporary retail license issued to a fair association.

**Act 175** (AB-59) eliminates the requirements that small winery cooperative wholesalers semiannually meet in person with DOR and the UW Center for Cooperatives and that reports be prepared as a result of these meetings.

**Act 179** (AB-290) allows beer and wine to be made without a license or permit and without being subject to occupational taxes if the beer or wine is made at a supply store for homebrewers or home winemakers,

or elsewhere for educational purposes, and if the beer or wine is not sold.

**Act 200** (SB-395) expands the locations where homemade beer and wine can be made and consumed; expressly recognizes the authority to possess, transport, and store homemade beer and wine; provides certain limitations on the making of homemade beer and wine; and authorizes homebrewer and home winemaker events subject to certain limitations. The act also allows municipalities to adopt ordinances regulating homebrewer and home winemaker events.

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## Buildings and Safety

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**Act 32** (AB-40) exempts platform and stairway lifts in individual residences, and certain types of hoists, from the laws regulating the construction and maintenance of elevators.

Act 32 also eliminates the Department of Commerce and transfers the functions of the Division of Safety and Buildings within that department to DSPS. Those functions include the administration of building codes and other laws that promote safety in public and private buildings and the issuance of licenses, permits, and other credentials to persons in the construction trades, including plumbers and electricians. See also *Business and Consumer Law — Economic Development and Investment and Occupational Regulation*.

**Act 51** (SB-228) allows a person to possess or transport an uncased firearm, crossbow, or regular bow in a vehicle or motorboat if the weapon is unloaded, not cocked, or does not have an arrow nocked. The act also allows such a weapon to be loaded, cocked, or have an arrow nocked if it is in or on a vehicle that is not moving. The act does not affect other laws that specifically apply to handguns.

**Act 134** (SB-199) delays by four years the deadline for local governmental units to adopt and complete an inventory for a maintenance program for private on-site wastewater systems.

**Act 146** (SB-453) does the following:

1. Adds all occupational and professional licenses issued by DSPS to the list of licenses that may not be issued or renewed to a person who is delinquent on family support payments or taxes.
2. Creates alternative requirements that may be met in order to be issued an elevator mechanic's license.
3. Changes certain requirements for membership on the dwelling code council, reduces the size of the

council from 18 to 11 members, and reduces the term of membership from three to two years.

4. Makes various minor changes to the laws DSPS administers that regulate buildings and safety.

See also *Occupational Regulation*.

**Act 150** (SB-156) regulates persons engaged in drilling holes for the purpose of installing geothermal closed-loop heat exchange systems in a manner similar to the manner in which water well drillers are regulated.

**Act 199** (SB-388) requires ski area operators to do the following:

1. Post signs and otherwise notify skiers and other participants in snow sports who are using the area of their responsibilities and of safety rules.

2. Determine the difficulty of the ski trails in the area and post signs indicating the level of difficulty at the start of each trail.

3. Have the ski lifts inspected annually.

4. Adopt a written policy as to what lift components and other structures in the ski area require protective padding.

The act also requires that skiers and other users of the area obey all posted warnings and signs, maintain control over their speed and direction, and follow other posted safety rules.

See also *Courts and Civil Actions — Limits on Liability*.

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## Business and Consumer Law

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### ECONOMIC DEVELOPMENT AND INVESTMENT

#### The Wisconsin Economic Development Corporation

**Act 7** (January 2011 Special Session SB-6) creates the Wisconsin Economic Development Corporation (WEDC), an authority charged with developing and implementing economic programs to provide business support and expertise and financial assistance to companies that invest and create jobs in Wisconsin and to support new business start-ups and business expansion and growth in Wisconsin. See also *Act 32*.

**Act 26** (AB-2) authorizes the Department of Commerce (WEDC, effective July 1, 2011) to designate up to 20 enterprise zones and requires that at least five enterprise zones be comprised of political subdivisions with low populations, typically rural areas.

#### Elimination of the Department of Commerce

**Act 32** (AB-40) makes the following changes to the laws relating to economic development:

1. Eliminates the Department of Commerce.

2. Transfers several programs related to economic development from the former Department of Commerce to WEDC, including the State Main Street Program; the Brownfields Grant Program; and numerous programs for the administration of tax credits.

3. Eliminates a number of programs related to economic development that were administered by the Department of Commerce, including grants to the Women's Business Initiative Corporation; community development block grants; the Capital Access Program; renewable energy grants and loans; loans to manufacturing businesses; gaming economic diversification grants and loans; grants to the Center for Advanced Technology and Innovation; the Economic Adjustment Program; the Business Employees' Skills Training Grant Program; entrepreneurial assistance grants; the Wisconsin Trade Project Program; the Rural Economic Development Program; manufacturing extension center grants; grants to the Wisconsin Angel Network; the Technology Commercialization Grant and Loan Program; manufacturing investment tax credits; administration of the Forward Innovation Fund and the Wisconsin Development Fund; and the Economic Liaison Program with American Indians. See also *Act 7* and *Buildings and Safety* and *Occupational Regulation*.

Act 32 also does the following:

1. Establishes programs under WEDC to certify businesses for the exclusion for tax purposes from income or tax deferral of certain Wisconsin capital gains. See also *Taxation*.

2. Transfers programs for the certification of minority-owned, disabled veteran-owned, and woman-owned businesses from the Department of Commerce to DOA.

3. Transfers statutory authority over state housing programs, including making housing cost grants and loans and preparing the five-year state housing strategy plan, from the Department of Commerce to DOA.

4. Requires WHEDA to transfer from its surplus to the state general fund \$900,000 in each year of the 2011–13 biennium. The act also makes veterans of the U.S. armed forces eligible for WHEDA's property tax deferral loan program.

**Act 37** (AB-13) establishes a development opportunity zone in the city of Beloit for five years and up to \$5,000,000 in tax credits for qualifying economic activities within the zone. The act also authorizes WEDC to extend that development opportunity zone for up to an additional five years and an additional \$5,000,000 in

tax credits if WEDC determines that an extension will support economic development in the city.

**Act 80** (September 2011 Special Session SB-20) expands the authorized range of the total principal amount, established by WHEDA annually, of all agricultural production loans WHEDA guarantees for a single borrower from between \$30,000 and \$100,000 to between \$2,000 and \$150,000 and limits the term of such a loan to 12 months.

**Act 213** (SB-463) changes the certification requirements for businesses under the Angel and Early Stage Seed Investment Tax Credit Program, including requiring a business to agree to stay in Wisconsin for at least three years. The act also exempts an investment that becomes worthless or liquidated from the requirement that a person who receives a tax credit under the program maintain the investment for at least three years. See also *Taxation*.

**Act 214** (SB-459) eliminates the role of WEDC in overseeing economic development projects financed by WHEDA and replaces the \$200 million aggregate principal limit on bonds and notes WHEDA may issue for economic development activities with a \$150 million aggregate limit in each of the next three fiscal years. With the approval of JCF, WHEDA may issue bonds and notes for three additional years if WHEDA determines the issuance will promote significant economic development in the state.

## MAJOR PROPOSALS THAT FAILED ENACTMENT

*Assembly Bill 129* and *Senate Bill 94* would have established the Wisconsin Venture Capital Authority, as well as an investment fund and investment programs to be administered by the authority to invest in venture capital funds and Wisconsin start-up and other businesses.

## OTHER BUSINESS AND CONSUMER LAW

**Act 32** (AB-40) authorizes WHEDA to guarantee a loan, including a loan made by WHEDA, to a nonprofit corporation that broadcasts the proceedings of the legislature and reports events and activities related to state politics through television, radio, the Internet, or similar communications media. The act authorizes a maximum principal amount of \$5,000,000 for a loan guarantee.

**Act 79** (September 2011 Special Session SB-2) makes the following changes to the Small Business Loan Guarantee Program that WHEDA administers:

1. Increases the maximum amount of a loan that may be guaranteed under the program from \$200,000

or 80 percent of the principal of the loan to \$750,000 or 80 percent of the principal of the loan.

2. Expands the definition of a “small business” from a business with 50 or fewer full-time employees to a business with 250 or fewer full-time employees.

3. Removes the requirement that a small business owner be actively engaged in the business to qualify for a loan guarantee under the program.

4. Removes the requirement that, to be eligible for the program, a loan to start a small business in a downtown vacant storefront must be used in a rural community.

**Act 174** (AB-56) requires a person who sells any of the following merchandise at a flea market or similar facility to have proof of ownership of the merchandise: cosmetics, drugs, medical devices, baby foods, infant formulas, batteries, or razor blades.

**Act 187** (SB-370) prohibits DATCP from banning the sale of substitutes for ozone-depleting refrigerants in containers holding less than 15 pounds and from regulating the noncommercial use of such substitutes that are sold in such containers.

**Act 194** (SB-274) regulates the sale of plastic bulk merchandise containers to scrap dealers in the same manner that scrap metal sales are regulated, including by requiring dealers to document a seller’s right to sell the container and to make available to law enforcement documentation about sales and by allowing the owner of a stolen container to sue the thief to recover the cost of replacing the container.

**Act 197** (SB-185) generally prohibits a person from making an unsolicited text message or telephone call encouraging the purchase of property, goods, or services to a residential telephone customer who has added his or her number to the state’s “no call list.” Under former law, the prohibition applied only to unsolicited telephone calls.

**Act 201** (SB-407) prohibits the retail sale of a zinc air button cell battery manufactured after January 1, 2013, unless the manufacturer certifies to DATCP that the battery has no mercury that was intentionally introduced.

**Act 226** (SB-492) imposes requirements on service contracts sold to consumers that are enforced by the Office of the Commissioner of Insurance (OCI). Maintenance agreements, certain manufacturer’s warranties, and other types of contracts are exempt from the act, as are motor vehicle manufacturers, service contract sellers, and persons who opt to comply with OCI rules under former law regarding warranty plans. If the act applies, a person who provides a service contract must obtain a license from OCI, obtain OCI approval of service contracts, and comply with other requirements, including requirements for assuring performance of the person’s

obligations under service contracts sold in this state. The act also prohibits any person from requiring the purchase of a service contract as a condition of a loan or sale of property, except for the sale of a home.

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## Children

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**Act 32** (AB-40) makes the following changes to the laws relating to child welfare:

1. Expands the Subsidized Guardianship Program to permit monthly payments to be made to the guardian of a child in any county. Former law permitted those payments only in Milwaukee County. The act also makes various changes relating to the administration of the program.

2. Permits any county to participate in the Child Welfare Alternative Response Pilot Program, under which a participating county may respond to a report of child abuse or neglect by investigating the report or by providing voluntary services. Former law limited the program to Milwaukee County and no more than four other counties selected by DCF.

3. Requires DCF to allocate 10 percent of the funds available for grants under the Child Abuse and Neglect Prevention Program to counties, agencies, and tribes that have not previously received those grants.

4. For a juvenile adjudicated delinquent, extends the maximum period of placement at a juvenile detention facility, juvenile portion of a county jail, or place of nonsecure custody from 30 days to 180 days, including any time spent in certain other placements, and requires that alcohol and drug abuse counseling be offered to any juvenile for whom such placement exceeds 30 days.

**Act 81** (SB-42) requires any school employee who suspects child abuse or neglect to report that suspicion under the child abuse reporting law. Under former law, the only school employees who were required to make such reports were teachers, administrators, and counselors.

**Act 87** (AB-30) permits a parent who has legal custody of a child to delegate to an agent, for not more than one year, the parent's powers, subject to certain exceptions, regarding care and custody of the child.

**Act 181** (SB-502) permits a juvenile court to order a trial reunification between a child placed in out-of-home care and a parent or other relative in order to determine the appropriateness of changing the child's placement to the home of the parent or other relative; permits the agency that placed a child outside the home to work towards achieving more than one permanency goal for the child; and permits a child's permanency goal to be

placement in a planned permanent living arrangement that includes an appropriate, enduring relationship with an adult.

### Electronic Juvenile Records

**Act 270** (SB-173) requires a juvenile court to make its confidential electronic records available to criminal courts, municipal courts, and other juvenile courts; prosecutors of cases in those courts; and attorneys and guardians ad litem (GALs) for parents and children who are parties to municipal or juvenile court proceedings and to make such records relating to a delinquency proceeding available to law enforcement agencies. The act permits such records made available to be used by a court only for conducting or preparing for court proceedings; by a prosecutor, attorney, or GAL only for performing official duties relating to a court proceeding; and by a law enforcement agency only for investigating alleged criminal or delinquent activity.

**Act 271** (SB-536) permits a termination of parental rights based on a conviction for child trafficking. See also *Crime and Criminal Procedure — Crimes Against Children*.

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## Constitutional Amendments

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### MAJOR PROPOSALS THAT FAILED ADOPTION

*Assembly Joint Resolution 63*, proposed by the 2011 legislature on first consideration, would have allowed the recall of a public officer only if that officer had been charged with a crime punishable by imprisonment of one year or more, or against whom a finding of probable cause of violation of the state code of ethics had been made.

*Assembly Joint Resolution 100*, proposed by the 2011 legislature on first consideration, would have required the state to account for all funds it receives or spends in accordance with generally accepted accounting principles and to gradually extinguish any deficit in a state fund.

*Senate Joint Resolution 16*, proposed to the 2011 legislature on second consideration, would have imposed restrictions on a county executive's partial veto power over appropriations that are identical to the restrictions imposed on the governor's partial veto power over appropriations.

*Senate Joint Resolution 60*, proposed to the 2011 legislature on second consideration, would have prohibited the governor, in exercising his or her partial veto power over appropriation bills, from vetoing part of a section of a bill without rejecting the entire section.

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## Correctional System

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### Sentencing Changes

**Act 38** (SB-57) eliminates programs that allowed prisoners to earn, for days spent in confinement without incident, “positive adjustment time” that would have reduced the number of days of incarceration. The act also eliminates the court’s ability to shorten a person’s sentence based on a court determination that the person would benefit from the reduced sentence, the opportunity for certain prisoners to be released from incarceration early if they are within 12 months of release, and early discharge from community supervision.

Act 38 eliminates the Earned Release Review Commission, restores the Parole Commission, and authorizes the Parole Commission, at its discretion, to release to community supervision certain prisoners who have served a portion of their sentences confined in prison. Under the act, the sentencing court determines whether certain prisoners who have served either 75 percent or 85 percent of their confinement sentences may be released to community supervision. The act allows a sentencing court to grant certain offenders early release from probation.

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## Courts and Civil Actions

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### LIMITS ON LIABILITY

**Act 2** (January 2011 Special Session SB-1) makes a number of changes to the laws governing civil actions. The act:

1. Circumscribes the liability of a manufacturer, distributor, seller, or promoter of a product in a product liability action based on whether a claimant can prove the defendant manufactured, distributed, sold, or promoted the product alleged to have caused the claimant’s injury, and limits the defendant’s liability to 25 years.

2. Establishes requirements for bringing a product liability action against a manufacturer, seller, or distributor of products under a strict liability theory and bars such actions in cases in which the product was manufactured 15 or more years before the claim accrues.

3. With one exception, caps the amount of punitive damages a party may collect at twice the amount of compensatory damages or \$200,000, whichever is greater. The cap does not apply to a party suing a defendant who operated a vehicle while under the influence of an intoxicant.

4. Provides that the opinion testimony of lay witnesses may not be based on scientific, technical, or other specialized knowledge of the witness. The bill also provides that if a witness is testifying as an expert witness, the testimony must be based upon sufficient facts and data and be the product of reliable principles and methods reliably applied to the facts of the case.

5. Caps the amount of noneconomic damages a party may collect from a long-term care provider and imposes a time limit for bringing suit against a long-term care provider.

See also *Health and Social Services — Health*.

**Act 92** (September 2011 Special Session SB-12) sets forth factors for a court to consider when determining reasonable attorney fees, and creates a presumption that reasonable attorney fees do not exceed three times the amount of compensatory damages awarded.

**Act 93** (January 2011 Special Session SB-22) states that a property owner does not owe a duty of care to, and is generally not liable for harm that befalls, a trespasser.

### Use of Force in Self Defense

**Act 94** (AB-69) creates a presumption of immunity from civil liability for a person who used deadly force against another if all of the following apply:

1. The person against whom the force was used was attempting to enter, or had unlawfully and forcefully entered, the dwelling, motor vehicle, or place of business of the person who used the force.

2. The person who used the force was in that dwelling, motor vehicle, or place of business.

3. The person who used the force knew or reasonably believed that an unlawful and forcible entry was occurring or had occurred.

Act 94 does not provide a presumption of immunity to a person who used the deadly force if the person was engaged in a criminal activity or was using his or her dwelling, motor vehicle, or place of business to further a criminal activity or if the person against whom the force was used had identified himself or herself as a public safety worker, or should have been known to be a public safety worker, and was performing his or her official duties. The act entitles a person who is civilly immune to recover his or her attorney fees, court costs, and other expenses related to defending against the suit. See also *Crime and Criminal Procedure — Firearms and Use of Force*.

**Act 132** (SB-125) provides that cities, villages, towns, and counties are generally immune from liability for damages resulting from insufficient repairs of a highway unless the damages are caused by the accumulation

of snow or ice that has been on a highway for at least three weeks.

**Act 162** (AB-497) does the following:

1. Provides immunity from liability to a school board, the governing body of a charter school, and the officers, agents, and employees of the school board or governing body for injuries to or the death of a person participating in certain recreational activities when the recreational activities are held on the grounds of the school and under a recreational agreement. Also under the act, with limited exceptions, a school board or governing body owes no duty to keep the school grounds safe for participants in the recreational activity or to warn the participants of unsafe conditions. However, the immunity from liability under the act does not apply when the recreational activity involves a weight room, a swimming pool, or gymnastic equipment or when the injury or death occurs to a spectator of the recreational activity or is due to a malicious act of the school board, governing body, or officer, agent, or employee.

2. Provides certain volunteers with protections currently available to governmental bodies and their officers and agents, including procedural prerequisites to and other limitations on lawsuits for the acts of the volunteers and limitations on damages recoverable from governmental bodies for the acts of the volunteers. The act also specifies that the maintenance of insurance by a governmental body does not constitute a waiver of these provisions limiting lawsuits and damages.

**Act 199** (SB-388) limits civil liability for ski area operators who comply with certain safety and notice requirements. See also *Buildings and Safety*.

## OTHER COURTS AND CIVIL ACTIONS

**Act 61** (SB-117) provides that any civil action in which the sole defendant is the state or a state board, commission, officer, employee, or agent must be heard in a county the plaintiff designates, and any appeal of a judgment in the action may be heard in any county the appellant designates other than the county in which the initial action was heard.

**Act 69** (September 2011 Special Session SB-14) changes the annual interest rate earned on a money judgment from 12 percent to 1 percent plus the prime rate.

**Act 136** (SB-307) sets forth criteria for finding that a property is abandoned and shortens the period before an abandoned property may be sold at auction.

**Act 186** (SB-314) provides that in a lawsuit initiated by an association that represents fuel retailers, a fuel retailer may sue a person who steals fuel from the retailer.

**Act 228** (AB-548) changes the standards for publishing legal notices in a newspaper.

**Act 274** (AB-379) allows a person to keep his or her name change confidential if publicizing the name change would endanger the person.

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## Crime and Criminal Procedure

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### CRIMES AGAINST CHILDREN

**Act 82** (AB-102) allows a sentencing court to increase, by up to five years, the penalty for a paid child care provider who is convicted of sexual assault of a child or causation of bodily harm to a child in his or her care.

**Act 268** (AB-397) makes it a felony for a parent, step-parent, guardian, or legal custodian of a child to fail to report to law enforcement the death of the child if the child dies under certain circumstances. The act makes it a crime for such a person to fail to report to law enforcement that the child is missing within a specified period, which varies depending on the age of the child. The penalty for failing to report the missing child varies from a misdemeanor to a Class D felony depending on the level of harm the child suffers while missing. The act also makes it a felony for an unauthorized person to move the corpse of a child.

**Act 271** (SB-536) makes the following changes to the criminal laws relating to sex offenses against children:

1. Requires the prosecution for the crime of trafficking of a child to begin before the victim reaches 45 years, instead of 24 years as under former law.

2. Makes it a felony to access a representation of a child engaged in sexually explicit conduct, instead of just possessing the representation as under former law.

3. Adds the crimes of child enticement, soliciting a child for prostitution, and sexual intercourse with a child who is at least 16 to the list of crimes for which evidence introduced at trial may not include the victim's prior sexual conduct or opinions of, and reputation as to, his or her prior sexual conduct.

4. Adds the crimes of sexual exploitation of a child, trafficking of a child, child enticement, use of a computer to facilitate a child sex crime, and soliciting a child for prostitution to the list of crimes for which a chief judge may authorize law enforcement, as part of an investigation, to intercept wire, electronic, or oral communications.

5. Adds the crimes of sexual exploitation of a child, incest with a child, use of a computer to facilitate a child sex crime, soliciting a child for prostitution, and sexual intercourse with a child who is at least 16 to the list of crimes for which DOJ may compensate victims.

See also *Children*.

**Act 272** (AB-209) allows a sentencing court to exempt a person from the mandatory minimum term of confinement in a prison following a conviction for the crime of sexual exploitation of a child or the crime of possession of child pornography only if the convicted person is no more than 48 months older than the victim.

**Act 284** (AB-100) limits the right of the defense to inspect a recording of a child engaged in sexually explicit conduct to inspection in a location maintained by the court or a law enforcement agency. Under the act, an attempt to commit either the crime of exposing a child to sexual activity or the crime of using a computer to facilitate a child sex crime is penalized the same as the completed crime. The act also changes the crime of exposing a child to sexual activity so that the victim need not actually be under the age of 18 if the person perpetrating the crime believes or has reason to believe that the victim is under 18.

## CONTROLLED SUBSTANCES

**Act 31** (SB-54) makes it a crime to possess, manufacture, distribute, or deliver two specified stimulants or a substance commonly known as synthetic marijuana. Penalties depend on the amount of the substance involved and increase with every repeat offense.

**Act 159** (SB-317) allows certain controlled substances to be prescribed electronically.

## DOMESTIC ABUSE

**Act 266** (SB-104) allows a court to order a person who violates certain restraining orders to submit to global positioning system tracking monitored by DOC.

**Act 267** (AB-269) increases from a civil forfeiture to a misdemeanor the penalty for a person who, within 72 hours of being arrested for a domestic abuse incident, illegally contacts the victim of the incident. The act specifically allows a sentencing court to prohibit a person from contacting witnesses to the crime. The act also changes from a misdemeanor to a felony the penalty for a person who ignores a court-ordered prohibition against contacting a victim of the person's crime or a co-actor in the person's crime if the prohibition was imposed as part of a sentence for a felony.

**Act 273** (SB-127) requires a sentencing court to consider, as an aggravating factor for a crime involving an act of domestic abuse, the fact that the crime was committed in the presence of a child.

**Act 277** (SB-350) changes, from a misdemeanor to a felony, an act of domestic violence that a person commits within ten years of being convicted for two prior acts of domestic violence, and increases the term of imprisonment for the offense.

## FIREARMS AND USE OF FORCE

**Act 35** (SB-93) specifies that a person may not be charged with disorderly conduct for loading, carrying, or going armed with a firearm unless other facts and circumstances indicate that the person has a malicious or criminal intent. See also *Justice*.

### Use of Force in Self Defense

**Act 94** (AB-69) modifies the privilege of self-defense in a criminal prosecution. The act creates a presumption that a person who used deadly force against another reasonably believed that the force was necessary to prevent death or great bodily harm to himself or herself or to another person if all of the following apply:

1. The person against whom the force was used was attempting to enter, or had unlawfully and forcefully entered, the dwelling, motor vehicle, or place of business of the person who used the force.
2. The person who used the force was in that dwelling, motor vehicle, or place of business.
3. The person who used the force knew or reasonably believed that an unlawful and forcible entry was occurring or had occurred.

The presumption does not apply, however, if the person who used deadly force was engaged in a criminal activity or was using his or her dwelling, motor vehicle, or place of business to further a criminal activity or if the person against whom the force was used had identified himself or herself as a public safety worker, or should have been known to be a public safety worker, and was performing his or her official duties. See also *Courts and Civil Actions — Limits on Liability*.

**Act 99** (AB-103) makes knowingly or intentionally receiving a stolen firearm a felony.

## LAW ENFORCEMENT AND PUBLIC SAFETY

**Act 72** (AB-212) changes the crime of expelling or throwing a bodily substance at an emergency medical technician, a first responder, a law enforcement officer, a fire fighter, or a person operating or staffing an ambulance

so that intent to cause bodily harm to the person is no longer an element of the crime.

**Act 74** (SB-109) makes it a felony to cause a soft tissue injury to a law enforcement officer, and increases the penalty for causing great bodily harm to a law enforcement officer, if the person causes the injury or harm while knowingly resisting a law enforcement officer who is acting in his or her official capacity. The act also makes it a felony for a prisoner to cause a soft tissue injury to an officer, employee, visitor, or other inmate.

**Act 269** (AB-263) makes a person who is convicted of obstructing a law enforcement officer by providing false information or planting false evidence liable, with certain exceptions, for the costs incurred by the investigating law enforcement agency.

**Act 275** (AB-149) increases the range in fines for calling 911 to report an emergency the caller knows does not exist, from between \$50 and \$300 to between \$100 and \$600.

**Act 276** (AB-217) makes it a misdemeanor to impersonate a fire fighter, an emergency medical technician, or a first responder, which is the same penalty as impersonating a law enforcement officer.

## OTHER CRIME AND CRIMINAL PROCEDURE

**Act 110** (SB-85) provides that a person who obtains a service and intentionally does not pay for the service is guilty of retail theft and subject to varying penalties, depending on the value of the service.

**Act 155** (SB-428) increases the penalties for a person who steals, or who tampers or interferes with the delivery of, telecommunications or electricity services.

**Act 174** (AB-56) increases from a misdemeanor to a felony the penalty for retail theft if the value of the merchandise is between \$500 and \$5,000 or, if the value of the merchandise is less than \$500, if the actor commits the theft with another person and intends to sell the merchandise over the Internet.

**Act 282** (AB-552) eliminates the statute of limitations for the prosecution of first-degree sexual assault of an adult and of an attempt to commit first-degree intentional homicide, second-degree intentional homicide, or first-degree sexual assault of an adult or a child.

**Act 283** (AB-232) grants to crime victims and witnesses the rights to be treated fairly and with dignity and to be free from misuse of personal information, and allows a victim to assert those rights in a civil action.

**Act 285** (SB-399) allows hearsay evidence to be used at a preliminary hearing.

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## Education

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### HIGHER EDUCATION

**Act 32** (AB-40) makes the following changes relating to higher education:

1. Eliminates an exemption from the payment of nonresident tuition at the UW System and the WTCS for students who are not U.S. citizens. Under former law, the exemption applied to a student who graduated from an in-state high school, was continuously present in the state for at least three years, and provided proof that he or she applied for a permanent residence visa or would apply for one as soon as he or she was eligible to do so.

2. Requires the Board of Regents to obtain JCF approval before the board, the UW–Extension, or any two-year or four-year UW school commits funds received under a federal broadband grant program.

3. Beginning on July 1, 2013, prohibits the Board of Regents, the UW–Extension, and two-year and four-year UW schools from belonging to an entity, such as WiscNet, that provides telecommunications services, including Internet services, unless the entity is comprised entirely of universities or university-affiliated research facilities or the entity satisfies requirements regarding the types of services it provides and the recipients of the services.

4. Prohibits the Board of Regents from increasing resident undergraduate tuition in the 2011–12 and 2012–13 academic years by more than 5.5 percent annually, except for differential tuition approved before June 1, 2011.

5. Authorizes the Board of Regents to establish a personnel system for all UW employees, other than UW–Madison employees, and authorizes the UW–Madison to establish a personnel system for all UW–Madison employees, subject to approval by the Board of Regents. Both the UW System and the UW–Madison personnel systems are subject to the approval of the Joint Committee on Employment Relations. On July 1, 2013, all UW employees are transferred from the state civil service system to the new UW System and UW–Madison personnel systems.

6. Authorizes supplemental pay plans for all employees of the UW System, funded from any revenue source available to the UW System.

7. Provides that any interest earned in the normal school fund in excess of \$200,000 is distributed to the UW–Stevens Point for environmental programs.

8. Allows the UW System to retain interest earned related to program revenues, specifies that student segregated fees may be used only for the purpose for which they are charged, and requires the Board of Regents to allocate general purpose revenue to institutions as block grants.

9. Allows the Board of Regents and UW–Madison to create and abolish positions funded from sources other than their general program operations block grants.

10. Allows UW System full-time employees to receive more than \$12,000 in compensation for work that is performed in addition to their normal duties.

11. Provides that UW System building projects that cost less than \$500,000 and are funded entirely with gifts and grants do not require the approval of the Building Commission and are exempt from DOA supervision and bidding requirements.

12. Allows the Board of Regents to accept gifts of real property valued up to \$150,000 without the approval of the Building Commission.

13. Creates a task force to address issues relating to UW restructuring and operational flexibilities. See also *Act 221*.

14. With certain exceptions, prohibits a technical college district board's tax levy in 2011 and 2012 from exceeding its tax levy in 2010 or the amount generated using the mill rate that was used for the tax levy in 2010, whichever is greater.

15. Provides that the referendum requirement for capital expenditures made by a WTCS district board that exceed \$1,500,000 does not apply to the portion of a capital expenditure funded with student housing payments for the purchase, construction, or lease/purchase of a student residence facility under certain circumstances.

16. Prohibits, after September 30, 2011, students from enrolling in the Wisconsin Covenant Scholars Program, under which the Higher Educational Aids Board (HEAB) awards grants to resident undergraduates enrolled in institutions of higher education in this state.

17. Provides that a credit or semester covered by federal educational assistance does not count against the credits or semesters for which the Board of Regents or a WTCS district board is required to grant fee remission for an eligible veteran or eligible spouse or child of a veteran. The act also requires the Board of Regents or a district board to grant fee remission for both the regular fees and any additional fees charged to an eligible veteran, spouse, or child to enroll in a distance education or online course.

18. Eliminates the Percent for Art Program, which required at least 0.2 percent of the appropriation for a

state building project to be used to acquire works of art for the building.

19. Places the Arts Board under the direction and supervision of the secretary of tourism. Under prior law, the Arts Board was attached to the Department of Tourism but, subject to certain exceptions, exercised its powers, duties, and functions independently.

**Act 89** (SB-28) requires the citizen members of the Board of Regents of the UW System to consist of at least one resident of each of the state's congressional districts.

**Act 124** (AB-322) requires a publisher, on request, to provide to an institution of higher education instructional material in a format that is accessible to a student with a disability (alternative format), if a copy of the material in standard format has been purchased for the student, and permits an institution of higher education to create an alternative format of instructional material, if the publisher grants permission or does not fulfill the institution's request. The requirement does not apply, however, if instructional material in the format needed by a student is commercially available or if the publisher is a member of a nationwide network that delivers instructional material in alternative format.

**Act 176** (AB-144) creates a commission on financial aid consolidation and modernization to study options for providing aid to part-time students and the potential for consolidating all grant programs HEAB administers into a single, comprehensive, need-based grant program.

**Act 221** (SB-184) allows the Special Task Force on UW Restructuring and Operational Flexibilities to postpone submission of its report until August 31, 2012. See also *Act 32*.

**Act 286** (SB-275) increases the employer members of the district board governing Milwaukee Area Technical College from two to five members and eliminates two employee members and one of the additional members from that district board. The act also makes the following changes to the employer members: 1) requires all five members to represent businesses operated for profit, nonprofit health care providers, credit unions, or cooperative associations; 2) requires three members to represent employers with 15 or more employees; 3) requires two members to represent employers with 100 or more employees; and 4) requires at least two members to represent employers who are manufacturing businesses. The act also requires the committee that appoints members to that district board to consist of the county executive of Milwaukee County and the chairpersons of the Milwaukee, Ozaukee, and Washington county boards of supervisors.

## PRIMARY AND SECONDARY EDUCATION

**Act 17** (SB-20) permits the city of Milwaukee to sell or lease city-owned property used for school purposes without the involvement of the board of directors of Milwaukee Public Schools (MPS) if the city council finds that the property has been unused or underutilized for at least 12 consecutive months, and directs proceeds from the sale or lease to be deposited into the city's school operations fund.

### Milwaukee Parental Choice Program

**Act 32** (AB-40) makes the following changes to the Milwaukee Parental Choice Program (MPCP), under which certain low-income pupils who reside in the city of Milwaukee may attend a private school at state expense:

1. Eliminates the cap on the number of pupils that may participate in the MPCP.
2. Requires DPI to provide information obtained through the application process to DOR and requires DOR to determine whether a pupil is eligible to participate in the MPCP on the basis of family income.
3. Increases the family income limit from 175 percent of the federal poverty level to 300 percent of the federal poverty level.
4. Permits family income for a married family to be reduced by \$7,000 before determining income eligibility.
5. Permits a pupil to remain eligible to participate in the MPCP if the pupil's family income increases.
6. Permits any private school, not just private schools located in the city of Milwaukee, to participate.
7. Permits participating private schools to charge tuition and fees, in addition to the state choice payment, to a participating pupil in grades 9 to 12 if the pupil's family income exceeds 220 percent of the federal poverty level. See also *Act 47*.
8. Requires DPI to notify each participating private school of any proposed changes to the MPCP prior to the beginning of the school year in which the changes are to take place.
9. Allows a private school seeking to participate in the MPCP to obtain preaccreditation from any statutorily recognized accrediting agency. See also *Act 47*.

### Parental Choice Program for Eligible School Districts

**Act 32** creates a Parental Choice Program for Eligible School Districts having all of the same characteristics as the MPCP except for the following:

1. Any school district located in a city of the second class and meeting certain criteria related to income and state aid, as determined by DPI, may participate in the program and may continue to participate in future years.

The Racine Unified School District is the only eligible school district DPI identified for the 2011–12 school year. See also *Act 215*.

2. A pupil may participate if the pupil was enrolled in the eligible district in the previous school year; was not enrolled in school in the previous school year; was enrolled in the program in the previous school year; or is enrolling in kindergarten, first grade, or ninth grade in a school participating in the program in the current school year.

3. Pupil participation is limited to 250 pupils in the first school year of the program and 500 pupils in the second school year of the program, but is not limited in any subsequent school year.

### Virtual Charter Schools

**Act 32** eliminates the limit of 5,250 pupils who may attend a virtual charter school under the Open Enrollment Program.

### Student Information System

**Act 32** directs DPI to establish a student information system to collect and maintain information about public school pupils and ensure that within five years every school district is using the system.

### Statewide Assessments

**Act 32** requires DPI to replace the statewide knowledge and concepts examinations with pupil assessments developed by the Smarter Balanced Assessment Consortium or by an entity DPI selects.

**Act 32** also makes the following changes to the laws governing primary and secondary education:

1. Regarding the parental choice programs: a) allows DPI to pay directly each private school participating in a program; b) allows two or more pupils from the same family, who are applying to attend the same private school, to use a single application; c) requires a private school participating in a program to submit to DPI evidence of internal control practices; d) requires that the certified public accountant who conducts the private school's audit be independently employed and follow auditing standards established by the American Institute of Certified Public Accountants; e) specifies five categories of offsetting revenues used to determine a private school's cost of educational programming; and f) directs DPI to include an amount equal to 10.5 percent of a private school's fair market value in determining the school's operating and debt service cost under certain circumstances.

2. Sets the amount by which a school district may increase the base revenue per pupil at \$50 for the 2012–13 school year and eliminates the per pupil base revenue adjustment in each subsequent school year.

3. Provides up to \$50 per pupil to a school district that levies the maximum amount allowed under revenue limits in the 2012–13 school year.

4. Reduces the low revenue ceiling, up to which a school district may increase its base revenue per pupil, from \$9,800 per pupil to \$9,000 per pupil in the 2011–12 and 2012–13 school years and to \$9,100 in 2013–14 and annually thereafter.

5. For the 2011–12 and 2012–13 school years, replaces the mechanism by which certain school districts' initial revenue limits are set at the prior year's base revenue with nonrecurring revenue limit adjustments equal to the 2010–11 adjustment amount.

6. Eliminates the Preschool to Grade 5 Grant Program but permits schools that had participated in the program to join the Student Achievement Guarantee in Education class size reduction program beginning in the 2011–12 school year.

7. Permits a school district to delay compliance with an order to terminate the use of a race-based nickname, logo, mascot, or team name until January 15, 2013, if the order was issued before July 1, 2011.

8. Eliminates the school district revenue limit adjustments for school safety expenditures, certain transportation costs, and school nurse compensation costs; modifies the revenue limit adjustment for energy efficiency measures; and provides a revenue limit adjustment for refunded or rescinded taxes.

9. Specifies that for the 2011–12 school aid distribution, special adjustment aid is based on 90 percent, instead of 85 percent, of a school district's previous year's general aid.

10. Eliminates grants for improving pupil academic achievement in MPS; grants for alcohol and other drug abuse programs; grants for nursing services; advanced placement grants; grants for science, technology, engineering, and mathematics programs; and mentoring for initial educators grants.

11. Eliminates the 30 percent limit on the portion of children at risk who may be served by outside agencies under contract with a school district.

12. Allows grants for gifted and talented pupils to be awarded to UW System institutions and expands the purpose of the grants, allowing them to be awarded to provide services and activities not ordinarily provided in a regular school program. Formerly, grants were awarded to provide only advanced curriculum and assessments.

13. Eliminates the provision that capped the reduction in general school aid for all school districts, related to the payments to independent charter schools, at the amount of the reduction for the 2010–11 school year.

The act reduces general aid for all school districts by an equal amount.

14. Provides that, beginning in the 2013–14 school year, each independent charter school will receive the per pupil amount paid in the previous school year plus the per pupil adjustment allowed under revenue limits in the current school year.

15. Limits the amount that the Racine Unified School District may receive as a result of the UW–Parkside charter school being located in that school district in the 2011–12 and 2012–13 school years, and eliminates the payment entirely thereafter.

**Act 47** (SB-234) specifies the entities that may provide preaccreditation and accreditation to private schools seeking to participate or continue participating in a parental choice program, permits a participating private school to recover the cost of certain products and services from pupils who are enrolled in the private school under a parental choice program and who receive those products and services, and requires DPI to terminate a private school's participation in a parental choice program if the school retains a person who is a disqualified person as specified in the act. See also *Act 32*.

**Act 84** (SB-49) explicitly allows DPI to revoke the teaching license of an individual who intentionally uses an educational agency's equipment to download, view, solicit, seek, display, or distribute pornographic material. The act also requires DPI to post on its Internet site the name of a licensee who DPI is investigating to determine whether to initiate revocation proceedings. If an investigation results in a license revocation, DPI must post on its Internet site the name of the person whose license was revoked.

**Act 85** (SB-204) allows a pupil, while in school, at a school-sponsored activity, or under the supervision of a school authority, to possess and use an epinephrine auto-injector in an emergency situation if the pupil has the written approval of a physician and the pupil's parent or guardian.

**Act 86** (SB-45) specifies circumstances under which authorized individuals may administer prescription and nonprescription drugs and drug products to pupils.

**Act 105** (SB-95) makes a number of changes in the laws governing primary and secondary education. The act:

1. Allows a school board to add value-added analysis of pupil scores on standardized tests to the criteria used to evaluate teachers.

2. Authorizes a school board to allow a pupil who participates in sports to complete an additional half credit in English, social studies, mathematics, science, or health education in lieu of a half credit in physical education.

3. Changes the date by which a school board must certify the amount of its tax levy to the appropriate municipal clerks.

4. Provides that a school board is not required to enroll a pupil who has been expelled from a public school in another state or from a charter school in certain cases. The act also allows a school board to impose certain conditions before it enrolls an expelled pupil.

5. Allows a school district that has entered into an achievement guarantee contract with DPI to choose not to reduce class size in grades 2 or 3 or both in one or more years covered by the contract.

6. Authorizes a school board to contract out for certain services, including educational interpreter services and speech and language therapy, as part of its special education program.

7. Authorizes a school district to use moneys received from the common school fund to purchase school library computers and related software. Former law limited this use to 25 percent of moneys received.

**Act 105** (SB-95) and **Act 165** (SB-315) permit a school district to use the law enforcement records of a pupil who is a juvenile or the juvenile court records of a pupil as the sole basis for taking action against the pupil under the school district's athletic code.

**Act 114** (SB-2) lengthens the period within which a pupil may apply under the Open Enrollment Program to attend a public school in a school district other than the pupil's resident school district and creates several circumstances under which a pupil may apply and be accepted to a nonresident school district outside of the application period, including if the pupil has been a victim of a violent crime or is homeless. The act also requires the resident school district to forward any disciplinary records of an applicant to the nonresident school district; requires, for a child with a disability applying to the program, the nonresident school district to provide the resident school district with an estimate of the costs to educate the child; and permits a school district to increase its per pupil revenue limit for a pupil who was not counted by but was later enrolled in the school district under the program.

### **Seclusion and Physical Restraint**

**Act 125** (SB-353) prohibits a public school employee and certain other individuals who provide services for a public school from using seclusion or physical restraint on a pupil except under certain conditions. Seclusion may be used only if the pupil's behavior presents a clear, present, and imminent risk to physical safety; it is the least restrictive intervention available; it lasts only as long as is necessary; an employee maintains constant supervision of the pupil; the seclusion room or area is free from objects that may injure the pupil; the pupil

has access to a bathroom, water, necessary medications, and meals; and no door connecting the room or area to other rooms or areas is capable of being locked. Physical restraint may be used only if the pupil's behavior presents a clear, present, and imminent risk to physical safety; it is the least restrictive intervention available; the degree of force used and the duration of the restraint are reasonable and no more than necessary; there are no medical contraindications to its use; certain specified maneuvers and techniques are not employed; it does not constitute corporal punishment; and neither mechanical nor chemical restraints are used.

**Act 156** (SB-335) authorizes a school board to grant a technical education high school diploma to a pupil who successfully completes a technical education program.

**Act 157** (SB-361) authorizes a school board to contract with Second Chance Partners for Education or any other nonprofit corporation operating a program in which disengaged high school pupils attend a work-based learning program while earning high school diplomas.

**Act 158** (SB-348) changes the name of the Division for Libraries, Technology, and Community Learning to the Division for Libraries and Technology; the name of the Reference and Loan Library to the Resources for Libraries and Lifelong Learning Service; and the name of the Division for Learning Support, Equity and Advocacy to the Division for Learning Support.

**Act 163** (AB-224) permits a library board to transfer a gift, bequest, or endowment to a community foundation, as defined in the act, in addition to a charitable organization, as provided under preexisting law. The act requires any such transfer to be made under a written agreement, the library board to retain control over the use of a disbursement, and the use to be consistent with the intent of the donor. The act also permits a school board to transfer a gift or grant to a community foundation under the same conditions as described above for a transfer of a gift, bequest, or endowment by a library board.

### **Read to Lead, Reading Assessments, Teacher Licensure, and Educator Evaluations**

**Act 166** (SB-461) makes the following changes to the laws governing primary and secondary education:

1. Creates a segregated fund, the Read to Lead Development Fund, to support literacy and early childhood development programs, and the Read to Lead Development Council.

2. Requires each school board and each charter school annually to assess pupils enrolled in kindergarten for reading readiness. The school board or charter school must provide a pupil at risk of reading difficulty with interventions or remedial reading services.

3. Prohibits DPI from issuing an initial license to teach in grades kindergarten to 5, in special education, or as a reading specialist unless the applicant passes an examination identical to the Foundations of Reading test administered in 2012 as part of the Massachusetts Tests for Educator Licensure.

4. Requires DPI to work in consultation with the governor's office and others to determine how the performance of persons who have recently completed teacher education and preparatory programs and who have been recommended for licensure will be used to evaluate the effectiveness of the programs. The act requires DPI to share certain information obtained about these persons from the programs with the public and requires the programs to share this information with prospective applicants.

5. Requires DPI to develop an educator effectiveness evaluation system and an equivalency process. The act requires school districts to use either the system or the process to evaluate teacher and principal performance beginning in the 2014–15 school year and, using information obtained from the evaluation, place teachers and principals in one of multiple performance categories.

#### Concussions and Other Head Injuries

**Act 172** (AB-259) requires DPI to develop guidelines to educate athletic coaches and pupil athletes and their parents about the nature and risk of concussion and head injury in youth athletic activities. The bill requires that a person who is suspected of sustaining a concussion or head injury in a youth athletic activity be removed from the activity. A person who has been removed may not participate in a youth athletic activity until a health care provider gives him or her written clearance to do so.

#### Racine Parental Choice Program

**Act 215** (SB-174) closes the parental choice program for eligible school districts (currently open only to the Racine Unified School District) to additional school districts. See also *Act 32*.

**Act 216** (SB-237) eliminates the requirement that a school district that offers an instructional program in human growth and development provide instruction in the use of contraceptives and instead requires the program to present abstinence from sexual activity as both the preferred behavior among unmarried pupils and the only reliable way to prevent pregnancy and sexually transmitted diseases. The act permits school districts to provide the instructional program in a single-sex setting and prohibits a health care provider participating in the Volunteer Health Care Provider Program with a school from providing the instruction.

## MAJOR PROPOSALS THAT FAILED ENACTMENT

*Assembly Bill 51* and *Senate Bill 22* would have made extensive changes to laws relating to charter schools, including creating the Charter School Authorizing Board, allowing additional charter school authorizers, and eliminating the limit on the number of pupils who may attend virtual charter schools. See also *Act 32*.

*Assembly Bill 110* and *Senate Bill 486* would have created the Special Needs Scholarship Program, providing scholarships to disabled pupils to allow them to attend a private school or a public school located outside their school district of residence.

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## Elections

### Voter Identification

**Act 23** (AB-7) provides, with certain exceptions, that an individual must present proof of identification in order to vote in an election. The act permits a number of specified documents to be used as proof, including a Wisconsin driver's license or identification card. With limited exceptions, a document must contain a photograph of the individual. With certain exceptions, an individual voting absentee must provide a copy of the proof with his or her application. The act permits an elector who does not have proof of identification to vote provisionally. A provisional ballot is valid only if the elector who casts the ballot presents the required proof to the municipality in which he or she resides by 4 p.m. on the Friday after an election. The act also increases to 28 days the durational residency requirement for electors to vote in an election, requires most electors who vote at polling places to provide their signatures when voting, eliminates the option of using a single action to vote a straight party ticket, shortens the period for late registration and absentee voting in person before election day, and eliminates corroboration of an elector's residence by another elector of the same municipality as acceptable proof of residence for registration. See also *Act 227* and *Transportation — Driving Privileges*.

**Act 32** (AB-40) eliminates the Wisconsin Election Campaign Fund and the Democracy Trust Fund, which provided grants to qualifying candidates for certain state offices to finance their campaigns. See also *Taxation*.

**Act 39** (SB-150) directs municipalities to ensure that municipal ward plans are based upon the municipal boundaries in effect on April 1 of the year of the decennial U.S. census of population and to revise the ward plans if necessary to ensure that each ward is wholly contained within a congressional and legislative dis-

trict. The act also creates a special judicial panel to hear redistricting appeals.

### Legislative Redistricting

**Act 43** (SB-148) redistricts this state's legislative districts in accordance with the 2010 U.S. census of population.

### Congressional Redistricting

**Act 44** (SB-149) redistricts this state's congressional districts in accordance with the 2010 U.S. census of population.

**Act 45** (SB-115) changes the date of the presidential preference primary to the first Tuesday in April and changes the dates for related election occurrences in accordance with that date change.

### Partisan Primary Election

**Act 75** (SB-116) changes the date of the September primary election to the second Tuesday in August and renames it the partisan primary. The act also changes the dates for related election occurrences in accordance with that date change. See also *Transportation — Driving Privileges*.

**Act 115** (SB-381) changes the dates for completion of municipal and county canvasses to accommodate absentee ballots that are received after election night and provisional ballots, changes the deadline to petition for a recount, changes the date on which the terms of town officers begin, and changes the authorized dates for holding the annual town meeting.

**Act 227** (SB-271) provides, with limited exceptions, that if an elector personally delivers an absentee ballot to the municipal clerk, the clerk may not return the ballot to the elector and the elector may not vote in person at a polling place on election day. The act also requires every elector to submit proof of identification or a copy thereof when applying for an absentee ballot unless the elector is exempted from the requirement. See also *Act 23*.

**Act 240** (SB-386) eliminates a requirement that public high schools, and certain private and tribal high schools upon their request, be used for voter registration of students and staff.

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## Employment

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### COLLECTIVE BARGAINING

#### Collective Bargaining Under MERA and SELRA

**Act 10** (January 2011 Special Session AB-11) limits the scope of collective bargaining for state and municipal

employees, except police officers and fire fighters, to bargaining over a base wage increase that does not exceed the increase in the consumer price index. The act also prohibits municipal governments from collectively bargaining with employees in a manner inconsistent with the Municipal Employment Relations Act (MERA) and eliminates collective bargaining for UW System employees, employees of the UW Hospitals and Clinics Authority, and certain home care and child care providers. The act also requires each public sector collective bargaining unit, except units containing police officers or fire fighters, to annually certify its collective bargaining representative in order to bargain collectively, limits to one year the duration of collective bargaining agreements covering all state or municipal employees except police officers or fire fighters, and prohibits local governments and the state from deducting labor organization dues from the earnings of an employee who is not a police officer or fire fighter. See also *Act 32* and *Employment — Other Employment*.

#### Transit Employees and Newly Hired Public Safety Employees

**Act 32** (AB-40) modifies Act 10 to allow municipal transit employees to bargain over wages, hours, and conditions of employment if the state would lose federal funding if the employees were limited to bargaining over the base wage increase under Act 10. Under the act, the Wisconsin Employment Relations Commission must determine which employees qualify. The act prohibits police officers and fire fighters hired on or after July 1, 2011, from bargaining over the requirement that they pay the employee share of retirement contributions and prohibits municipal police and fire fighters hired on or after July 1, 2011, from bargaining over the design and selection of their health care coverage plans.

Act 32 also allowed a school district or a technical college and the representative of a collective bargaining unit, before October 1, 2011, to enter into a memorandum of understanding to reduce the cost of compensation or fringe benefits in the collective bargaining agreement covering the employees. The act provides that the reduction is not a modification of the collective bargaining agreement for purposes of Act 10 or Act 32, which would otherwise apply to the employees when their collective bargaining agreement is modified. See also *Act 65* and *Act 165*.

**Act 65** (AB-319) allowed a municipal employer and the representative of a collective bargaining unit, before February 22, 2012, to enter into a memorandum of understanding to reduce the cost of compensation or fringe benefits in the collective bargaining agreement covering the employees. The act provides that the reduction is not a modification of the collective bargaining agreement for purposes of Act 10 or 32, which would otherwise

apply to the employees when their collective bargaining agreement is modified.

**Act 165** (SB-315) allowed a school district in the city of Milwaukee and the representative of a collective bargaining unit, before May 14, 2012, to enter into a memorandum of understanding to reduce the cost of compensation or fringe benefits in the collective bargaining agreement covering the employees. The act provides that the reduction is not a modification of the collective bargaining agreement for purposes of Act 10 or 32, which would otherwise apply to the employees when their collective bargaining agreement is modified.

## UNEMPLOYMENT INSURANCE

**Act 32** (AB-40) imposes a one-week waiting period after a claimant files a valid claim for unemployment insurance (UI) benefits before the claimant may begin collecting benefits.

**Act 42** (SB-147) creates an additional unemployment indicator that enables claimants to qualify for additional federally funded extended UI benefits.

**Act 123** (AB-450) creates an occupational training pilot program under which an employer may offer to train UI claimants for prospective employment during a six-week placement period. Under the act, the trainees are not compensated by the employer but receive a stipend from the state while in training. The program expires on July 1, 2013.

**Act 198** (SB-219) imposes progressive degrees of benefit ineligibility upon a UI claimant for one or more concealments of material facts relating to his or her UI benefit eligibility, eliminates benefits for any week in which a claimant earns more than \$500 in wages or equivalent pay, and strengthens a requirement for claimants to search for suitable work in order to maintain benefit eligibility.

**Act 236** (SB-417) increases penalties for concealment of UI benefit claim information, clarifies what a claimant must do to maintain eligibility for benefits, changes the interest rate on delinquent payments by employers under the UI law, and broadens the pool of attorneys who may be retained to hear UI appeals on a temporary basis.

## OTHER EMPLOYMENT

### Public Employment and Fringe Benefits

**Act 10** (January 2011 Special Session AB-11) makes the following changes to the laws relating to public employment and fringe benefits for public employees:

1. Requires public employees under the WRS to pay one-half of all actuarially required contributions to fund

their retirement benefits and prohibits the employer, with exceptions, from paying this amount in behalf of the employees. Protective occupation participants (who are generally law enforcement and fire fighting personnel) must pay the same percentage of earnings as public employees who are not protective occupation participants, but the employer must pay these amounts in behalf of the employee if required by a collective bargaining agreement. Former law allowed the employer to pay these contributions for all employees. See also *Act 32* and *Employment — Collective Bargaining*.

2. Requires the director of OSER to set the amount that the employer must pay for state employee health insurance costs. The act specifies that the employer may not pay more than 88 percent of the average premium costs of health insurance plans offered in the tier with the lowest employee premium costs by the Group Insurance Board (GIB). See also *Act 32*.

3. Decreases the formula multiplier that is used to calculate an annuity for elected and executive participating employees in the WRS from 2 percent to 1.6 percent, resulting in a 20 percent reduction in the value of a WRS annuity calculated according to the formula methodology. This decrease applies only to future years of service earned by the employees.

4. Provides that, under the local government health insurance program offered to local government employers by the GIB, the employer may not pay more than 88 percent of the average premium costs of health insurance plans offered in the tier with the lowest employee premium costs.

5. With exceptions, requires employees in retirement systems of counties having a population of 500,000 or more (currently, only Milwaukee County) to pay half of all actuarially required contributions for funding benefits under the retirement system and prohibits the employer from paying these contributions in behalf of the employees. See also *Act 32*.

6. With exceptions, requires employees in retirement systems of first class cities (currently, only the city of Milwaukee) to pay all employee-required contributions for funding benefits under the retirement system and prohibits the employer from paying these contributions in behalf of the employees. See also *Act 32*.

7. Creates 37 unclassified division administrator positions in executive branch state agencies and permits the appointing authority in these agencies to designate any managerial position as an administrator position.

8. Permits an appointing authority of a state agency to reassign a career executive employee to a career executive position in any state agency if the appointing authority in the agency to which the employee is to be reassigned approves of the reassignment.

9. Permits an appointing authority of a state agency, during a state of emergency declared by the governor, to discharge any employee who fails to report to work as scheduled for any three days or any employee who participates in a strike or certain other work actions.

10. Requires the GIB to design health care coverage plans for 2012 for state employees that, after inflation adjustments, reduces premium costs by at least 5 percent from the costs of such plans during 2011.

**Act 16** (SB-23) prohibits a local governmental unit from enacting an ordinance requiring employers to provide employees with leave from employment to deal with family, medical, or health issues.

**Act 32** (AB-40) makes the following changes to the laws relating to public employment and fringe benefits for public employees:

1. Provides that all employee-required contributions under the WRS must be paid on a pre-tax basis, subject to a salary-reduction arrangement. With certain exceptions, the employer may not pay these contributions in behalf of the employees. See also *Act 10*.

2. Expands the groups of individuals for whom the employer may pay employee-required contributions under the WRS to include nonrepresented law enforcement, emergency medical service, and fire fighting managerial employees. The act provides, however, that the employer may not pay the employee-required contributions for any law enforcement, emergency medical service, or fire fighting employee, represented or nonrepresented, initially hired on or after July 1, 2011. See also *Act 10*.

3. Revises the requirement under Act 10 that public employees under the WRS pay one-half of all actuarially required contributions to fund their retirement benefits to require the employees to pay a percentage of each payment of earnings equal to one-half of the total actuarially required contribution rate.

4. Provides that public employees initially hired on or after July 1, 2011, must work at least two-thirds of what is considered full-time employment to be included in the WRS. Previously, individuals had to be hired into positions in which they worked at least one-third of what is considered full-time employment to be included in the WRS.

5. Provides that a participating employee in the WRS, hired on or after July 1, 2011, who has fewer than five years of creditable service under the WRS may not receive an annuity calculated under the retirement formula benefit, but may receive an annuity based only on the value of the employee's required contribution accumulations.

6. Expands the groups of individuals for whom the employer may pay employee-required contributions

under the retirement system of a first class city to include nonrepresented law enforcement and fire fighting managerial employees. The act provides, however, that the employer may not pay the employee-required contributions for any law enforcement or fire fighting employee, represented or nonrepresented, initially hired on or after July 1, 2011. See also *Act 10* and *Employment — Collective Bargaining*.

7. Expands the groups of individuals for whom the employer may pay employee-required contributions under the retirement system of a county with a population of 500,000 or more (currently, only Milwaukee County), to include nonrepresented law enforcement and fire fighting managerial employees. The act provides, however, that the employer may not pay the employee-required contributions for any law enforcement or fire fighting employee, represented or nonrepresented, initially hired on or after July 1, 2011. See also *Act 10* and *Employment — Collective Bargaining*.

8. Requires the secretary of administration, the director of OSER, and the secretary of employee trust funds to study the structure of the WRS and benefits provided under the WRS. The act requires they must report their findings and recommendations to the governor and JCF no later than June 30, 2012.

9. Required the director of OSER and the secretary of employee trust funds to study the feasibility of making certain changes to health care coverage plans for state employees and to report their findings and recommendations to the governor and JCF no later than October 31, 2011.

10. Authorizes the Board of Regents of the UW System to provide supplemental pay plans for all of its employees, other than employees assigned to the UW-Madison, and authorizes the chancellor of the UW-Madison to provide supplemental pay plans for employees assigned to the UW-Madison. These pay plans are only for the 2011-13 fiscal biennium and are subject to the approval of the Joint Committee on Employment Relations.

Act 32 also makes the following changes relating to employment generally:

1. Raises the project cost threshold for applicability of the prevailing wage law, which requires an employee performing certain work on a public works project to be paid the prevailing wage for the employee's trade or occupation; exempts from that law publicly funded private construction projects, public works projects involving residential properties containing no more than two dwelling units, and public infrastructure projects, such as roads and sewers, that are part of residential developments; and prohibits local governmental units from enacting prevailing wage ordinances.

2. Eliminates restrictions on the hours per day and per week and the times of day that a minor 16 or over may work, reduces the hours per day that a minor under 16 may work, and restricts the times of day after which a minor under 16 may not work.

**Act 83** (SB-86) permits an educational agency to refuse to employ or to terminate from employment an unparoled felon. Generally, an employer may not discriminate based on conviction record unless the offense is related to the particular job.

**Act 116** (SB-413) requires that certain wage payments made to WRS participants who are performing military service be considered as earnings for WRS purposes, and provides that a WRS participant who dies or becomes disabled while performing military service must be treated, for WRS purposes, as though the person were a WRS participating employee.

**Act 133** (SB-153) permits a governmental employer that is not in the WRS to elect health care coverage for its employees in the local government health insurance plan offered by the GIB.

**Act 183** (SB-409) makes various changes relating to worker's compensation. The act:

1. Increases the maximum compensation rate for permanent partial disability; provides that temporary disability benefits may not be reduced on account of wages earned for part-time work while receiving vocational rehabilitation services and that an employee receiving those services is entitled to the costs of tuition, fees, and books; and prohibits compensation for permanent disfigurement for an employee who returns to work for, or is offered employment by, the person who employed the employee at the time of the injury, unless the employee suffers an actual wage loss.

2. Requires the employer or insurer, rather than DWD from the Work Injury Supplemental Benefit (WISB) Fund, to pay benefits that become due 12 years after the date of a traumatic injury that occurred on or after April 1, 2006; permits an employee who incurs further permanent disability as a result of a second injury to receive additional compensation only if the employee has not already received additional compensation as a result of a second injury; and permits DWD to sue a third party for damages by reason of an injury for which DWD had paid, or is obligated to pay, a claim from the WISB fund.

3. Makes various changes relating to the procedures for resolving a worker's compensation dispute and the administration of the worker's compensation program by DWD.

**Act 211** (SB-339) expands a program in the state civil service system for the noncompetitive appointment of disabled veterans to include appointments to all

positions in the classified service. Under former law, the only positions available for such noncompetitive appointment were nonprofessional positions in the classified service. The act also eliminates the cap for the number of veterans who may be added to first class city civil service certification lists.

**Act 219** (SB-202) eliminates the authority of a circuit court to order an employer that has engaged in employment discrimination to pay compensatory and punitive damages. The act does not, however, affect the authority of DWD to award back pay, front pay, costs, and attorney fees in an employment discrimination case.

**Act 238** (SB-394) creates a 17-step pay progression plan under the state civil service system for assistant district attorneys.

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## Environment

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**Act 19** (AB-23) prohibits DNR from requiring a municipality to continuously disinfect its drinking water unless water quality data indicate a potential health hazard or federal law requires continuous disinfection.

**Act 32** (AB-40) makes the following changes to the laws relating to the environment:

1. Renames the recycling surcharge, imposed on businesses that have at least \$4,000,000 in annual gross receipts, the economic development surcharge and deposits the surcharge into the economic development fund instead of the recycling fund.

2. Eliminates the \$9 per vehicle environmental impact fee, which was deposited into the environmental fund.

3. Eliminates the Brownfields Green Space Grant Program, under which DNR provided funds to local governments to clean up contaminated property to be used for recreational or other local governmental purposes. The act also transfers from DNR to WEDC the Brownfield Site Assessment Grant Program, which provides grants for assessing the contamination of properties and demolishing structures on contaminated properties.

4. Exempts solid waste resulting from a natural disaster from the fees imposed on the disposal of waste at landfills.

5. Transfers from DNR to DSPS the responsibilities for administering the laws relating to erosion control at commercial building sites.

6. Increases the interest rate on certain subsidized loans provided under the Clean Water Fund Program. The act increases the interest rate on loans for projects to

prevent a municipality from exceeding pollution limits in its wastewater discharge permit, for projects for the treatment of nonpoint source pollution and urban storm water runoff, and for projects for unsewered municipalities.

**Act 103** (SB-253) provides that a person who voluntarily cleans up a former landfill is exempt from liability for residual contamination unless DNR licensed the landfill and approved its plan of operation.

**Act 121** (SB-111) prohibits DNR from requiring a permit to construct or operate a facility that emits an air contaminant from a fixed location if the facility may attract mobile source activity that results in the indirect emission of an air contaminant.

**Act 122** (SB-138) prohibits DNR from regulating the emission of hazardous air contaminants associated with agricultural waste except to the extent required by federal law.

**Act 149** (AB-104) requires that at least one member of the seven-member Natural Resources Board have an agricultural background. The act also requires that at least three members of the board held hunting, fishing, or trapping licenses in at least seven of the ten years before being nominated to the board.

**Act 151** (SB-557) requires DNR to administer a program for trading water pollution credits. Under the program, DNR may authorize a person who operates a source of water pollution to discharge from that source more pollutants than would otherwise be allowed if the person enters into an agreement under which the person reduces water pollution from another source; another person reduces water pollution; or the person pays money to DNR or a local government to be used to reduce water pollution. Any agreement must result in improved water quality.

**Act 152** (AB-383) allows the disposal of used oil absorbent materials in a landfill under certain conditions. Preexisting law prohibited that disposal.

**Act 167** (SB-326) requires DNR, to the greatest extent possible, to publish on its Internet site the current status of any application filed with DNR for an environmental permit, license, or other approval. The act also requires DNR, in most circumstances under which it is required to provide public notice under the environmental laws that it administers, to provide that notice on its Internet site. The act allows DNR to establish, and to give notices to the public through, an electronic notification system. See also *Natural Resources — Navigable Waters and Wetlands*.

**Act 171** (AB-467) prohibits DNR from considering carbon dioxide emissions from the burning of organic materials other than fossil fuels when DNR determines

whether a source of air pollution is required to be covered by an air pollution control permit based on greenhouse gas emissions.

**Act 188** (SB-402) authorizes DNR to waive any requirement of the laws related to the discharge of water pollutants for a research project that evaluates measures for managing agricultural nutrients.

**Act 196** (SB-518) eliminates the requirement that certain gasoline stations maintain systems to capture vapors from the refueling of motor vehicles.

**Act 261** (SB-288) eliminates references to federal financial hardship assistance in the statutes relating to the Clean Water Fund Program. The assistance is no longer available.

## MAJOR PROPOSALS THAT FAILED ENACTMENT

*Assembly Bill 426* and *Senate Bill 488* would have established requirements for iron mining separate from those for mining for other metallic minerals.

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## Financial Institutions

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**Act 32** (AB-40) restores certain provisions relating to payday lenders that were vetoed in 2009 Wisconsin Act 405, including specifying that a loan must be for a term of 90 days or less to be considered a payday loan; limiting, instead of prohibiting, the charging of interest on a payday loan after its maturity date; imposing certain requirements on the payday loan database provider relating to reporting payday loans and database transaction fees; and including affiliates in the financial institutions exception for provisions relating to payday lenders and licensed lenders. The act also specifies that a payday lender may obtain and rely on a consumer report to verify a customer's income before making a payday loan.

Act 32 also restores certain provisions relating to motor vehicle title lenders that were vetoed in 2009 Wisconsin Act 405, thereby imposing limitations on, rather than prohibiting, licensed lenders from making vehicle title loans. Among these restored provisions, the act specifies that a title loan must be for a term of six months or less to be considered a title loan and specifies the authority, restrictions, and requirements applicable to a licensed lender in making a title loan. The act also requires a licensed lender to pay an annual fee and obtain a certificate from DFI authorizing it to make title loans.

Act 32 also does the following:

1. Transfers notary public functions and certain state trademark or brand registration functions from the Secretary of State to DFI.

2. Allows state credit unions to convert to state banks or state savings banks if certain procedures are followed.

3. Modifies the DFI registration exemption for investment advisers having only certain types of clients in this state by eliminating the exemption if the clients are certain types of institutional investors or accredited investors.

4. Specifies that interest on certain financial instruments may be computed and charged on unpaid balances at 1/360 of the annual rate for the number of days outstanding, so that a day is considered 1/30 of a month or 1/360 of a year.

5. Revises language exempting financial institutions from restrictions on certain high-cost consumer credit loans secured by residential mortgages (known as covered loans or HOEPA loans).

**Act 178** (AB-228) modifies the securities registration exemption for cooperatives by replacing the standard language of the Uniform Securities Act of 2002 (USA) with language similar to the statutory exemption that predates the USA.

**Act 182** (SB-475) makes various changes with respect to required audits and reports of state savings banks and state savings and loan associations. Under the act, the board of directors of a savings institution must either hire a certified public accountant or other qualified person to conduct a comprehensive annual audit of the savings institution or appoint an auditing committee to annually audit the savings institution.

**Act 204** (SB-308) allows the state and local governments to deposit public moneys in financial institutions and to instruct these public depositories to arrange for the redeposit of the moneys, through a deposit placement program, in savings accounts of other federally insured financial institutions.

**Act 205** (SB-356) increases from 0.5 to 1.0 the percentage of its reserves that a credit union may donate or grant and requires a credit union's board of directors to base approval of a donation or grant on certain criteria.

**Act 206** (SB-416) adopts the 2010 amendments to the Uniform Commercial Code (UCC) Article 9, relating to secured transactions, approved by the National Conference of Commissioners on Uniform State Laws. Among the changes, the act modifies how a debtor's name must be identified on a UCC financing statement. The act also changes the definition of "good faith" for purposes of UCC Article 9.

**Act 233** (SB-390) provides for the appointment of non-attorney notaries public by the secretary of financial institutions, rather than the governor; eliminates the authority of DFI to appoint advisers from the collection agency industry to consult and assist DFI in executing its duties and powers over collection agencies and the collection of accounts; requires a community currency exchange, commonly referred to as a check-cashing business, to file with DFI an insurance policy insuring against certain losses, and obtain DFI approval of the policy, before DFI may issue or renew a community currency exchange license; and eliminates the Mortgage Loan Originator Council in DFI.

**Act 234** (SB-391) requires DFI to publish a class 1 notice (one insertion), instead of a class 2 notice (two insertions) in the official state newspaper under certain circumstances in connection with an administrative proceeding for the involuntary dissolution of a domestic business corporation, nonstock corporation, or limited liability company (LLC) or for the revocation of a certificate of authority of a foreign business corporation, nonstock corporation, or LLC.

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## Gambling

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**Act 109** (SB-151) exempts from the laws regulating gambling an employee's referral of a potential customer to his or her employer in exchange for a chance to win a prize.

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## Health and Social Services

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### HEALTH

**Act 2** (January 2011 Special Session SB-1) makes changes to the laws relating to the confidentiality and the use of certain health care reports and reviews, including:

1. Prohibiting the disclosure of an incident or occurrence report and prohibiting the use of an incident or occurrence report against a health care provider in a civil or criminal action against that health care provider.

2. Prohibiting the use of certain records of persons, organizations, or evaluators, who review or evaluate the services of health care providers for certain reasons, against a health care provider in a criminal action against that health care provider.

3. Prohibiting the use as evidence in a civil or criminal action against a health care provider of reports that certain regulatory agencies require health care providers

to provide and statements of, or records of interviews with, employees of the health care provider obtained by certain regulatory agencies in the regulation of that health care provider.

See also *Courts and Civil Actions — Limits on Liability*.

**Act 27** (AB-148) decreases the amount that DHS may expend from the community aids appropriation in the 2010–11 fiscal year and lapses moneys to the general fund in the 2010–11 fiscal year from the income augmentation appropriation.

**Act 32** (AB-40) makes the following changes to the health laws:

1. Increases the maximum fees that a health care provider may charge for copies of a patient’s health care records and requires DHS to annually adjust the fees to reflect changes in the consumer price index.

2. Renames state funds provided for family planning services the “women’s health block grant” and provides that DHS may distribute the women’s health block grant and certain federal funds received for providing family planning services only to public entities. The act also prohibits a public entity that receives these funds from providing any of the funds to an entity that provides, or makes referrals for, abortion services or that has an affiliate that provides, or makes referrals for, abortion services.

3. Includes the UW Hospitals and Clinics Authority in the definition of “agency of this state” for purposes of the prohibition, under preexisting law, against using public funds to pay a physician, surgeon, hospital, clinic, or other medical facility for the performance of an abortion.

4. Requires DHS to set fees, by rule, for newborn screening for congenital disorders. Under former law, the State Laboratory of Hygiene Board set the fees.

5. Eliminates the regulation of one- and two-bed adult family homes by DHS.

**Act 70** (SB-212) makes a number of changes to the laws regulating nursing homes, including:

1. Prohibiting DHS from issuing to a nursing home that is a Medical Assistance or Medicare provider a notice of violation of a state requirement if DHS has cited the nursing home for a violation of a federal requirement based on the same facts.

2. Requiring DHS to impose a forfeiture within 120 days of notifying a nursing home of a violation. Failure to do so results in the loss of the authority to impose the forfeiture.

3. Expanding the circumstances under which DHS may issue a conditional license or suspend new admissions to a nursing home.

4. Requiring DHS to establish a quality assurance and improvement committee to review proposals and award moneys for certain innovative projects in nursing homes.

## Abortion

**Act 217** (SB-306) makes various changes to abortion laws, including:

1. Requiring a physician who is to perform or induce an abortion to determine whether the woman’s consent is voluntary by speaking to the woman in person, out of the presence of anyone other than a person working for or with the physician. If the physician suspects that the woman is in danger of physical harm by anyone coercing her to consent to an abortion, the physician must inform the woman of domestic abuse services and provide her private access to a telephone.

2. Prohibiting giving an abortion-inducing drug to a woman unless the physician who prescribed the abortion-inducing drug performs a physical exam on the woman and is physically present in the room at the time the abortion-inducing drug is given to the woman.

**Act 249** (AB-93) prohibits purchasing tobacco products or nicotine products either on behalf of a minor or to provide the products to a minor.

## MEDICAL ASSISTANCE

**Act 10** (January 2011 Special Session AB-11) allows DHS, until January 1, 2015, to promulgate rules to make certain changes to the laws related to Medical Assistance (MA), including rules that conflict with or supersede certain statutes. DHS may not promulgate or implement the rule if it does not obtain any necessary approval from the federal government. The act also requires DHS to request a waiver of federal Medicaid law so that DHS does not have to maintain effort in the MA program. If the federal government does not approve the waiver of maintenance of effort, DHS must reduce income levels for the purposes of determining eligibility for MA programs to 133 percent of the federal poverty line to the extent permitted under the federal Patient Protection and Affordable Care Act. See also *Act 32*.

**Act 13** (January 2011 Special Session SB-12) increases the amounts that DHS may expend from certain MA appropriations in the 2010–11 fiscal year.

**Act 27** (AB-148) increases by \$147,000,000 the amount that DHS may expend from the general purpose revenue appropriation for the MA program in the 2010–11 fiscal year for the additional purpose of paying capitation payments to care management organizations and other entities that provide managed care services. The act decreases by \$170,000,000 the amount that DHS may

expend from that same appropriation in the 2011–12 fiscal year.

**Act 32** (AB-40) makes changes related to MA, including the following:

### Changes to Medical Assistance

1. Allowing DHS, until January 1, 2015, to establish policies to make certain changes to the laws related to MA including policies that conflict with or supersede certain statutes. DHS must seek any necessary federal approval by MA state plan amendment or waiver of federal Medicaid law and may not implement the policy if the federal government does not approve. Before implementing a policy that conflicts with a statute and before seeking federal approval, DHS must submit the proposed policy along with estimates of cost savings to JCF for review. The act also requires DHS to request a waiver of federal Medicaid law so that DHS does not have to maintain effort in the MA program. If the federal government does not approve the waiver of maintenance of effort, DHS must reduce income levels for the purposes of determining eligibility for MA programs to 133 percent of the federal poverty line to the extent permitted under the federal Patient Protection and Affordable Care Act. The act supersedes the related provisions in *Act 10*.

2. Capping enrollment in Family Care, Family Care Partnership, the Program of All-inclusive Care for the Elderly (PACE), and the self-directed support options program known as IRIS during the 2011–13 biennium at the number of individuals enrolled in the programs on June 30, 2011. In addition, the act prohibits the expansion of Family Care unless DHS determines that expansion into an individual county is cost-effective. See also *Act 127*.

3. Eliminating, as of July 1, 2011, the family planning project, which is a demonstration project under the MA program that provides services to women and men between the ages of 15 and 44 whose family income does not exceed 200 percent of the federal poverty line. The act requires DHS to request a new waiver of federal law to provide family planning services under the MA program.

4. Requiring DHS to distribute certain amounts to an essential access city hospital that has previously received a supplemental payment; a hospital that meets the 2010–11 criteria to be an essential access city hospital but did not meet the criteria in 1995–96; and a hospital that has an MA recipient case mix consisting of at least 25 percent out-of-state residents and that is located in a city with a poverty level that is greater than 5 percent, a population of fewer than 15,000 people, and a border that is also a state border.

5. Creating a second procedure under which DHS may make payments to county departments using

certified cost reports for certain services covered under the MA program, including screenings, home health, reproductive health, mental health, and physical and psychosocial rehabilitation.

6. Prohibiting DHS from requiring an individual to obtain prior authorization to repair a power wheelchair for less than \$300 or to repair a manual wheelchair for less than \$150.

7. Under certain MA programs that pay Medicare premiums, deductibles, and coinsurance for persons eligible for Medicare, limiting payment of coinsurance for a service under Medicare Part B and payment of deductibles and coinsurance for inpatient hospital services under Medicare Part A to the allowable charge for the service under MA minus the Medicare payment.

8. Requiring DHS to contract with a private entity to administer the Birth-to-3 waiver program and the Disabled Children’s Long-Term Support Program.

**Act 127** (SB-380) removes the cap on enrollment that was imposed on July 1, 2011, in the Family Care, Family Care Partnership, PACE, and IRIS long-term care programs, which are funded through the MA program. The act also requires that DHS obtain approval from JCF of any contracts to administer Family Care in additional areas of the state. See also *Act 32*.

**Act 191** (SB-297) requires DHS to refund payments made with revenue derived from an assessment on ambulatory surgical centers if the federal government does not pay the federal share under MA for those payments.

**Act 192** (SB-474) requires DHS and financial institutions to enter into agreements for the exchange of information that will enable a financial institution and DHS to determine whether an individual applying for or receiving benefits under the MA program, or an other individual whose resources are taken into account to determine the eligibility of an applicant or recipient, has an account at the financial institution and, if so, for the provision to DHS of information about the account, including its balance. The act provides confidentiality safeguards for individuals with accounts at financial institutions who are not applicants, recipients, or other individuals whose resources are taken into account to determine the eligibility of an applicant or recipient, and penalties for financial institutions if information about applicants, recipients, or those other individuals is disclosed, retained, or used for another purpose.

## MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES

**Act 32** (AB-40) makes the following changes to the mental health laws:

1. Allows a patient in Goodland Hall at the Mendota Mental Health Institute, a patient who is detained or committed as a sexually violent person, or a patient who is in the legal custody of, or under the supervision of, DOC to be subject to video surveillance or be filmed or taped without that patient's consent, except in certain circumstances.

2. Continues reimbursements to an Indian tribe or band or a county department for mental health placements by a tribal court of a tribe or band member that are unexpected or that result in cumulative costs of placements to the tribe or county department exceeding \$50,000 annually.

**Act 126** (SB-377) substitutes the phrase "intellectual disability" for the phrases "mental retardation" and "mentally retarded" in the statutes.

## **PUBLIC ASSISTANCE**

**Act 32** (AB-40) makes the following changes related to public assistance programs other than the Wisconsin Works (W-2 program):

1. Prohibits qualified aliens from receiving benefits in this state under the federal Supplemental Nutrition Assistance Program (formerly known as the Food Stamp Program).

2. Requires that DHS pay under the disease aids program for chronic renal disease treatment at a rate, determined by DHS, that does not exceed the allowable charges under Medicare. Under former law, DHS paid for treatment at the Medicare rate.

3. On July 1, 2013, eliminates the Transitional Jobs Demonstration Project, under which DCF provides transitional jobs to unemployed individuals who are not eligible for W-2 or unemployment insurance benefits.

4. Requires DHS to award grants to no fewer than nine nonprofit dental clinics that have as a primary purpose providing dental care to low-income patients.

5. Requires all counties except for Milwaukee County to form multicounty consortia to administer income maintenance programs. Under the act, DHS must enter into a contract with each approved multicounty consortia under which DHS reimburses the multicounty consortia for administering income maintenance programs on a risk-adjusted caseload basis. The act also assigns certain duties related to administering income maintenance programs to DHS and certain duties to multicounty consortia. The act requires DHS to operate income maintenance programs in Milwaukee County.

Act 32 also makes a number of changes to the W-2 program, including the following:

1. Creating a new placement category under W-2, under which DCF provides case management services, rather than subsidized employment and a monthly grant, to an individual who meets the eligibility requirements, has no barriers to employment, and is job-ready based on his or her employment history or education and for whom the most appropriate placement is unsubsidized employment.

2. Limiting to a total of 24 months participation in the trial job placement category, the community service job placement category, or the transitional placement category; limiting participation in any single trial job to three months and in any single community service job to six months; requiring that participation in a community service job may not include more than ten hours per week of education and training; and requiring that participation in a transitional placement may not include more than 12 hours per week of education and training.

3. Reducing the monthly grant for a participant in a community service job from \$673 to \$653 and reducing the monthly grant for a participant in a transitional placement from \$628 to \$608.

4. Reducing the period during which a custodial parent of a newborn infant may receive a grant and not be required to participate in an employment position from 12 weeks to 8 weeks.

5. Removing the requirement that, before reducing a W-2 participant's benefit by 20 percent or more or terminating his or her eligibility for W-2, a W-2 agency must explain to the participant the proposed action and the reason for the proposed action. Only notifying the participant of the proposed action and giving the participant a reasonable period to rectify the deficiency or other behavior are required.

6. Removing the requirement that a W-2 agency make certain determinations, such as whether good cause exists, before determining that a participant has refused to participate, resulting in sanctions, and removing the conciliation period during which a participant who had refused to participate without good cause has an opportunity to participate in all assigned activities.

7. Allowing DCF to modify a child care provider's reimbursement rate under Wisconsin Shares on the basis of the provider's quality rating, ranging from denying reimbursement altogether to a provider who receives a 1-star rating to increasing the maximum reimbursement rate by up to 10 percent, and by up to 25 percent beginning on January 1, 2013, to a provider who receives a 5-star rating. The act also allows DCF to use a severity-index tool to disqualify providers who receive a low quality rating from receiving reimbursement under Wisconsin Shares.

8. Providing that DCF may take a number of actions to reduce costs under Wisconsin Shares, including

implementing a waiting list for receiving a child care subsidy, increasing copayments for the cost of child care, and adjusting gross income levels for determining eligibility for receiving a child care subsidy.

9. Providing that, unless DCF or a county department grants a waiver, no child care subsidy may be paid under Wisconsin Shares to a child care provider for a child who is a child of the child care provider, who resides with the child care provider, or whose parent is also a child care provider. The act requires DCF to specify by rule the circumstances under which a waiver will be granted.

10. Prohibiting an individual receiving a child care subsidy under Wisconsin Shares from benefiting personally from any marketing or promotional offerings a child care provider makes to attract clients or increase business.

**Act 189** (SB-487) modifies and expands the third-party entities, including self-insured health plans, that must provide information to DHS to enable DHS to determine whether such an entity has provided coverage or benefits or services to a recipient of assistance from any of certain specified public assistance programs, and requires DHS to seek such information from a third-party administrator or other benefits manager before seeking the information from an employer.

**Act 202** (SB-426) requires a W-2 agency, an entity administering Wisconsin Shares, or DCF to deny an individual benefits under the W-2 program or the emergency assistance program if the W-2 agency, entity, or DCF determines that the individual committed an intentional program violation. Benefits must be denied for six months for a first violation, for one year for a second violation, and permanently for a third violation.

## OTHER HEALTH AND SOCIAL SERVICES

**Act 32** (AB-40) makes the following changes to the laws relating to health and social services:

1. Permits the board of supervisors in a county with a population of 500,000 or more (currently, only Milwaukee County) to establish a multicounty department of social services with one or more other counties. Former law required such a county to establish a department of social services but, unlike the law for other counties, did not allow such a county to establish a multicounty department.

2. Permits the board of supervisors in a county with a population of 500,000 or more (currently, only Milwaukee County) to establish a multicounty department of human services with one or more other counties. A county department of human services provides additional services not provided by a county department of

social services. Former law required such a county to establish a department of human services but, unlike the law for other counties, did not allow such a county to establish a multicounty department.

3. Exempts Wisconsin veterans homes from paying the per-bed assessment on nursing homes during the 2011–13 fiscal biennium.

**Act 78** (SB-242) eliminates the requirement that a bed and breakfast establishment must have completed, before May 11, 1990, any structural additions to the dimensions of the original structure. The act also applies the one- and two-family dwelling construction and inspection rules to any structural addition made to a bed and breakfast that alters the dimensions of the structure.

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## Insurance

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**Act 14** (AB-4) makes the following changes to the motor vehicle insurance provisions that were enacted in 2009 Wisconsin Act 28:

1. Reduces the minimum limits for uninsured motorist coverage, which is mandatory, from \$100,000 per person and \$300,000 per accident to \$25,000 per person and \$50,000 per accident, and modifies the circumstances under which uninsured motorist coverage for bodily injury or death caused by an unidentified vehicle applies by requiring corroborating evidence from someone other than the insured, a report of the accident to law enforcement or DOT within 72 hours, and a statement under oath to the insurer within 30 days.

2. Makes underinsured motorist coverage, which was mandatory, optional, and reduces the minimum limits from \$100,000 per person and \$300,000 per accident to \$50,000 per person and \$100,000 per accident.

3. Reduces the minimum limit for medical payments coverage, which is optional, from \$10,000 to \$1,000.

4. Allows a motor vehicle insurance policy to prohibit uninsured or underinsured motorist coverage limits, or medical payments coverage limits, under more than one policy from being added together (commonly known as stacking) to determine the total coverage limit in an accident. Under former law, a policy could not prohibit stacking, but could limit stacking to three motor vehicles.

5. Allows a motor vehicle insurance policy to provide that the limits for uninsured or underinsured motorist coverage for bodily injury or death may be reduced by other types of payments, such as worker's compensation payments or disability benefit payments. Former law explicitly prohibited such reductions.

6. Removes the requirement that each application for an umbrella or excess liability policy that insures a motor vehicle include a written offer of uninsured and underinsured motorist coverage. See also *Transportation — Traffic and Parking Regulation*.

**Act 32** (AB-40) makes the following changes to the insurance laws:

1. Prohibits group health insurers from changing the rating methodology between community rating and experience rating or otherwise penalizing a policyholder or employer for requesting group health claims data.

2. Requires health insurance policies, in order to conform to federal law, to cover children of an insured up to age 26, regardless of marital status. Under former law, policies were required to cover unmarried children of an insured up to age 27.

**Act 218** (SB-92) prohibits a qualified health plan offered through any American health benefit exchange, as described in the federal Patient Protection and Affordable Care Act, from covering abortions that are performed in circumstances other than when the abortion is directly and medically necessary to save the mother's life; the abortion is performed in the case of sexual assault or incest; or, due to the mother's preexisting medical condition, the abortion is directly and medically necessary to prevent grave, long-lasting physical health damage to the mother.

**Act 224** (SB-378) makes the following changes to the insurance laws:

1. Brings Wisconsin law into compliance with the federal Nonadmitted and Reinsurance Reform Act of 2010, relating to surplus lines insurance, which is insurance not generally available in the state issued by an insurer not authorized to do business in this state. Among other things, the act specifies the circumstances under which an agent may place insurance with an insurer not authorized to do business in this state if this state is the home state of the insured, when premium tax may be levied in this state on surplus lines insurance, and how that tax is to be calculated.

2. Distinguishes between a commercial liability policy and a commercial automobile liability policy, specifies that the coverage and minimum limit requirements for automobile insurance apply to commercial automobile liability policies, and specifies the circumstances under which those requirements apply to commercial liability policies.

3. Makes various changes regarding the insurance security fund, such as specifying that a retained asset account is a type of supplementary contract for which an insured may make a claim for payment against the fund.

**Act 225** (SB-429) allows a vendor, or an employee of a vendor, meeting certain requirements to sell or offer portable electronics insurance to customers without holding a certificate of authority or a license as a broker or agent. The act also regulates other aspects of portable electronics insurance, including requiring a training program for the sale or offering of portable electronics insurance, prohibiting vendors from compensating employees based primarily on the enrollment of customers in portable electronics insurance, requiring vendors to make certain disclosures about portable electronics insurance, and setting requirements for the termination of portable electronics insurance.

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## Justice

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### Concealed Carried Weapons

**Act 35** (SB-93) requires DOJ to issue a license to carry a concealed and dangerous weapon, including a handgun, to an applicant who is a Wisconsin resident, who is at least 21 years of age, who submits proof of training, and who is not subject to prohibitions against possessing a firearm. The act also permits persons to prohibit others from carrying a firearm in residences, including in common areas of residential buildings; on nonresidential grounds and in nonresidential buildings; at certain special events; in local government buildings; and in buildings on the grounds of a university or college. A person who violates the prohibitions is guilty of trespassing and subject to a civil forfeiture. See also *Crime and Criminal Procedure — Firearms and Use of Force*.

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## Local Law

**Act 11** (SB-21) authorizes the town of Brookfield in Waukesha County to create a tax incremental district (TID) for a retail project.

**Act 12** (SB-11) makes technical changes related to forms that the Milwaukee city clerk must complete related to TID Number 72 in the city of Milwaukee.

**Act 32** (AB-40) makes the following changes in the area of local law:

1. Extends permanently the levy limits on property taxes that are imposed by cities, villages, towns, and counties (political subdivisions), and makes a number of modifications to the levy limits. The act reduces the valuation factor to the greater of zero or the percentage change to a political subdivision's equalized value due to new construction, less improvements removed, and

sets the base amount of a political subdivision's levy to be the actual levy for the immediately preceding year.

2. Requires that when a political subdivision lets a public contract by bidding, the bidding be conducted on the basis of sealed competitive bids and the contract be awarded to the lowest responsible bidder. The act also prohibits a political subdivision from using a bidding method that gives preference based on geographic location or that uses criteria other than the lowest responsible bidder in awarding a contract.

3. Prohibits a political subdivision from performing a construction project for which a private person is financially responsible.

4. Specifies that if a city or village annexes or attaches a town TID that is created under a cooperative plan for future annexation or attachment, that city or village administers the TID.

5. Removes the requirements that a county maintain its financial support for library services at a level not lower than the average support in the previous three years, and that a municipal, county, or joint public library (local library) receive total funding from its governing body in an amount that is not less than the average amount in the previous three years for a local library or a county to participate in a public library system.

6. Exempts from local zoning requirements certain sites used to excavate soil, gravel, or other material for use in constructing embankments or other earthworks for a transportation project and certain sites used to dispose of surplus materials from a transportation project. See also *Transportation — Highways and Local Assistance*.

7. Allows a territory of the United States to join a Public Finance Authority (PFA), which is a commission to issue conduit revenue bonds. The act also allows a PFA to purchase bonds issued by this state or any political subdivision in this state or a similar governmental entity in another state or territory of the United States and to issue bonds to finance a capital improvement project in a territory of the United States. The act allows a PFA to specify members of the PFA board or officers or employees of the PFA to determine certain features of a bond issue in lieu of specifying these features of the bond issue in the bond resolution. The act prohibits the highest ranking executive or administrator of a first class city from approving a capital improvement project on behalf of the city.

8. Decreases the total amount of county and municipal state aid payments.

9. Specifies that if the city of New Lisbon amends, or attempts to amend, the project plan of TID Number 12 on January 1, 2012, based on action the common council takes between July 1, 2011, and December 31,

2011, DOR must redetermine the tax incremental base of the district as if the district's project plan had been amended on January 1, 2012, except that DOR may not certify a value increment that reflects the plan amendment before 2012.

10. Authorizes cities and towns, and expands the authority of villages, to create combined protective services departments.

11. Provides that any expenditure of room tax revenue on tourism promotion and development by a city, village, or town (municipality) must be done by the municipality's tourism entity, unless the municipality creates a tourism commission and forwards the revenue to the commission.

12. Changes the method for per diem payments of metropolitan sewerage district commissioners, other than commissioners of the Milwaukee Metropolitan Sewerage District.

### **Performance of Highway Projects by a County Workforce**

Act 32 also does the following:

1. Prohibits a county from using its own workforce to perform a highway improvement project on a highway under the jurisdiction of another county or a municipality that is located in a different county. See also *Transportation — Highways and Local Assistance*.

2. Prohibits a city or village with a population of 5,000 or more from having a county workforce perform a highway improvement project unless the project is under the local roads improvement program. See also *Transportation — Highways and Local Assistance*.

**Act 40** (SB-144) creates an exception to certain requirements in the creation of or amendment to a TID in the village of Pleasant Prairie.

**Act 41** (SB-55) expands the number of TIDs that may be designated as distressed or severely distressed.

**Act 62** (SB-259) creates the elective office of county comptroller for Milwaukee County.

**Act 63** (SB-224) increases the levy limits applicable to the village of Shorewood for 2011 to 2013 to allow Shorewood to mitigate the effects of an assessment error.

**Act 66** (AB-113) changes the boundaries of Marquette County and Green Lake County.

**Act 77** (AB-179) authorizes two or more cities or villages to jointly create a multijurisdictional TID.

**Act 96** (AB-60) authorizes a county's blanket bond to include members of a county veterans service commission and a county veterans service officer.

**Act 106** (SB-196) excludes expenditures made under a purchasing agreement with a school district from the calculation of a municipality's expenditure restraint payments.

**Act 128** (AB-181) authorizes towns to challenge certain city or village annexations and requires DOA to review such challenges to determine whether the annexation violates certain specified statutes.

**Act 130** (AB-506) requires a county clerk to organize the first election of officers following the incorporation of a city or village.

**Act 135** (SB-300) authorizes a political subdivision to enact an ordinance specifying an expiration date for a variance. The act also provides that if an ordinance creating a variance does not specify an expiration date or if a board of appeal or adjustment does not specify an expiration date when the variance is granted, the variance does not expire.

**Act 137** (SB-359) extends the expenditure period for TID Number 1 in the village of Denmark from September 2012 to 2014.

**Act 138** (SB-425) concerns certain energy or water efficiency improvements to property, referred to in the utility industry as property assessed clean energy (PACE) projects. The act does the following:

1. Authorizes a political subdivision that makes a loan or enters into a loan repayment agreement with a person for a PACE project on the person's property to allow a third party that has provided financing for the project to collect any related special charge installment payments from the person.

2. Requires a political subdivision that funds a PACE project that costs \$250,000 or more to require the owner of the improved premises to obtain a written guarantee from the contractor or project engineer that the PACE project will achieve a savings-to-investment ratio greater than 1.0 or to pay the owner any shortfall in savings.

3. Authorizes a political subdivision that funds a PACE project that costs less than \$250,000 to require a technical review of the projected savings before making a PACE project loan or entering into a loan repayment agreement.

**Act 139** (SB-440) increases the maximum number of project plan amendments, and lengthens the period during which tax increments may be allocated and expenditures for project costs may be made, for TID Number 3 in the city of Middleton.

**Act 140** (SB-452) increases the levy limits applicable to the village of Warrens for 2013 to allow Warrens to mitigate the effects of an assessment error.

**Act 143** (SB-466) prohibits a political subdivision from enacting or enforcing an ordinance that imposes a moratorium on a landlord pursuing an eviction action. See also *Real Estate*.

**Act 144** (SB-504) limits the authority of a municipality to enact a development moratorium ordinance.

**Act 145** (SB-524) increases the levy limits applicable to the city of Fox Lake for 2013 to allow Fox Lake to mitigate the effects of an assessment error.

**Act 170** (SB-472) provides that a political subdivision may not enact or enforce a zoning ordinance that prohibits, or limits based on cost, the repair, maintenance, renovation, or remodeling of a structure that no longer conforms to a zoning ordinance if the structure exists on the effective date of the ordinance. See also *Natural Resources — Navigable Waters and Wetlands*.

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## Natural Resources

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### CONSERVATION

**Act 32** (AB-40) reduces the total bonding authority under the Warren Knowles-Gaylord Nelson Stewardship Program. The act also provides that if the total amount obligated under the program for a fiscal year is less than the annual bonding authority available for that year, DNR may not obligate the unobligated amount in subsequent fiscal years.

**Act 95** (AB-48) requires DNR to make publicly available a directory showing the location of all land acquired with funding from the stewardship program that is open for public access.

**Act 250** (AB-395) adds the acquisition of land located in the Niagara Escarpment corridor to the list of priorities for which stewardship funding may be used.

### FISH AND GAME

**Act 24** (AB-35) authorizes culling at bass fishing tournaments.

**Act 28** (SB-72) allows a Class B bear hunting license holder to shoot to kill a bear if the bear was wounded by another person in the shooter's hunting party. Previously, a Class B bear hunting license holder could pursue, but not shoot at, a bear under any circumstances. The act also requires DNR to allow Class B bear license holders to train dogs to track bear during any open bear hunting season in which Class A bear license holders are allowed to hunt bear with dogs.

**Act 50** (SB-75) eliminates the program commonly known as Earn-A-Buck by prohibiting DNR, with limited exceptions, from requiring a person who holds a deer hunting license to take an antlerless deer before taking an antlered deer. The act also prohibits DNR from establishing a fall firearm deer hunting season that begins before the Saturday immediately preceding the fourth Thursday in November.

**Act 148** (SB-441) authorizes an applicant for certain approvals DNR issues, including hunting, fishing, and trapping licenses, to make a voluntary contribution in addition to the fees charged for those approvals. The act requires DNR to forward the contributions to the Natural Resources Foundation of Wisconsin to establish an endowment to support habitat management activities on state-owned land.

**Act 168** (AB-311) does all of the following:

1. Requires DNR to establish a program to recognize people who recruit others to become hunters, trappers, and anglers.
2. Creates the Sporting Heritage Council to provide advice to the governor, the Natural Resources Board, and the legislature about issues relating to outdoor recreation activities.
3. Establishes reduced fees for persons who obtain certain hunting, fishing, and trapping approvals for the first time.
4. Requires DNR to offer certain online hunter and trapper education classes.
5. With certain exceptions, requires state parks to be open to hunting, fishing, and trapping.
6. Requires DNR to issue a Class D permit that allows persons with certain disabilities to use an adaptive device while hunting with a firearm.
7. Requires DNR to issue an annual disabled veteran recreation card to certain disabled veterans upon request. The card confers hunting and fishing privileges similar to those conferred by a senior citizen recreation card.

### Wolf Hunting

**Act 169** (SB-411) requires DNR to establish a wolf harvesting season and to issue wolf harvesting licenses that authorize both hunting and trapping if the wolf is not on the Wisconsin or U.S. list of endangered or threatened species. If the number of license applications exceeds the number of licenses that DNR makes available for a year, DNR must issue 50 percent of the licenses by random selection and 50 percent through a cumulative preference system. The act authorizes DNR to close the season if necessary to effectively manage the wolf population. The act authorizes the use of dogs to hunt

wolves, the hunting of wolves at night for part of the season, and the baiting of wolves with certain types of bait. The act establishes a wolf depredation program, under which payments may be made for the death or injury caused by wolves to livestock or pets, except for dogs being used to hunt wolves. The wolf hunting license fees that DNR collects are used to make the payments under this program.

**Act 177** (AB-176) prohibits DNR from imposing a minimum harvesting requirement for a previous season on an applicant for a commercial fishing license.

**Act 180** (AB-377) authorizes a person to use a crossbow to fish for rough fish, which are fish such as common carp, goldfish, and rainbow smelt. The bill also expands the definition of “rough fish” to include asian carp.

**Act 251** (AB-334) allows a person who accidentally kills certain small game animals while operating a motor vehicle on a highway to take the animal’s carcass if the animal is killed during the open season for hunting that animal and the person has an approval from DNR that authorizes him or her to hunt the animal.

**Act 252** (AB-384) eliminates the requirement that a person be at least 65 years old or hold a disabled hunting permit in order to hunt with a crossbow under the authority of certain hunting licenses. The act also allows the holder of a deer hunting license or elk hunting license to hunt with a bow and arrow or a crossbow in addition to hunting with a firearm. The act provides that if DNR establishes an open season for hunting certain animals, including deer, bear, and small game, with a firearm, the season must be open for hunting that animal also with a crossbow and a bow and arrow.

**Act 280** (AB-82) adds wildlife damage a cougar causes to the types of damage for which a person may receive wildlife damage payments. A person is eligible for payments if certain wild animals cause damage to crops or livestock.

## NAVIGABLE WATERS AND WETLANDS

**Act 6** (January 2011 Special Session SB-10) exempts from wetland and surface water regulatory requirements a wetland area in the village of Ashwaubenon.

**Act 25** (SB-59) extends the date by which a riparian owner must register a pier or wharf with DNR from April 1, 2011, to April 1, 2012.

### Wetland Law Revisions

**Act 118** (SB-368) restructures the laws regarding discharges into wetlands and wetland mitigation. The changes include:

1. Specifying that the issuance of a wetland permit by DNR replaces a water quality certification that is required by federal law.

2. Requiring DNR to issue certain general wetland permits, including general permits for commercial, residential, municipal, agricultural, or recreational purposes, if the area of wetland to be affected does not exceed 10,000 square feet.

3. Authorizing DNR to issue general permits that prohibit discharges into certain types of wetlands, such as calcareous and boreal rich fens and marshes containing wild rice.

4. Establishing steps DNR must take in reviewing an application for an individual permit and requirements to be met to minimize adverse impacts to wetlands and to ensure there will not be a significant adverse impact.

5. Requiring that mitigation be performed under each individual permit DNR issues and eliminating the restriction that mitigation may not be used for discharges into areas of special natural resource interest.

6. Requiring DNR to establish a mitigation program that includes the use of mitigation banks; participation in a process under which a payment may be made for creating or otherwise improving other wetlands, if DNR establishes such a process; and completion of actual mitigation within a certain distance from the discharge. The act requires that the ratio of mitigation be at least 1.2 acres improved for each acre affected.

**Act 153** (SB-262) establishes an exemption to the general prohibition against the placement of a pier in navigable waters without a permit from DNR in order to allow the National Park Service to place a pier containing a floating toilet facility along a federally owned shoreline in the St. Croix National Scenic Riverway.

**Act 167** (SB-326) makes various changes to the laws regulating navigable waters, including the following:

1. Requiring DNR to make certain information regarding high-water mark determinations and about the status of certain permit applications available on DNR's Internet site.

2. Changing certain requirements for obtaining a permit exemption for the placement of a pier in a navigable waterway and eliminating the requirement that certain piers be registered with DNR.

3. Excluding the issuance of general permits for activities in navigable waters from the administrative rule-making process.

4. Providing that if DNR does not issue a timely decision after completing the process for receiving public input on whether to issue an individual permit for an activity that affects navigable waters, the permit is considered approved.

5. Requiring DNR to establish an expedited procedure for the approval of plans for low hazard dams.

6. Establishing a procedure under which the appropriate standing committees of the senate and the assembly with jurisdiction over natural resources matters may suspend a general permit DNR issued.

See also *Environment*.

**Act 170** (SB-472) prohibits a county, city, or village from enforcing a provision in a county shoreland ordinance that regulates the location or repair of a nonconforming structure or that regulates the construction of a structure on a substandard lot if the provision is more restrictive than standards DNR promulgated. Under the act, a nonconforming structure is a structure that does not conform with certain setback, height, or lot size requirements in the relevant shoreland zoning ordinance. See also *Local Law*.

**Act 207** (SB-537) exempts a person from the requirement to obtain a permit to use a natural body of water as a fish farm if the person has previously received a permit from DNR that allows the person to conduct certain other types of activities on that body of water. See also *Agriculture*.

## PARKS AND RECREATION

**Act 104** (SB-77) expands the membership of the State Trails Council from 9 to 11 members and requires that each member be knowledgeable about and engage in one or more of the various recreational uses of trails.

**Act 208** (SB-354) requires DNR to register and regulate the operation of utility terrain vehicles in a manner that is similar to the manner in which DNR registers and regulates the operation of all-terrain vehicles. Generally, a utility terrain vehicle is a motor-driven vehicle that weighs less than 2,000 pounds, is designed to be used primarily off of a highway, and has certain other attributes, including four or more low-pressure tires, a width of not more than 65 inches, and seats for at least two occupants.

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## Occupational Regulation

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**Act 32** (AB-40) makes the following changes to the laws relating to occupational regulation:

1. Renames the former Department of Regulation and Licensing (DRL) the Department of Safety and Professional Services (DSPS).

2. Eliminates the Real Estate Board, creates the Real Estate Examining Board, and transfers most regulatory

duties concerning real estate practice to the Real Estate Examining Board. Under former law, DRL directly regulated real estate practice in Wisconsin, and the Real Estate Board played primarily an advisory role.

3. Prohibits a pharmacist from administering a vaccine to a person under the age of 6, instead of under the age of 18, as under former law.

**Act 100** (AB-245) authorizes a manufacturer or wholesale distributor of prescription drugs to deliver prescription drugs to a member of the faculty of an institution of higher education in this state if that faculty member is obtaining the prescription drugs for the purpose of lawful research, teaching, or testing.

**Act 146** (SB-453) makes a number of technical and other changes to laws relating to occupational regulation, including the following:

1. Eliminating the procedures for a person who holds a license or other credential issued by the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board to challenge a report filed with the board concerning the person's fitness to practice under the person's credential.

2. Authorizing DSPS or a board under DSPS to reject a credentialed person's voluntary surrender of his or her license or other credential if DSPS or the appropriate board receives a complaint against the person or has commenced a disciplinary action against the person. See also *Buildings and Safety*.

**Act 160** (SB-383) provides for the licensing of anesthesiologist assistants, creates the requirements necessary to obtain that license, and defines the tasks that a licensed anesthesiologist assistant may perform.

**Act 161** (SB-421) authorizes a licensed physician assistant to take actions or perform functions specified in the act that may be taken or performed by a licensed physician, including establishing and periodically reviewing an individual's home health services; making certain determinations and reports regarding communicable diseases; and making certain referrals, approvals, and other determinations under occupational regulation laws relating to physical therapists, podiatrists, and the practice of pharmacy.

**Act 190** (SB-489) makes the following changes to the laws relating to the regulation of barbering and cosmetology:

1. Establishes licensure requirements related to barbering that are independent of the requirements related to cosmetology. Under former law, the Barbering and Cosmetology Examining Board regulated barbering and cosmetology as a single practice.

2. Places the regulation of barbers, barbering managers, and barbering establishments directly under DSPS.

3. Renames the Barbering and Cosmetology Examining Board the Cosmetology Examining Board and makes related changes to the composition of that board and the practices and establishments it regulates.

**Act 193** (SB-522) prohibits the Cosmetology Examining Board from requiring the use of a tuberculocidal disinfectant by barbers or cosmetologists.

**Act 210** (SB-550) requires DSPS or a credentialing board to grant a reciprocal license or other credential for practice in Wisconsin to a professional who is the spouse of a military service member if the service member and spouse temporarily reside in Wisconsin due to the service member's military service. See also *Veterans and Military Affairs*.

**Act 255** (SB-464) prohibits DSPS or a credentialing board from requiring that an applicant for or a holder of a license or other credential DSPS or a board issues submit fingerprints in connection with that credential, except as authorized under current law, including for a criminal background investigation DSPS conducts. The act further requires DSPS to promulgate rules establishing the criteria DSPS uses to determine whether a criminal background investigation is necessary.

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## Public Utilities

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### Telecommunications Regulation

**Act 22** (January 2011 Special Session SB-13) makes various changes to the PSC's regulation of telecommunications providers, including the following:

1. Limiting the PSC's authority to regulate both telecommunications utilities (TUs), which are telecommunications providers that resulted from the breakup of the Bell System under federal antitrust regulation in the 1970s and 1980s, and alternative telecommunications utilities (ATUs), which compete with TUs. The act generally subjects both TUs and ATUs to the same level of regulation by creating exemptions from requirements that applied to TUs under former law, limiting the requirements that the PSC was allowed to impose on ATUs under former law, eliminating price regulation and other types of alternative regulation of TUs, and allowing a TU to require that the PSC regulate the TU like an ATU.

2. Imposing limitations on the intrastate switched access rates that telecommunications providers may charge each other. The requirements depend on the number of the telecommunications provider's access lines, and on the date the PSC initially certified the telecommunications provider as a TU or ATU. In general, the requirements impose deadlines by which a telecom-

munications provider's intrastate switched access rates may not exceed the interstate switched access rates that the telecommunications provider is allowed to charge under federal law.

3. Requiring TUs and ATUs to file tariffs for intrastate switched access service and allowing the filing of tariffs for other services. The act also limits the PSC's authority regarding tariffs that TUs and ATUs elect to file with the PSC.

4. Exempting interconnected voice over Internet protocol service from PSC regulation, except for requirements relating to interconnection agreements, intrastate switched access rates, and certain assessments.

5. Limiting the PSC's authority to ensure universal access to telecommunications services and imposing requirements regarding the availability of basic voice service.

6. Making changes to requirements for the use of another person's transmission equipment and property by public utilities and telecommunications providers.

**Act 32** (AB-40) allows the PSC to make annual grants of \$300,000 in the aggregate to nonprofits that advocate in behalf of ratepayers. Former law required, rather than allowed, the PSC to make such a grant to a nonprofit that advocated in behalf of residential ratepayers. The act also eliminates the PSC's authority to require, with JCF approval, that investor-owned electric and natural gas utilities spend more than 1.2 percent of their annual operating revenues on energy efficiency, conservation, and renewable resource programs.

**Act 34** (SB-81) allows electric utilities and cooperatives, beginning in 2016, to count electricity derived from certain hydroelectric facilities with a capacity of 60 megawatts or more in determining whether they comply with annual deadlines under preexisting law for ensuring that specified percentages of their retail electric sales are derived from renewable energy. The act creates additional requirements for counting electricity from such hydroelectric facilities that are located in Manitoba, Canada.

**Act 154** (AB-229) eliminates a prohibition on installing or connecting to a distribution system a device that constitutes a nonessential use of natural gas as specified in rules promulgated by the PSC.

**Act 155** (SB-428) prohibits commissioners of the PSC from engaging in specified political activities and makes various changes to the PSC's authority, including: 1) exempting from PSC approval certain public utility contracts and projects whose costs do not exceed specified minimums; 2) imposing deadlines on the PSC's approval of contracts and projects that do not qualify for the exemptions; 3) making changes to credits electric utilities and cooperatives use to comply with requirements

for ensuring that specified percentages of their annual retail electric sales are derived from renewable energy; 4) making changes to the PSC's notice requirements; 5) exempting from PSC approval the customer-requested removal of certain electric or steam service lines; and 6) creating an exception to a prohibition on certain sales of electricity between a public utility and its affiliate.

## MAJOR PROPOSALS THAT FAILED ENACTMENT

*Assembly Bill 72* and *Senate Bill 50* would have repealed rules promulgated by the PSC regarding wind energy systems.

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## Real Estate

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**Act 32** (AB-40) eliminates requirements to notify a tenant that a foreclosure action has been commenced against the rental property and of various dates with respect to the foreclosure action, such as the date on which the redemption period ends and the date on which the sale of the property will be confirmed, and eliminates the ability of such a tenant to remain in possession of the rental unit for up to two months after the month in which the sale of the property is confirmed and to withhold rent in an amount equal to the security deposit.

**Act 102** (SB-241) establishes a nonjudicial procedure that may be used in lieu of judicial procedures to foreclose a mortgage or a lien for assessments on a time-share estate if the owner of the time-share estate is in default. The procedure, which includes notices and a public foreclosure sale of the time-share estate, may be used at the discretion of the holder of the mortgage or assessment lien if the owner of the time-share estate does not object to its use.

**Act 107** (SB-136) requires that sellers of vacant land provide a disclosure report to prospective purchasers of the vacant land. Similar to the real estate disclosure report that sellers of residential property have been required to provide to prospective purchasers since 1992, the seller of vacant land must indicate whether he or she is aware that the property is affected by various specified defects and other conditions.

**Act 108** (SB-107) prohibits a municipality from enacting an ordinance that places limitations on a landlord with respect to obtaining and using certain information about a tenant or prospective tenant or with respect to showing premises or entering into a rental agreement for premises during the tenancy of the current tenant or that places requirements on a landlord with respect to security deposits, earnest money, or premises inspection.

tions that are additional to the requirements under the Wisconsin Administrative Code.

**Act 143** (SB-466) makes the following changes to the landlord-tenant laws:

1. Specifies the reasons for which a landlord may withhold any portion of a tenant's security deposit and when a landlord must return the security deposit to a tenant after the tenant has vacated the rental premises.

2. Provides that a landlord may presume that any personal property that a tenant leaves behind is abandoned and may dispose of it in any manner, except that a landlord must retain any prescription medication or medical equipment for seven days before disposing of it and, if the property is a manufactured or mobile home or titled vehicle, the landlord must provide notice prior to disposal to the tenant and any secured party of which the landlord has actual notice. In addition, a landlord must follow the procedures for disposal of personal property left behind that applied under former law if the landlord does not intend to store personal property left behind but fails to provide written notice to the tenant of that fact when the tenant enters into or renews a rental agreement.

3. Requires a landlord to disclose to a prospective tenant before the tenant enters into a rental agreement any uncorrected building code violation of which the landlord has actual knowledge, that affects the tenant's dwelling unit, and that presents a significant threat to the tenant's health or safety.

4. Specifies that any void or unenforceable provision in a rental agreement is severable from the rest of the agreement, rather than making the entire agreement void and unenforceable, except for certain specified provisions that, if included in a residential rental agreement, make the entire agreement void and unenforceable, such as a provision that allows the landlord to terminate a tenancy if a crime is committed in or on the rental property or that allows the landlord to increase rent because a tenant has sought law enforcement, health, or safety services.

5. Requires that a landlord provide an information check-in sheet to a new residential tenant that contains an itemized description of the condition of the premises at check-in time and that the tenant be given seven days to complete and return the check-in sheet.

6. Provides that an eviction action by a landlord against a tenant whose tenancy has been terminated for failure to pay rent may not be dismissed solely because the landlord accepts past due rent from the tenant.

See also *Local Law*.

**Act 203** (SB-539) clarifies that a prospective purchaser of a condominium unit has five business days to cancel a contract of sale or request any documents that

are missing from those the seller must provide to the prospective purchaser and provides that a prospective purchaser may request any missing documents only if the seller provides a cover sheet and index with the documents; clarifies that only if a condominium unit seller is required to provide a real estate condition report to a prospective purchaser is the seller required to provide the additional required information related to condominiums; and clarifies that a condominium unit seller is not required to provide a copy of the executive summary with a real estate condition report if the condominium has 12 or fewer units.

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## State Government

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### STATE BUILDING PROGRAM

**Act 32** (AB-40) and **Act 119** (SB-442) authorize a total of \$971,884,900 in new or revised state building projects, excluding highway projects, and authorize a total of \$420,579,900 in new general fund supported borrowing authority for the State Building Program and capital equipment in buildings.

**Act 32** (AB-40) increases the dollar thresholds for proposed state building projects that require specific prior legislative authorization, that require the prior approval of the Building Commission, and that are subject to requirements for public notice and solicitation of bids; increases from \$15,000,000 to \$23,000,000 the amount of general fund supported borrowing that is authorized to aid in the construction of a dental clinic and education facility at Marquette University; and authorizes up to \$250,000 in general fund supported borrowing to aid in the construction of a tribal cultural center for the Lac du Flambeau Band of Lake Superior Chippewa.

### STATE FINANCE

**Act 13** (January 2011 Special Session SB-12) increased from \$309,000,000 to \$474,000,000 the amount of public debt that may be used before July 1, 2011, to refund any unpaid indebtedness used to finance tax-supported or self-amortizing facilities; and decreased from \$200,000,000 to \$121,000,000 the amount of moneys that state agencies were required to lapse or transfer to the general fund during the 2009–11 fiscal biennium. See also *Act 27*.

**Act 27** (AB-148) transfers \$235,000,000 from the general fund to the injured patients and families compensation fund, to be used to pay the amount the court ordered in *Wisconsin Medical Society, Inc. v. Morgan* (2010); and decreased from \$121,000,000 to \$67,000,000 the amount

of moneys that state agencies were required to lapse or transfer to the general fund during the 2009–11 fiscal biennium. See also *Act 13*.

### Investment Board Operating Expenses

**Act 32** (AB-40) removes the statutory limit on the total amount the Investment Board may annually assess the funds it manages for its share of the Investment Board's operating expenditures. Instead, the Investment Board may establish and monitor its own budget for operating expenditures and must report quarterly on its operating expenditures.

Act 32 also does the following with respect to the Investment Board:

1. Authorizes the Investment Board to create or abolish positions and requires the Investment Board to report quarterly on the number of positions created or abolished.

2. Transfers the Investment Board's blue collar and clerical employee positions from the classified service to the unclassified service.

3. Requires the Investment Board's executive director or his or her designee to annually appear before JCF to provide an update of the Investment Board's operating budget and position authorization changes and assessment and performance of the funds under management.

4. Creates a public records exception for information relating to Investment Board investments in entities that are in the venture capital stage.

Act 32 makes the following changes to the laws relating to state finances:

1. Transfers the state's college savings programs from the State Treasurer to DOA.

2. Requires DOA to ensure that all state agency expenditures for state operations exceeding \$100, as well as certain information related to state agency grants and contracts, be posted on a searchable Internet site maintained by DOA.

3. Increases the amount the secretary of administration may temporarily reallocate to the general fund from other state funds during the 2011–13 fiscal biennium from up to 5 percent to up to 9 percent of moneys appropriated from general purpose revenue.

4. Requires the secretary of administration to lapse or transfer to the general fund from executive branch state agency appropriations an amount equal to \$174,300,000 in the 2011–13 fiscal biennium and \$174,300,000 in the 2013–15 fiscal biennium. The secretary must lapse these moneys under a plan that is subject to review by JCF.

5. Requires the governor to lapse \$582,200 to the general fund from general purpose revenue appropriations to the Office of the Governor, requires the co-chairper-

sons of the Joint Committee on Legislative Organization to lapse \$9,232,000 to the general fund from general purpose revenue appropriations to the legislature, and requires the chief justice of the supreme court to lapse \$16,960,400 to the general fund from general purpose revenue and program revenue appropriations to the courts. The act requires that the lapses must occur in both the 2011–13 and the 2013–15 fiscal biennia. The act also requires the secretary of administration to lapse to the general fund other amounts from executive branch state agencies' general purpose revenue and program revenue appropriations in the 2011–13 and 2013–15 fiscal biennia.

**Act 71** (AB-275) authorizes the Board of Commissioners of Public Lands (BCPL) to make revenue obligation loans to a municipality to finance municipal project costs. Under former law, BCPL was authorized to make only general obligation loans. The act requires a revenue obligation loan to be secured by a pledge of the revenue generated by the municipal project or by an assignment of tax increments allocated to the municipality under tax incremental financing laws.

## OTHER STATE GOVERNMENT

**Act 8** (SB-1) authorizes the speaker of the assembly and the president of the senate to decline to serve on the Joint Legislative Council and to appoint replacement members from their respective houses.

**Act 9** (January 2011 Special Session AB-5) prohibits either house of the legislature from passing a bill that increases the rate of the state sales tax or that increases any of the rates of the income tax or franchise tax unless two-thirds of the members approve the bill. This restriction does not apply if the tax increase is approved by a majority of the voters in a statewide advisory referendum.

**Act 10** (January 2011 Special Session AB-11) eliminates the UW Hospitals and Clinics Board, a state agency whose primary duty was to provide nonprofessional staff to the UW Hospitals and Clinics Authority.

**Act 32** (AB-40) makes the following changes to laws relating to state government:

1. Exempts individuals employed by the Board of Regents of the UW System from earnings restrictions covering state employees performing work for two or more state agencies. The exemption applies only to compensation received within the system.

2. Permits the governor to abolish any vacant full-time equivalent position in any executive branch state agency, subject to review by JCF.

3. Removes all employees of the Board of Regents of the UW System from the state civil service system.

4. Authorizes the state compensation plan to include provisions relating to pay, benefits, and working conditions for state employees that may supersede the provisions of the civil service and other applicable statutes and rules promulgated by OSER. The act does not eliminate the requirement that the Joint Committee on Employment Relations (JCOER) must approve the compensation plan.

5. Requires JCOER approval for all pay and benefit adjustments for all employees of the Board of Regents of the UW System.

6. Eliminates the June 30, 2011, sunset date of a law that permits DOA to sell certain state properties with the approval of the Building Commission.

**Act 185** (SB-476) changes the date of fire prevention week from the week of October 8 to the week of October 9 to conform to the date of the national observance.

**Act 220** (SB-114) provides that JCF may not vote to recommend passage of a biennial budget bill, and neither house of the legislature may pass a biennial budget bill, until the Legislative Fiscal Bureau has identified each earmark in the bill and in each amendment to the bill.

**Act 231** (AB-418) requires a person who claims an interest in unclaimed property to submit a copy of any agreement entered into with another person to locate the unclaimed property when the claim is filed with the State Treasurer.

**Act 239** (AB-508) extends the maximum bond maturity date for bonds issued by the Wisconsin Health and Education Facilities Authority (WHEFA) from 30 years to 50 years from the date of issue and changes the maximum amount of working capital that may be included in the cost of a project to be consistent with federal law. The act also eliminates the requirement that certain refinancing projects for health institutions be certified by DHS and eliminates obsolete references to WHEFA's authority to issue bonds to participating child care providers.

**Act 257** (SB-284), **Act 258** (SB-285), **Act 259** (SB-286), and **Act 260** (SB-287) are correction acts by the Legislative Reference Bureau.

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## Taxation

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**Act 1** (January 2011 Special Session SB-2) adopts federal law as it relates to health savings accounts for state income and franchise tax purposes, including allowing a person to claim a deduction for an amount that a person pays into a health savings account.

**Act 3** (January 2011 Special Session AB-3) provides tax credits and deductions to businesses that relocate to this state.

**Act 4** (January 2011 Special Session AB-4) increases the amount of the credits under the Economic Development Tax Credit Program.

**Act 5** (January 2011 Special Session AB-7) provides tax deductions for a business that increases the number of its full-time employees in this state.

**Act 15** (SB-9) modifies the dairy and livestock farm investment credits so that the credits may be claimed until 2017 instead of until 2012.

**Act 18** (SB-12) allows retailers to offer discounts on purchases equal to the state and local sales taxes imposed on the purchases.

**Act 32** (AB-40) makes the following changes in the laws related to taxation:

1. Bases the payments to local governments for lands DNR purchased on the lesser of the land's purchase price or the amount that would have been the land's assessed value.

2. Adopts changes to the Internal Revenue Code for state income and franchise tax purposes.

3. Provides a tax credit for income derived from manufacturing or agricultural activities in this state.

4. Allows a corporation that is a member of a combined group of corporations to use certain net business loss amounts as deductions against the income of all members of the group.

5. Prohibits DOR from disregarding or disallowing the tax effect of any election made for tax purposes by any corporation that is a member of a combined group of corporations.

6. Provides a sales tax exemption for modular and manufactured homes that are used in real property construction activities outside the state; for vegetable oil or animal fat that is converted into motor vehicle fuel; for snowmaking equipment that is used for ski slopes and trails and the fuel and electricity used to operate the equipment; and for advertising and promotional direct mail.

7. Creates an individual income tax deferral for certain long-term capital gains that are reinvested in a qualified Wisconsin business. See also *Business and Consumer Law — Economic Development and Investment*.

8. Creates a procedure for certain taxpayers to exclude from income certain capital gains from the sale of Wisconsin-sourced assets. See also *Business and Consumer Law — Economic Development and Investment*.

9. Changes the percentages of the federal credit that may be claimed under the earned income tax credit.

10. Eliminates the individual income tax checkoff for the Wisconsin Election Campaign Fund and the Democracy Trust Fund. See also *Elections*.

11. Authorizes certain individuals to contribute to a college savings plan account owned by another individual if the account beneficiary is the contributor's relative, and allows the contributor to deduct such contributions from his or her adjusted gross income for state income tax purposes. The act makes similar changes for contributions and deductions for the College Tuition and Expenses Program.

12. Creates an individual income tax checkoff for donations to the Badger Chapter of the American Red Cross.

13. Eliminates the indexing provisions for the homestead tax credit formula factors, which are the income threshold, the maximum income level, and the maximum property taxes or rent constituting property taxes.

**Act 49** (SB-203) adopts federal law as it relates to excluding from an employee's income certain payments from an employer related to medical care for the employee's adult child.

**Act 64** (AB-273) modifies the loan program for property taxes imposed as a result of an error in equalized value so that DOR may make a payment to a taxation district to reduce property taxes imposed in error.

**Act 67** (September 2011 Special Session SB-3) modifies the film production services tax credit application fee so that it is the lesser of 2 percent of a taxpayer's production expenditures or \$500.

**Act 68** (September 2011 Special Session SB-23) modifies various duties of DOR, allows taxpayers to rely on guidance DOR publishes, and prohibits browsing of tax-related returns and claims.

**Act 76** (SB-48) creates an individual income tax checkoff for donations to the Special Olympics Wisconsin, Inc.

**Act 88** (AB-1) increases from \$5,000,000 annually to \$10,000,000 annually the allocation of tax credits under the jobs tax credit program.

**Act 131** (SB-89) increases the amount of the exemption from income tax withholding requirements for employees of a county fair association.

**Act 142** (SB-465) authorizes an entity formed under an agreement among local governmental units to provide consolidated services to collect debts from tax refunds.

**Act 212** (SB-369) provides tax credits to businesses that hire unemployed disabled veterans.

**Act 213** (SB-463) modifies the angel and early stage seed investment tax credit programs so that a person who holds an investment for less than three years does not have to repay the credit to the state if the person's investment becomes worthless. See also *Business and Consumer Law — Economic Development and Investment*.

**Act 222** (SB-321) limits the number of individual income tax checkoffs, prohibits DOR from placing more than ten checkoffs on the income tax form, and combines the breast cancer and prostate cancer checkoffs into a checkoff for cancer research.

**Act 232** (AB-638) makes technical changes to the qualified production activities tax credit to facilitate DOR's administration of the credit.

**Act 237** (SB-260) allows dairy cooperative members to claim the dairy manufacturing facility investment credit in the year after the year in which eligible expenses are made.

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## Transportation

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### DRIVING PRIVILEGES

**Act 23** (AB-7) permits a person who is eligible to obtain an identification card from DOT to obtain the card free of charge if the person is a U.S. citizen who will be at least 18 years of age on the date of the next election and the person requests that the card be provided without charge for the purpose of voting. See also *Act 75* and *Elections*.

#### Real ID Noncompliant Driver's License and Identification Cards

**Act 23** (AB-7) and **Act 32** (AB-40) allow DOT, upon implementation of the federal REAL ID Act in Wisconsin, to issue driver's licenses and identification cards that are not compliant with REAL ID standards if they clearly state on their face that they cannot be accepted as identification for any official federal purpose and if they use a unique design or color to alert federal authorities that they are not REAL ID compliant. Various requirements, however, still apply to applications and application processing for REAL ID noncompliant driver's licenses and

identification cards. The acts also create a religious belief exception to the requirement that a photograph appear on a driver's license or identification card, although after the implementation of the federal REAL ID Act the exception applies only to REAL ID noncompliant driver's licenses and identification cards. The acts lengthen the valid period of a driving receipt issued by DOT, and create a similar identification card receipt issued by DOT, which serve as a temporary license or identification card while an application is being processed. The acts specify that DOT may not issue an identification card to a person who holds a driver's license from another state. See also *Elections*.

**Act 32** (AB-40) does all of the following:

1. Allows DOT to contract with third parties to administer driving skills tests for driver's licenses to operate "Class D" vehicles (automobiles and most passenger vehicles), but a third-party tester may not test a person who received driver training instruction from the third-party tester or its affiliate.

2. Requires DOT to provide at least 20 hours per week of driver's license and identification card services in each county and allows DOT to contract with local governments, if it is cost-effective, to provide these services, including administering tests other than driving skills tests.

3. Authorizes DOT to renew identification cards by mail or other electronic means, without taking a new photograph, but DOT may do so only for alternating, not consecutive, renewal periods. The act also allows DOT to give notice of the impending expiration of a driver's license or identification card by electronic means if the licensee or card holder desires.

4. Requires payment to DOT of a \$15 fee each time a person takes a driving skills test for a driver's license to operate a "Class D" vehicle, rather than a \$15 fee for the opportunity to take the test up to three times.

5. Prohibits a person from operating a commercial motor vehicle when the motor carrier responsible for vehicle safety has been issued a federal out-of-service order for unsatisfactory safety compliance.

**Act 75** (SB-116) expands the fee exception for identification cards issued by DOT and requested for purposes of voting to include duplicate identification cards. See also *Act 23* and *Elections*.

**Act 112** (SB-217) limits to five years the period during which a person's operating privilege and vehicle registration may remain suspended due to an unsatisfied judgment for damages of \$500 or more arising from a motor vehicle accident, and limits to eight years the period during which a person's operating and vehicle registration may remain suspended due to failure to

maintain required proof of financial responsibility following such a judgment.

**Act 113** (AB-80) creates penalties or revises penalties, and requires operating privilege revocation, for operating a vehicle with a suspended license, operating a vehicle after revocation of a license, or operating a vehicle without a valid license if the person, in the course of the violation, causes great bodily harm or death to another person.

**Act 241** (SB-397) eliminates the requirement that the photograph of a person on his or her operator's license be in color.

**Act 244** (SB-423) specifies that a person may be disqualified from operating a commercial motor vehicle for committing a serious traffic violation in a non-commercial motor vehicle only if the violation results in the revocation, cancellation, or suspension of the person's operating privilege.

## HIGHWAYS AND LOCAL ASSISTANCE

**Act 30** (SB-26) eliminates the requirement that the state receive federal funds covering a portion of a major interstate bridge project's cost before expending or encumbering funds collected under the bonding authorization for the project.

### Performance of Highway Projects by County Workforce

**Act 32** (AB-40) prohibits a county from using its own workforce to perform a highway improvement project on a highway under the jurisdiction of another county or a municipality that is located in a different county. The act also prohibits a city or village with a population of 5,000 or more from having a highway improvement project performed by a county workforce unless the project is under the local roads improvement program. See also *Local Law*.

### Major Highway Projects

Act 32 also modifies DOT's major highway projects program to establish two different categories of major highway projects. The first category encompasses major highway projects, as contemplated under preexisting law, except that the minimum total cost criteria is increased from \$5 million to \$30 million, adjusted for inflation. For these major highway projects, the act allows DOT to perform engineering and design work prior to legislative approval of the project. The second category of major highway projects encompasses projects that do not fall within the first category and that have a minimum total cost of \$75 million, adjusted for inflation. For these projects, the act allows DOT to prepare an environmental impact statement or environmental

assessment for a project without approval by the Transportation Projects Commission (TPC), creates a different TPC review and approval process, and allows DOT to proceed with construction of a project upon TPC approval without additional legislative approval.

### **Southeast Wisconsin Freeway Megaprojects**

Act 32 also creates a category of highway projects called “southeast Wisconsin freeway megaprojects,” which are projects on southeast Wisconsin freeways that have a total cost of more than \$500 million, adjusted for inflation. These projects may be funded only from specified appropriations, including bond proceeds, and no funding for construction of these projects may be provided without legislative approval. The act approves DOT’s I 94 north-south corridor project and Zoo interchange project as southeast Wisconsin freeway megaprojects, authorizes approximately \$150 million in additional general obligation bonding to fund these two projects, and requires DOT to submit a report to JCF relating to financing the Zoo interchange project. Under preexisting law, these two projects were approved as southeast Wisconsin freeway rehabilitation projects. The act also transfers certain funds from the southeast Wisconsin freeway rehabilitation program to the southeast Wisconsin freeway megaprojects program.

### **High-Cost State Highway Bridge Projects**

Act 32 also creates a category of projects called “high-cost state highway bridge projects,” which are projects involving the construction or rehabilitation of a bridge on the state trunk highway system that have a total cost of more than \$150 million, but which exclude certain types of projects. The act creates a separate funding source for these projects. However, the act also authorizes DOT to fund preliminary costs for the Hoan Bridge project in Milwaukee County, in the 2011–13 fiscal biennium, from DOT’s programs for major highway projects, state highway rehabilitation projects, and southeast Wisconsin freeway megaprojects.

Act 32 also changes state highway programs by:

1. Allowing southeast Wisconsin freeway rehabilitation projects, for which funding under preexisting law (except for the use of bond proceeds) ended on June 30, 2011, to be eligible also for funding as major highway projects or state highway rehabilitation projects.
2. Adding to the list of enumerated projects approved for construction four major highway projects the TPC recommended.
3. Increasing the authorized limit on revenue bonds that may be issued for major highway projects and other transportation facilities from about \$3.0 billion to about \$3.35 billion.

4. Increasing the authority to contract state debt for state highway rehabilitation projects by about \$196 million.

5. Exempting from local zoning requirements certain sites used to excavate soil, gravel, or other material for use in constructing embankments or other earthworks for a transportation project and certain sites used to dispose of surplus materials from a transportation project. See also *Local Law*.

6. Providing that, if a DOT highway project causes the relocation on the same site of an outdoor advertising sign that does not conform to a local ordinance, the relocation does not affect the sign’s nonconforming status under the ordinance. If DOT proposes relocating such a sign, it must notify the municipality or county that adopted the ordinance, which may then petition DOT to condemn the sign instead of relocating the sign but must pay DOT for certain costs of condemnation if DOT condemns the sign.

Act 32 also changes local assistance programs by:

1. Decreasing the amount of general transportation aids payments to local governments and changing the maximum allowable decrease in annual funding to 10 percent of the prior year’s funding.
2. Decreasing the amount of state aid payments for mass transit systems aids.
3. Requiring DOT to provide aid payments for certain mass transit systems to assist in providing para-transit service.
4. Increasing funding for town road improvements under the discretionary component of DOT’s local roads improvement program and allowing the program to fund a double seal coat project on a town road if certain criteria are met.

**Act 147** (AB-518) clarifies that DOT, under the Scenic Byways Program, may designate local highways as scenic byways and specifies that related signage on these designated local highways is the responsibility of the local highway authority.

**Act 230** (AB-216) makes various changes to DOT’s permit system for the maintenance and removal of vegetation obstructing outdoor advertising signs along state trunk highways. Among the changes, the act modifies the standards for permit eligibility, specifies when DOT may impose conditions or restrictions on a permit, and replaces a requirement that a permittee relocate certain vegetation or reimburse DOT for its value with a requirement that a permittee plant certain replacement vegetation in a location DOT determines.

**Act 245** (SB-500) provides that only one, rather than all, of the legislators appointed to serve on the Council on

Highway Safety must serve on a standing committee dealing with transportation matters.

**Act 246** (AB-609) requires that road closure barriers, in lieu of being lighted at night, must conform to certain standards for traffic control devices.

**Act 279** (SB-410) creates a seasonal weight-limit exception for certain vehicles transporting manure.

## IMPAIRED DRIVING

**Act 242** (SB-398) authorizes DOT, upon request by a person whose operating privilege has been suspended for drunk driving, to use remote communication or record review to conduct a hearing to review the suspension.

**Act 262** (SB-330) corrects an erroneous reference and repeals an obsolete provision in the laws related to drunken driving.

## MOTOR VEHICLES

**Act 20** (SB-61) eliminates the expiration on August 1, 2011, of DOT's authority to issue overweight permits for vehicles transporting granular roofing material.

### Delivery of Certificates of Title to Secured Party

**Act 32** (AB-40) requires DOT, in issuing a certificate when there is a security interest in the titled vehicle, to issue the certificate in the name of the vehicle owner but to deliver the certificate to the secured party rather than the vehicle owner. The certificate may be in an electronic or digital form.

Act 32 also does the following:

1. Requires DOT to refuse or suspend registration of a vehicle under the International Registration Plan, which is a reciprocity agreement between the states apportioning registration fees for multistate motor carriers, if the motor carrier responsible for safety of the vehicle is subject to a federal out-of-service order for unsatisfactory safety compliance. The act also requires DOT to deny 72-hour trip permits under similar circumstances.

2. Allows DOT to renew special registration plates issued to a dealer, distributor, manufacturer, or transporter of vehicles, or a finance company or financial institution, without issuing new plates, tags, or decals.

3. Repeals the environmental impact fee of \$9, which under preexisting law was imposed in connection with a vehicle certificate of title and deposited into the environmental fund, and instead increases DOT's certificate of title fee by \$9, which is deposited into the transportation fund.

4. Requires DOT, upon approval by JCF, to establish a system under which license plate decals or stickers are

issued by a vendor and carry an identification marker specific to the license plate or vehicle for which the decal or sticker is issued.

5. Creates second special registration plates for fire fighters who die in the line of duty, their surviving spouses, emergency medical technicians, and first responders. The plates must be the same color and design that DOT specified for these groups immediately prior to January 1, 2007.

**Act 33** (SB-41) generally prohibits the use of certain indemnification or defense agreements between a motor carrier and a shipper of property.

**Act 52** (AB-252) extends the seasonal weight limit exception for certain vehicles transporting agricultural crops from November 30 to December 31.

**Act 53** (AB-253) authorizes the operation, without a DOT permit, of certain vehicles transporting poles, pipe, girders, and similar materials.

**Act 54** (AB-254) increases from 40 feet to 45 feet the maximum overall length of a single vehicle that may be operated on a highway without an overlength permit.

**Act 55** (SB-222) allows DOT to issue overweight permits for vehicles with at least six axles that are transporting sealed containers in international trade.

**Act 56** (SB-223) allows DOT to issue overweight permits for vehicles with at least six axles that are transporting certain agricultural products, including fruit, vegetables, grain, and livestock, to a farm or from a field or farm to a storage or processing facility.

**Act 57** (AB-64) modifies DOT requirements for issuing permits to move oversize modular homes.

**Act 58** (AB-248) allows DOT to issue permits for vehicles transporting hay or straw that exceed the general height limit of 13.5 feet but do not exceed either 14.5 feet or 15 feet, depending on the highway on which the vehicle is operated.

**Act 59** (AB-267) allows the operation of three-vehicle combinations consisting of a towing vehicle, a recreational vehicle or camping trailer, and a trailer for a personal recreational vehicle without a DOT permit. The act also expands the eligible vehicles that may be towed as part of a three-vehicle combination and makes other changes related to operation of three-vehicle combinations.

**Act 60** (SB-215) creates a registration category and fee for certain trailers weighing between 12,001 and 14,000 pounds.

**Act 90** (AB-300) allows the use of distinguishing decals or stickers on registration plates issued to dealers, distributors, manufacturers, or transporters.

**Act 117** (SB-322) prohibits DOT from suspending, or imposing conditions on, certain permits DOT issues for vehicles transporting raw forest products (RS permits) in connection with the thawing of frozen local highways, although these vehicles are subject to posted weight limits on these local highways.

**Act 223** (SB-547) authorizes school buses to be equipped with certain supplemental mirror systems.

**Act 235** (SB-462) eliminates a provision that, with an exception, prohibited DOT from registering a vehicle that was manufactured for use in any country's military forces and that does not meet federal motor vehicle safety standards.

**Act 243** (SB-422) increases from 65 feet to 70 feet the generally applicable overall length limit for two-vehicle combinations, except where DOT has by rule established an exception, and increases the applicable length limit for certain other vehicles.

**Act 262** (SB-330) modifies DOT's method of providing instruction for affixing a DOT-assigned identification number on a vehicle and eliminates DOT's authority to accept proportional vehicle registration, and issue prorated plates for interstate motor carriers. The act also eliminates DOT's authority to participate in the single-state insurance registration system for interstate motor carriers, which was replaced by the unified carrier registration system.

**Act 264** (AB-485) increases from four to six the number of positions available for personalized numbers or letters on special registration plates for disabled veterans.

**Act 265** (AB-486) harmonizes the definitions of "vehicle" and "motor vehicle."

## TRAFFIC AND PARKING REGULATION

**Act 14** (AB-4) decreases the minimum insurance policy limits applicable under the state's mandatory motor vehicle liability insurance law and motor vehicle financial responsibility law (which had been raised in 2009 Wisconsin Act 28) to \$25,000 for bodily injury to or death of one person, \$50,000 for bodily injury to or death of more than one person, and \$10,000 for property damage. The act also eliminates inflation adjustments for these limits and eliminates the requirement that these limits be determined exclusive of interest and costs. See also *Insurance*.

**Act 29** (SB-15) eliminates provisions created in 2009 Wisconsin Act 28 that required law enforcement officers and agencies to collect motor vehicle traffic stop information and required the Office of Justice Assistance to analyze this information with respect to racial minorities as compared to non-minorities. The act also eliminates

a requirement that law enforcement training programs provide training designed to prevent racial profiling.

**Act 73** (AB-265) modifies the definition of "bicycle" to include hand-propelled vehicles; allows bicyclists to use either hand and arm in making turn and stop signals; allows a red light to be used as a substitute for a red reflector on the rear of a bicycle; allows a vehicle operator to cross a center line in a no-passing zone to overtake and pass another vehicle, including a bicycle, traveling at less than half the speed limit; allows bicycles to be operated with metal-studded tires that will not damage the highway; and allows municipalities to enact ordinances considering mopeds as motorcycles rather than bicycles for parking purposes.

**Act 98** (AB-81) increases the penalty for selling a disabled parking card to an unauthorized user, prohibits fraudulent use of a disabled parking card, and modifies the law relating to unauthorized display of a disabled parking card on a vehicle.

**Act 101** (AB-274) requires motorists to yield to railroad track maintenance equipment in the same manner as motorists are required to yield to railroad trains.

**Act 111** (SB-208) clarifies that a child transported in a motor vehicle may be seated in a child restraint system (car seat or booster seat) that is more protective than the minimum restraint system required by law for the child's age or size.

**Act 141** (SB-458) authorizes a municipality or county to adopt an ordinance under which traffic control attendants may be appointed for the protection of persons crossing highways.

**Act 164** (AB-291) prohibits a person holding an instruction permit or probationary license from driving a motor vehicle while using a cellular or other wireless telephone, except to report an emergency.

**Act 173** (AB-55) requires DOT, not a court, to suspend the operating privilege of a person who is convicted of a vehicle failure-to-yield violation that results in bodily harm or death to another person. For a failure-to-yield violation, DOT must also order the person to attend a vehicle right-of-way course that meets certain criteria, instead of a court ordering the person to attend traffic safety school. The act also specifies that driver education instruction on motorcycle, pedestrian, and bicycle awareness must be for a minimum of 30 minutes.

**Act 184** (SB-341) authorizes emergency personnel to leave emergency vehicle doors open when the vehicle is stationary and the person is performing official duties.

**Act 247** (AB-611) requires DOT to identify by rule, in lieu of statutory identification, the types of marking or placarding of a vehicle transporting hazardous materi-

als that require the vehicle operator to stop at railroad crossings.

**Act 256** (SB-478) imposes a duty on the occupant of a motor vehicle involved in a reportable accident, co-equal with the duty of the operator, to immediately notify law enforcement of the accident. With exceptions, the act also prohibits: 1) a towing service from removing a damaged vehicle from the scene of a reportable accident unless law enforcement has first been notified; and 2) any person from knowingly assisting an operator or occupant of a vehicle involved in a reportable accident to flee the scene of an accident unless the accident has first been reported to law enforcement.

## OTHER TRANSPORTATION

### Elimination of Transit Authorities

**Act 32** (AB-40) eliminates the Southeastern Regional Transit Authority (SERTA) and eliminates authorization to create a Dane County Regional Transit Authority (RTA), a Chippewa Valley RTA, and a Chequamegon Bay RTA, all of which were created or authorized in 2009 Wisconsin Act 28. The act also eliminates the Southeast Wisconsin Transit Capital Assistance Program, under which DOT was formerly authorized to award grants from bond proceeds to the SERTA for transit capital improvements.

Act 32 also does the following:

1. Expands the ability of DOT to accept payment of fees by credit card, debit card, or other electronic payment mechanism and allows DOT to charge a convenience fee whenever such a payment is made. The act also allows DOT to establish procedures for conducting any transaction electronically and allows DOT, under some circumstances, to charge an additional fee for conducting a nonelectronic transaction in lieu of an electronic transaction if an electronic transaction option is available.

2. Increases the authority to contract state debt for acquisition and improvement of rail property from \$126,500,000 to \$156,500,000, and increases the authority to contract state debt for harbor improvements from \$66,100,000 to \$76,800,000.

3. Requires DOT to give priority in awarding grants under the Freight Rail Preservation Program to applicants who agree to pay more than the minimum share necessary to qualify for a grant.

4. Excludes time during which repair services are not available because of natural disaster, war, fire, or strike from the 30-day out-of-service period that constitutes a reasonable attempt to repair under the lemon law.

5. Requires DOT to submit, with its biennial budget request information, a plan for transportation financing for the following ten-year period. The act also creates a temporary committee called the Commission on Transportation Finance and Policy, which must prepare a report by March 1, 2013.

6. Requires DOT to place two signs on STH 41 indicating the location of Copper Culture State Park.

**Act 48** (AB-270) directs DOT to designate and, upon receipt of sufficient contributions, mark the bridge on USH 141 across the Menominee River in Marinette County as "Veterans Memorial Bridge."

### Motor Vehicle Dealers

**Act 91** (SB-96) does the following:

1. Adds several items to an existing list of violations for which a motor vehicle manufacturer, importer, or distributor (distributor) may be subject to license revocation or a suit for damages.

2. Requires a distributor to compensate a motor vehicle dealer for motor vehicle service work based on the dealer's effective nonwarranty labor rate and average percentage markup over dealer cost for parts. The act also specifies the method by which these rates are determined and contested.

3. Requires a distributor to pay termination benefits to a dealer when the distributor terminates a franchise that may constitute less than the entire agreement between the distributor and the dealer.

4. Requires a distributor to pay a dealer the franchise's fair market value if a franchise is terminated because the distributor discontinued a line make.

5. Adds several items to an existing list of termination benefits that a distributor must pay to a dealer upon termination of a franchise.

6. Provides several exceptions to the requirement that a distributor pay termination benefits.

7. Requires a distributor to indemnify a dealer against certain claims alleging defective or negligent manufacture or design of a motor vehicle or accessory.

The act does not apply to motorcycle manufacturers, importers, or distributors.

**Act 248** (AB-152) increases from \$500,000 to \$1,250,000 the maximum amount the state may contribute for a building project or building improvement project that is part of an airport improvement project.

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## Veterans and Military Affairs

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**Act 32** (AB-40) authorizes DVA to contract with a private entity to operate the veterans home at Chippewa Falls.

**Act 36** (AB-96) makes the following changes regarding the appointment of the secretary and the members of the Board of Veterans Affairs and the powers of the secretary and board:

1. The secretary is nominated by the governor, and appointed with approval by the senate, instead of being appointed by the board.

2. The secretary, instead of the board, is vested with the rule-making authority for DVA.

3. The membership of the board is increased from seven to nine members, and all members, plus the secretary, must be veterans who have served on active duty.

**Act 120** (SB-357) provides that any relevant training an applicant for a professional or occupational license or other credential obtained in connection with his or her military service counts toward satisfying the initial training requirements for that credential if the applicant demonstrates that the training is substantially equivalent to the training requirements for the credential.

**Act 209** (SB-338) grants one-time fee waivers for most occupational and professional licenses to certain qualified veterans.

**Act 210** (SB-550) extends the expiration date for a military service member's professional or occupational license or other credential, and the time within which that credential may be renewed, from 90 days to 180 days after the service member's discharge from active duty if that credential would have otherwise expired while the service member was on active duty; makes applicable to the spouse of a service member all of the requirements otherwise applicable to a service member concerning that extended expiration date and credential renewal if the service member's spouse does not practice under his or her credential while the service member is on active duty; and extends the application of all of those requirements to members of the U.S. armed forces, in addition to members of a reserve unit of the U.S. armed forces, the state defense force, and the national guard. See also *Occupational Regulation*.

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