

**WINNEBAGO COUNTY BOARD OF SUPERVISORS
TUESDAY, MARCH 18, 2014**

There will be an Adjourned Meeting of the Winnebago County Board of Supervisors on Tuesday, March 18, 2014, at 6:00 p.m., in the Supervisors' Room, Fourth Floor, Winnebago County Courthouse, 415 Jackson Street, Oshkosh, Wisconsin. At this meeting, the following will be presented to the Board for its consideration:

- *Roll Call
- *Pledge of Allegiance
- *Invocation
- *Adopt agenda

***Time will be allowed for persons present to express their opinion on any
Resolution or Ordinance that appears on the agenda.***

- *Communications, petitions, etc.
- *Reports from Committees, Commissions & Boards
- *Approval of the proceedings from the February 11, 2014 meeting
- *County Executive's Report
- *County Board Chairman's Report
- *Presentation by Ernie Winters, Winnebago County Highway Commissioner - CTH I & N Intersection Reconstruction

ZONING REPORTS & ORDINANCES

(There are no zoning reports or ordinances for this meeting.)

RESOLUTIONS AND ORDINANCES

- RESOLUTION NO. 313-32014: Authorize the Emergency Management Department to Accept a Grant of \$6,229 and Apply the Funds to a Hazardous Materials Incident Exercise.
Submitted by:
EMERGENCY MANAGEMENT COMMITTEE
PERSONNEL AND FINANCE COMMITTEE
- RESOLUTION NO. 314-32014: Appropriate \$24,000 from the 2013 General Fund Undesignated Fund Balance to the Capital Outlay Account of the Facilities and Property Management Department's 2014 Budget for the Purchase of a Replacement Van.
Submitted by:
FACILITIES & PROPERTY MANAGEMENT COMMITTEE
PERSONNEL AND FINANCE COMMITTEE
- RESOLUTION NO. 315-32014: Authorize the District Attorneys Office to Accept Grant Funding of \$57,489 and Apply Funds to a COMPAS Evaluator Position Associated with the COMPAS Tool Evaluation Program.
Submitted by:
JUDICIARY AND PUBLIC SAFETY COMMITTEE
PERSONNEL AND FINANCE COMMITTEE
- RESOLUTION NO. 316-32014: Appropriate \$1,800,000 for a Project to Reconstruct CTH T from CTH GG to CTH G in the Town of Vinland.
Submitted by:
HIGHWAY COMMITTEE
PERSONNEL & FINANCE COMMITTEE
- RESOLUTION NO. 317-32014: Request Authority to Apply to the Department of Natural Resources for Funds to Restock Fish in Community Park Pond #2 and to Commit Such Funds as May be Made Available Towards the Restocking Project.
Submitted by:
PARKS AND RECREATION COMMITTEE

RESOLUTION NO. 318-32014: Request Authority to Apply for Funds for Maintenance of Winnebago County Owned and Leased Snowmobile Trails.
Submitted by:
PARKS AND RECREATION COMMITTEE

RESOLUTION NO. 319-32014: Application for Funding Aid from the Wisconsin Department of Natural Resources to Assist in Repaving a Portion of the Eureka Boat Landing Parking Lot.
Submitted by:
PARKS AND RECREATION COMMITTEE

RESOLUTION NO. 320-32014: Application for Funding Aid from the Wisconsin Department of Natural Resources to Assist in Installation of an Asphalt Topcoat and Bollards at the Boom Bay Boat Landing Parking Lot.
Submitted by:
PARKS AND RECREATION COMMITTEE

RESOLUTION NO. 321-32014: Authorize an Agreement With the Department of Natural Resources for Winnebago County to Operate the Tribal Heritage Crossing of the WIOUWASH Trail.
Submitted by:
PARKS AND RECREATION COMMITTEE

RESOLUTION NO. 322-32014: Authorize the Sheriff's Department to Accept a Homeland Security Grant of \$36,816 and Appropriate the Funds to the Purchase of a SWAT Robot.
Submitted by:
JUDICIARY AND PUBLIC SAFETY COMMITTEE
PERSONNEL AND FINANCE COMMITTEE

RESOLUTION NO. 323-32014: Establish Salary for Winnebago County Sheriff.
Submitted by:
PERSONNEL AND FINANCE COMMITTEE

RESOLUTION NO. 324-32014: Establish Salary for Winnebago County Clerk of Courts.
Submitted by:
PERSONNEL AND FINANCE COMMITTEE

RESOLUTION NO. 325-32014: Establish Salary for Winnebago County Coroner.
Submitted by:
PERSONNEL AND FINANCE COMMITTEE

RESOLUTION NO. 326-32014: Amend the Table of Organization for Winnebago County Planning and Zoning Department.
Submitted by:
PERSONNEL AND FINANCE COMMITTEE

RESOLUTION NO. 327-32014: Appropriate \$12,000 from the 2013 General Fund Undesignated Fund Balance to the Legal Services Account of the Corporation Counsel Department's 2013 Budget to Cover a Cost-Overrun.
Submitted by:
JUDICIARY AND PUBLIC SAFETY COMMITTEE
PERSONNEL AND FINANCE COMMITTEE

RESOLUTION NO. 328-32014: Transfer \$8,500 from the 2013 Salary Contingency Fund to the Labor and Fringe Accounts Within the General Services Department's 2013 Budget to Cover Overages in the Temporary Help and Compensated Absences Accounts.
Submitted by:
PERSONNEL AND FINANCE COMMITTEE

RESOLUTION NO. 329-32014: Authorize the Finance Department to Extend the Audit Contract of Schenck Business Solutions for a Three-Year Period (2014, 2015, 2016).
Submitted by:
PERSONNEL AND FINANCE COMMITTEE

RESOLUTION NO. 330-32014: Oppose 2013 Assembly Bill 750 (Local Minimum Wage).
Submitted by:
LEGISLATIVE COMMITTEE

RESOLUTION NO. 331-32014: Support 2013 Senate Bill 550 and Assembly Bill 711 (Amendments to Workers' Compensation Law).
Submitted by:
LEGISLATIVE COMMITTEE

RESOLUTION NO. 332-32014: Support 2013 Assembly Bill 481 (Sale of Tobacco Products).
Submitted by:
LEGISLATIVE COMMITTEE

RESOLUTION NO. 333-32014: Support Request that the Joint Legislative Audit Committee Approve an Audit of the State's Non-Emergency Medical Transportation Program Currently Contracted to Medical Transportation Management, Inc.
Submitted by:
LEGISLATIVE COMMITTEE

Respectfully submitted,
Susan T. Ertmer
Winnebago County Clerk

Upon request, provisions will be made for people with disabilities.
(Times provided are estimates. Any item on the agenda may be taken up by the Board after 6:00 P.M.)

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TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:

WHEREAS, the drill will be carried out with the Galloway Company of Neenah; and

WHEREAS, it would be beneficial for Winnebago County to accept this grant and carry out the exercise.

Fiscal Impact: This resolution is cost neutral. The grant funds will cover the entire cost of the exercise.

EMERGENCY MANAGEMENT COMMITTEE

Respectfully submitted by:

Committee Vote: **4-0**

Approved by the Winnebago County Executive this _____ day of _____, 2014.

Mark L Harris
Winnebago County Executive

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TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:

WHEREAS, because of the age of the van, it is considered to be “totaled”; and

WHEREAS, purchasing a similar van with roughly the same amount of mileage would not be prudent; and

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that it hereby appropriates \$24,000 from the General Fund Undesignated Fund balance for the purchase of a replacement van.

Respectfully submitted by:

Committee Vote: **4-0**

Committee Vote: **4-0**

Vote Required for Passage: **Two-Thirds of Membership**

Approved by the Winnebago County Executive this _____ day of _____, 2014.

Resolution Number: 314-32014

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TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:

WHEREAS, by using this actuarial risk tool, DOC is able to provide better interventions with individuals and help reduce the frequency of re-offenders; and

WHEREAS, the program will allow the District Attorney's Office to have that same ability to better evaluate offenders and intervene to reduce the rate of re-offending.

BE IT FURTHER RESOLVED: that this position will be sunset when the grant funding is no longer available.

Respectfully submitted by:

Committee Vote: _____

Respectfully submitted by:

Committee Vote: **4-0**

Approved by the Winnebago County Executive this _____ day of _____, 2014.

Resolution Number: 315-32014

1 **316-32014**

2 **RESOLUTION: Appropriate \$1,800,000 for a Project to Reconstruct CTH T from CTH GG**
3 **to CTH G in the Town of Vinland**
4

5 **TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:**

6 **WHEREAS**, CTH T from CTH GG to CTH G in the Town of Vinland has deteriorated and is need of
7 reconstruction in order to extend its useful life, address safety concerns, and preserve Winnebago County's
8 investment in the roadway; and

9 **WHEREAS**, this project has been identified in the County Highway Department's 5 Year Capital
10 Improvement Plan, and this segment has been scheduled for reconstruction in 2014; and

11 **WHEREAS**, this segment of CTH T has been designed, and the required right of way purchased, as a part of
12 a larger project to reconstruct CTH T from CTH Y to CTH G. The portion from CTH Y to CTH GG was completed in
13 2012; and

14 **WHEREAS**, this project is eligible for County Highway Improvement Program-Discretionary funding in the
15 amount of \$172,000; and

16 **WHEREAS**, the Winnebago County Board of Supervisors supports the maintenance and improvement of our
17 transportation infrastructure and realizes the impact good roads and highways have on our regional economy.

18 **NOW, THEREFORE, BE IT RESOLVED** by the Winnebago County Board of Supervisors that it hereby
19 appropriates \$1,800,000 to a Capital Improvement Project to fund the reconstruction of CTH T from CTH GG to CTH
20 G in the Town of Vinland.
21

22 **BE IT FURTHER RESOLVED** by the Winnebago County Board of Supervisors that Winnebago County
23 accept \$172,000 of Highway Improvements Program funding and apply said funds to the project with the balance of
24 \$1,628,000 to be transferred from the General Fund of Winnebago County with the General Fund being reimbursed
25 from a subsequent bond issue.
26

27 **Fiscal Impact:** Annual debt service over the 10-year repayment period for the bonds will be roughly \$195,000.

28
29 Respectfully submitted by:
30 **HIGHWAY COMMITTEE**

31 Committee Vote: **5-0**

32 Respectfully submitted by:
33 **PERSONNEL & FINANCE COMMITTEE**

34 Committee Vote: **4-0**

35 Vote Required for Passage: **Three-Fourths of Membership**

36
37 Approved by the Winnebago County Executive this ____ day of _____, 2014.
38

39
40 _____
41 Mark L Harris
 Winnebago County Executive

CTH T Reconstruction - GG to G

- A, PROPOSED 2014 BONDING - \$ 1,628,000
- B. PROJECT COSTS AND SOURCES OF FUNDS:

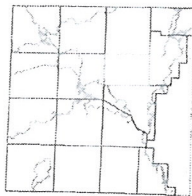
PROJECT COSTS:	2014	2015	2016	2017	2018	Total
Planning & design						\$ -
Land purchase						-
Construction	1,800,000					1,800,000
Equipment						-
Other						-
Total costs	1,800,000	-	-	-	-	1,800,000
PROJECT FUNDS:						
G.O.Bonds or notes	1,628,000	-	-	-	-	1,628,000
Outside funding	172,000					172,000
Tax levy						-
Total funds	\$ 1,800,000	\$ -	\$ -	\$ -	\$ -	\$ 1,800,000

- C. DESCRIPTION AND JUSTIFICATION:

Project Description: Reconstruct approximately 2 miles of CTH T from CTH GG to CTH G in the Town of Vinland. Project will consist of pavement removal or pulverizing, ditch and drainage improvements, limited curb and gutter, some sight distance and alignment work.

Relationship to other projects and plans: This project continues the work on CTH T that began in 2012 with the section from CTH Y to CTH GG.

Justification and alternatives considered: CTH T from Y to GG was reconstructed in 2012 and this is a continuation of that highway improvement. The surface of the roadway is considerably deteriorated with indications of base failure in some areas. This type of condition can really only be corrected by reconstructing those portions.



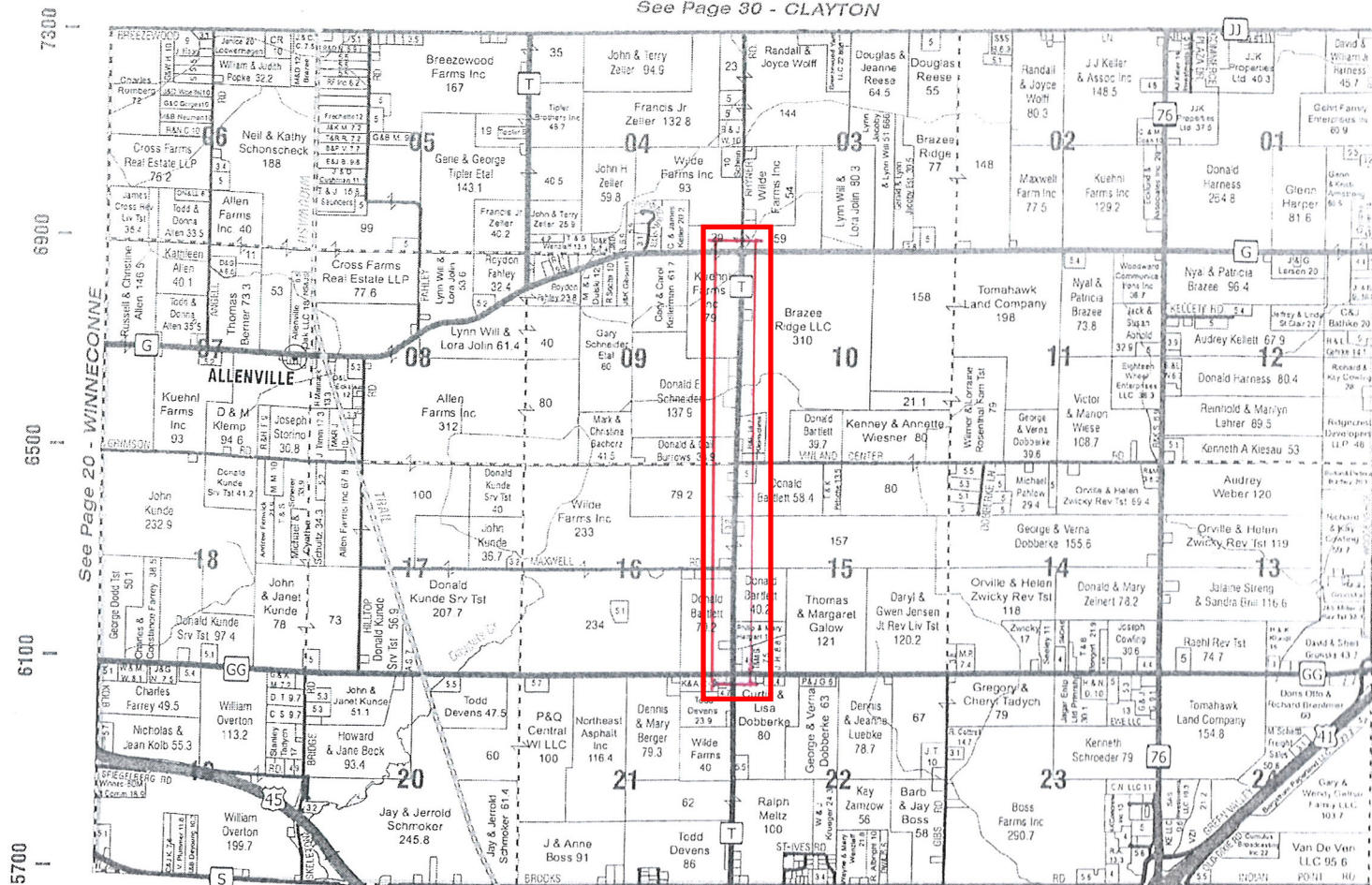
VINLAND (W)

T.19N. - R.16E.

Winnebago Co. Highway Dept.
2014 Capital Improvement Plan
CTH T Reconstruction
CTH GG to CTH G



See Page 30 - CLAYTON



See Page 16 - OSHKOSH

See Page 24 - NEENAH and VINLAND (E)

TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:

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TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:

WHEREAS, funds are available for snowmobile trail maintenance as well as snowmobile trail bridge building and repair through the Department of Natural Resources pursuant to § 23.09(26), Wis Stats; and

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that it hereby authorizes the Winnebago County Executive and the Winnebago County Clerk to submit an application on behalf of Winnebago County with the Department of Natural Resources, pursuant to § 23.09(26), Wis Stats, for any financial aid that may be available for public snowmobile trail maintenance as well as snowmobile trail bridge building and repair in Winnebago County.

Respectfully submitted by:

Committee Vote: **5-0**

Approved by the Winnebago County Executive this _____ day of _____, 2014.

Mark L Harris
Winnebago County Executive

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TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:

WHEREAS, Winnebago County recognizes that properly maintained launch facilities are necessary for safe recreational boating; and

WHEREAS, it has been determined that it would be beneficial to repave an 8,500 square foot area of parking lot at Eureka Boat Landing; and

WHEREAS, of the \$150,000 balance available in the Winnebago County Boat Trailer Parking Permit Fee Program, \$33,000 has already been appropriated for use in the 2014 Budget in order to facility parking lot improvements at the Eureka Boat Landing.

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that it hereby authorizes the Winnebago County Executive and the Winnebago County Clerk to submit an application on behalf of Winnebago County to the Wisconsin Department of Natural Resources for such funding aids as may be available to repave a portion of the Eureka Boat Landing parking lot.

PARKS AND RECREATION COMMITTEE

Vote Required for Passage: **Majority of Those Present**

Approved by the Winnebago County Executive this _____ day of _____, 2014.

Mark L Harris
Winnebago County Executive

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TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:

WHEREAS, Winnebago County recognizes that properly maintained launch facilities are necessary for safe recreational boating; and

WHEREAS, it has been determined that it would be beneficial to upgrade the parking lot facilities at the Boom Bay Boat Landing by installing a three-inch asphalt topcoat over the existing limestone base parking lot located next to Trauba Lane; and

WHEREAS, it is estimated that the Boom Bay Boat Landing Parking Lot Improvement Project will cost approximately \$38,000, and it is understood that as a requirement of this particular DNR grant, Winnebago County will be required to provide a minimum of \$19,000 in matching funds in order to meet its cost sharing obligation; and

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that it hereby authorizes the Winnebago County Executive and the Winnebago County Clerk to submit an application on behalf of Winnebago County to the Wisconsin Department of Natural Resources for such funding aids as may be available in order to lay down an asphalt topcoat and install bollards at the Boom Bay Boat Landing parking lot.

PARKS AND RECREATION COMMITTEE

Vote Required for Passage: **Majority of Those Present**

Mark L Harris
Winnebago County Executive

2 **RESOLUTION: Authorize an Agreement With the Department of Natural Resources for**
3 **Winnebago County to Operate the Tribal Heritage Crossing of the**
4 **WIOUWASH Trail**

5
6 **TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:**

7 **WHEREAS**, the Wisconsin Department of Natural Resources (DNR) desires to enter into an operational
8 agreement with Winnebago County to facilitate the maintenance and management of a new segment of WIOUWASH
9 Trail owned by the State and recognized as Tribal Heritage Crossing of WIOUWASH State Recreational Trail; and

10 **WHEREAS**, such a transaction is similar to the agreement made between the DNR and Winnebago County
11 in 1994 when Winnebago County assumed maintenance responsibilities for the one (1) mile section of WIOUWASH
12 Trail running between Marine Drive and the Wisconsin Street Bridge in the City of Oshkosh; and

13 **WHEREAS**, the Winnebago County Parks and Recreation Committee believes that the characteristics of this
14 trail crossing on the Lake Butte de Morts Bridge will be a tremendous asset to Winnebago County as it will not only
15 attract great interest from persons interested in viewing the 11 kiosks dedicated to Native American Heritage in our
16 state but will also facilitate fishing access at a key spot within the Winnebago County waterways; and

17 **WHEREAS**, the Winnebago County Parks Department is in the process of completing final trail maintenance
18 tasks requires as part of the arrangements for turning over operation of the Marine Drive to Wisconsin Street Bridge
19 segment of the WIOUWASH Trail to the City of Oshkosh in order to offset added costs associated with maintaining
20 the Tribal Heritage Crossing of the WIOUWASH State Recreational Trail.

21
22 **NOW, THEREFORE, BE IT RESOLVED** by the Winnebago County Board of Supervisors that it hereby
23 authorizes the Winnebago County Executive and the Winnebago County Clerk to enter into an agreement between
24 Winnebago County and the Wisconsin Department of Natural Resources for Winnebago County to operate and
25 maintain the Tribal Heritage Crossing of the WIOUWASH State Recreational Trail for a period from October 1, 2013,
26 through September 30, 2033..

27 **BE IT FURTHER RESOLVED** by the Winnebago County Board of Supervisors that a copy of said
28 agreement is attached hereto and made a part of this Resolution by reference.

29
30 **Fiscal Note:** As suggested in the above narrative, the trade-off in maintenance costs between what Winnebago
31 County will pay out in operating the Tribal Heritage Crossing of the WIOUWASH State Recreational
32 Trail versus what it will save the termination of maintenance obligation for the marine Drive to
33 Wisconsin Street Bridge section of the WIOUWASH Trail is expected to be even.
34

35 Respectfully submitted by:

36 **PARKS AND RECREATION COMMITTEE**

37 Committee Vote: **5-0**

38 Vote Required for Passage: **Majority of Those Present**

39
40 Approved by the Winnebago County Executive this ____ day of _____, 2014.

41
42
43 _____
44 Mark L Harris
Winnebago County Executive

State of Wisconsin
Department of Natural Resources
Box 7921
Madison, WI 53707

AGREEMENT

Wis. Stats. ss. 23.09(2)(h) and 23.09(10)

THIS AGREEMENT is made by and between the State of Wisconsin Department of Natural Resources (hereinafter referred to as "DNR") and the Winnebago County Parks Department (hereinafter referred to as "County").

RECITALS

WHEREAS, the State of Wisconsin Department of Transportation (hereinafter referred to as "WisDOT") recently completed the USH 41 project, WisDOT Project ID #1120-11-75 (formerly identified as Project ID #1120-11-73) across Lake Butte des Morts in Winnebago County, Wisconsin;

WHEREAS, as part of said WisDOT Project ID #1120-11-75 WisDOT constructed and graded a 12 foot wide bicycle/pedestrian path, two adjoining fishing accesses to Lake Butte des Morts and scenic overlooks within the USH 41 right-of-way on a strip of land of varying widths abutting and attached to the east side of the northbound lane of USH 41, as built, and as more accurately depicted on the attached Exhibit "A", over and across the following lands in Winnebago County, Wisconsin:

Township 18 North, Range 16 East

Section 3: Part of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$;

Section 9: Part of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$;

Section 10: Part of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$, the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$, the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$;

Section 15: Part of the NW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$;

Section 16: Part of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ and the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$;

WHEREAS, in 2007 WisDOT and DNR entered into a Maintenance Agreement, a copy of which is attached for reference as Exhibit "B", for said bicycle bicycle/pedestrian path, two fishing accesses to Lake Butte des Morts and scenic overlooks in which DNR agreed to be responsible for said facilities on WisDOT owned land;

WHEREAS, the DNR now wishes to enter into an agreement with the County where the County will take over and assume the DNR's duties to operate, manage and maintain the bicycle/pedestrian path, two fishing accesses to Lake Butte des Morts and scenic overlooks on the WisDOT owned land for USH 41;

NOW, THEREFORE for good and valuable consideration and the mutual covenants and conditions contained herein, the DNR and the County enter into this agreement purpose of granting the County the non-exclusive right to operate, manage and maintain the bicycle/pedestrian path, two fishing accesses to Lake Butte des Morts and the scenic overlooks on property known as the USH 41 Lake Butte Des Morts Bridge Wiouwash Trail Spur as follows:

It is understood by the DNR and the County that this agreement is subject to the following conditions:

Recording Area

Return: Department of Natural Resources
Bureau of Facilities & Lands – LF/6
P.O. Box 7921
Madison, WI 53707-7921
Attn: Sharene Smith (LUA-_____)

Parcel Identification Number (PIN):

1. The parties hereto confirm and agree that the recitals set forth above are true and correct and incorporate the same herein for all purposes.
2. This agreement shall commence and be effective on the 1st day of October, 2013, and it shall terminate on the 1st day of October, 2033.
3. The County shall operate, manage and maintain a bicycle/pedestrian path, two fishing accesses and the scenic overlooks on the above-described lands located within the corridors of WisDOT's USH 41, for the purposes stated herein.
4. The County agrees that if the bicycle/pedestrian path/trail ever ceases to be used for said purposes for two years, then all agreement rights revert to and revest in the DNR without necessity of reentry.
5. Development and maintenance shall conform to the American Association of State Highway and Transportation Officials (AASHTO) standards for bicycle facilities.
6. All fencing, surveying, signing, and similar activities, which are related to the development, maintenance, and operation of the bicycle/pedestrian path/trail and fishing access including fire suppression, shall be the responsibility of the County.
7. If the DNR conveys any additional agreements within the above-described property, the DNR will require the respective grantees to restore the bicycle/pedestrian path and fishing access to the satisfaction of the County.
8. The County, shall secure and comply with all federal, state and local permits and licenses required for the construction, installation, operation, maintenance, repair, reinstallation, replacement, of the bicycle/pedestrian path and fishing access including, without limitation, zoning, building, health, environmental permits or licenses, and shall indemnify the DNR against payment of the costs therefor and against any fines or penalties that may be levied for failure to procure or to comply with such permits or licenses as well as any remedial costs to cure violations thereof. The DNR agrees to cooperate with the County in securing any such permits or licenses by providing information and data upon request.
9. The County will not permit any mortgage, pledge, security interest, lien or encumbrance, including without limitation tax liens or encumbrances and liens or encumbrances with respect to work performed or equipment furnished in connection with the construction, installation, repair, maintenance or operation of the bicycle/pedestrian path and fishing access or any portion of the agreed upon area.
10. DNR reserves no control over the employment, discharge, compensation of or services rendered by the County employees or contractors, and the County shall be and remain an independent party, and nothing herein shall be construed as inconsistent with the status or as creating or implying any partnership or joint venture between the County and DNR and employees of the County or employees of any contractor shall not be considered DNR employees.
11. In the exercise of its rights herein, including but not limited to the operation of the agreed upon property as a recreational trail, the County shall not discriminate against any member of the public on the basis of age, race, creed, color, handicap, sex, marital status, arrest or conviction records, ancestry, sexual orientation, or membership in the National Guard, state defense force or any other reserve component of the military forces of the United States.

12. In connection with the performance of any work under the agreement, the County agrees not to discriminate against any employee or applicant for employment because of age, handicap, physical condition, developmental disability as defined in s. 51.01(5), Stats., race, religion, sex, color, sexual orientation or national origin regarding employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The County agrees to take affirmative action to ensure employment opportunities for persons with physical disabilities.
13. Daily routine enforcement shall be the responsibility of the County.
14. Notwithstanding Paragraph 2, all rights, duties and responsibilities herein of the County shall take effect upon receipt of a fully signed copy of this agreement.
15. Boundary disputes, trespass and other claims shall be the responsibility of the County. Should any of the adjacent landowners challenge the County's and/or the State of Wisconsin's right to develop this trail by way of court action in either State or Federal court, or by other judicial or administrative challenge, the State will fully defend its rights to develop, in conjunction with the County, the trail which is the subject of this agreement.
16. The County agrees to save, keep harmless, defend and indemnify the DNR and all its officers, employees and agents against any and all liability, claims and costs of whatever kind and nature, for injury to or death of any person or persons, and for loss of damage to any property, (state or other) occurring in connection with this agreement, except for any liability, claim or cost resulting from the negligent or intentional acts or omissions of the DNR, its officers, employees or agents.
17. This agreement shall be non-exclusive, and the DNR retains the right to grant or convey any interest the DNR may hold to one or more person(s), company(s) or entity(s); provided that any such subsequent use, or conveyance does not interfere with the rights granted to the County hereunder.
18. The County's obligation to perform shall be limited to resources that the County is reasonably able to provide and within the limits of available state and/or federal funds and of the County funds required to be appropriated to match any state and/or federal funds.
19. This agreement shall be binding on the parties hereto and their successors and assigns.
20. This agreement shall be construed and enforced in accordance with the internal laws of the State of Wisconsin.
21. This agreement sets forth the entire understanding of the parties and may not be changed except by a written document executed and acknowledged by all parties to this agreement.
22. If any term or condition of this agreement shall be deemed invalid or unenforceable, the remainder of this agreement shall not be affected thereby, and each term and condition shall be valid and enforceable to the fullest extent permitted by law.
23. Enforcement of this agreement may be by proceedings at law or in equity against any person or persons violating or attempting or threatening to violate any term or condition in this agreement, either to restrain or prevent the violation or to obtain any other relief. If a suit is brought to enforce this agreement, the prevailing party shall be entitled to recover its costs, including reasonable attorney fees, from the nonprevailing party.

END OF CONDITIONS

IN WITNESS WHEREOF the Lessor has caused this lease agreement to be executed on its behalf this ____ day _____, 2014.

State of Wisconsin
Department of Natural Resources
For the Secretary

By _____ (SEAL)
Douglas J. Haag
Deputy Bureau Director Facilities & Land

State of Wisconsin)
) ss.
Dane County)

Personally came before me this _____ day of _____, 2014, the above named Douglas J. Haag, Deputy Bureau Director Facilities & Land, State of Wisconsin Department of Natural Resources, to me known to be the person who executed the foregoing instrument and acknowledged that he executed and delivered the same as for the act and deed of said Department of Natural Resources.

Sharene J. Smith
Notary Public, State of Wisconsin
My Commission (expires)(is) _____

IN WITNESS WHEREOF the County has agreed to and caused this agreement to be executed on its behalf this -
____ day _____, 2014.

Winnebago County

By _____ (SEAL)
Mark L. Harris
County Executive

State of Wisconsin)
) ss.
Winnebago County)

Personally came before me this _____ day of _____, 2014, the above
named Mark L. Harris, County Executive, Winnebago County, to me known to be the person who executed the
foregoing instrument and acknowledged that he executed and delivered the same as for the act and deed of said
Winnebago County.

*

Notary Public, State of Wisconsin

My Commission (expires)(is) _____

CONSENT TO AGREEMENT

IN WITNESS WHEREOF, State of Wisconsin, Department of Transportation, c/o Will Dorsey, Director Northeast Region located at 944 Vanderperren Way, Green Bay, WI 54304, being the fee title owner of the property, hereby consents and agrees to the DNR grant the right to the County to operate, manage and maintain the bicycle/pedestrian path, two fishing accesses to Lake Butte des Morts and scenic overlooks attached to and abutting the north bound lane of USH 41, between Highway 21 and Lake Butte des Morts Drive and caused this consent to agreement to be executed on its behalf this ____ day _____, 2014.

State of Wisconsin
Department of Transportation
For the Secretary

By _____ (SEAL)
Will Dorsey
Northeast Regional Director

State of Wisconsin)
) ss.
Brown County)

Personally came before me this _____ day of _____, 2014, the above named Will Dorsey, Northeast Regional Director, State of Wisconsin Department of Transportation, to me known to be the person who executed the foregoing instrument and acknowledged that he executed and delivered the same as for the act and deed of said Department of Transportation.

Notary Public, State of Wisconsin
My Commission (expires)(is) _____

This instrument drafted by:
Attorney Kristin A. Hess
State Bar # 1001214
State of Wisconsin
Department of Natural Resources

Exhibit "A"

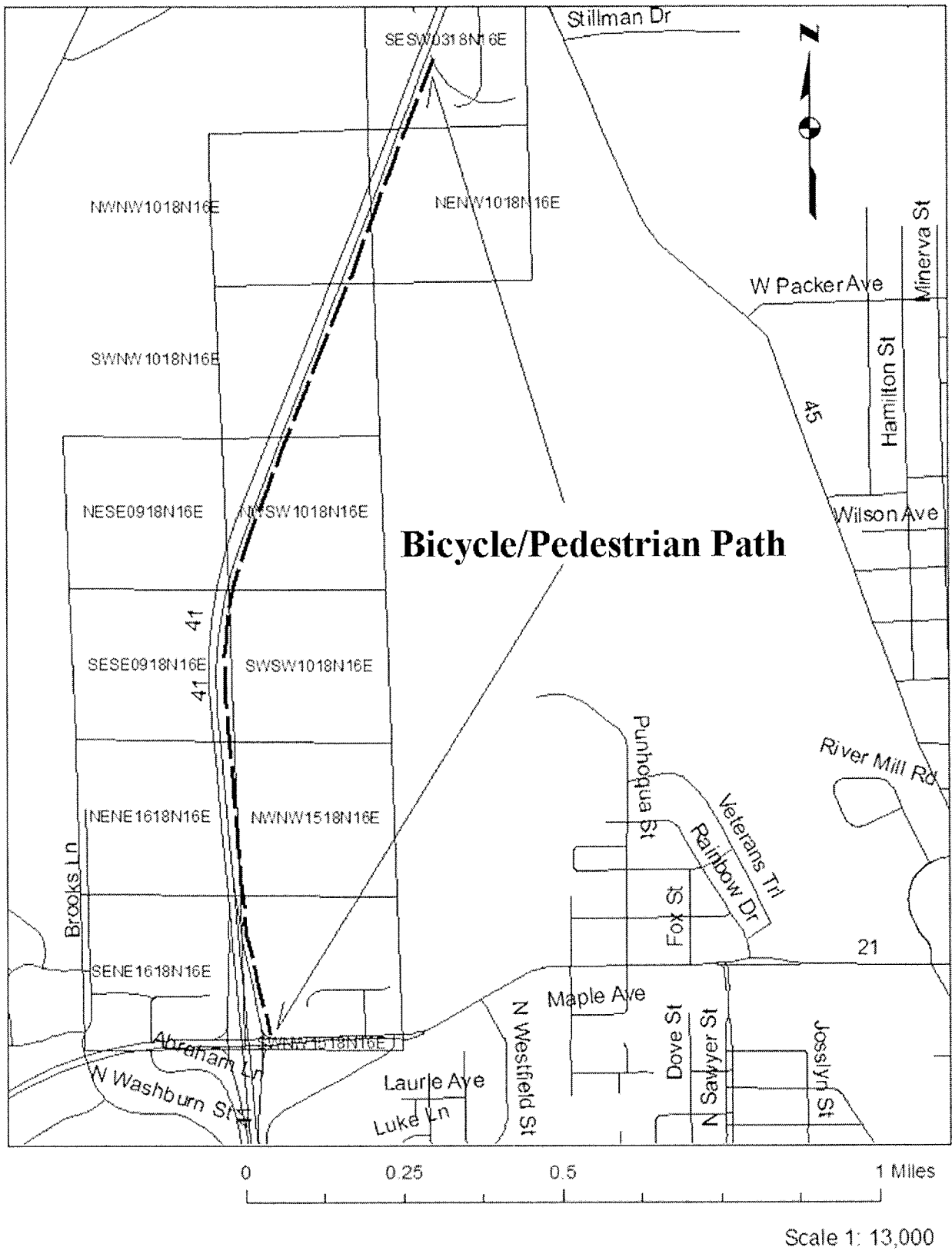


Exhibit "B"

**MAINTENANCE AGREEMENT
FOR
PROPOSED PATH ALONG LAKE BUTTE DES MORTS BRIDGE
US 41
WINNEBAGO COUNTY**

This agreement will document understandings reached between the Wisconsin Department of Transportation, hereinafter called the "WisDOT", and the Wisconsin Department of Natural Resources, hereinafter called the "WDNR", regarding the above referenced project.

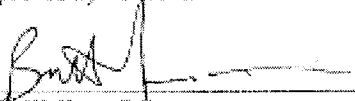
Proposed Improvement

WisDOT project ID 1120-11-73 will include grading and construction of a 12-foot wide bicycle/pedestrian path, which will be located within WisDOT right-of-way. The path begins at the intersection of WIS 21 and Rath Lane, runs North adjacent to US 41 across Lake Butte des Morts and ends at Lake Butte des Morts Drive at the intersection with the Winuwash State Trail.

1. It is understood that WisDOT will:
 - a. Grade and pave a 12-foot wide bicycle/pedestrian path as part of the US 41 project. The fishing access will not be paved.
 - b. Assume all costs and maintenance responsibility associated with the structural integrity of the Lake Butte des Morts Bridges.
 - c. Will maintain ownership of the right-of-way for the path, fishing access and scenic overlooks.
2. It is understood that WDNR will:
 - a. Assume all costs and responsibility for any future maintenance of this bicycle/pedestrian path and the fishing access and scenic overlook areas, except for maintenance associated with structural integrity of the Lake Butte des Morts Bridge.
 - b. Enforce intended bicycle/pedestrian use prohibiting equestrian and motorized travel.
 - c. Submit a permit to work on WisDOT right-of-way before any improvements or maintenance is conducted.

The signatures below signify that WisDOT and WDNR accept and agree to all terms as outlined in this agreement.

Approved by: STATE OF WISCONSIN, DEPARTMENT OF TRANSPORTATION


Brett Wallace, P.E.
Systems Planning & Operations Chief
WisDOT NE Region

Date 2-12-07

Approved by: STATE OF WISCONSIN, DEPARTMENT OF NATURAL RESOURCES


Richard Steffes, Director, Real Estate Section

Date 2-5-07

TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:

WHEREAS, the acquisition of this equipment will allow the SWAT Team to respond to tactical incidents and minimize the danger to SWAT Team members using the robots capabilities; and

WHEREAS, an officer can direct the robot using a hand held remote control unit allowing the Team to view the scene through multiple cameras on the unit, communicate through speakers on the unit, and listen to responses through a microphone on the unit; and

WHEREAS, these features allow the team to conduct operations while minimizing the dangers that normally would be placed on Tam members directly exposed to the situations; and

WHEREAS, this robot will allow an initial assessment of the situation without creating the potential flashpoint of an unintended close encounter between officers and suspects; and

WHEREAS, this type of equipment would be very beneficial to the Winnebago County Sheriff's Department.

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that it hereby authorizes the Winnebago County Sheriff's Department to accept the Homeland Security Grant of \$36,816 and use the funds to purchase a SWAT robot.

Fiscal Impact: This resolution is cost neutral. The cost of the equipment is entirely covered by the grant funds.

Respectfully submitted by:

JUDICIARY AND PUBLIC SAFETY COMMITTEE

Committee Vote: **4-0**

Respectfully submitted by:

PERSONNEL AND FINANCE COMMITTEE

Committee Vote: **4-0**

Vote Required for Passage: **Two-Thirds of Membership**

Approved by the Winnebago County Executive this _____ day of _____, 2014.

Mark L Harris
Winnebago County Executive

7 **WHEREAS**, § 59.22, Wis Stats, requires that any changes in the compensation for these elected positions
8 must be adopted by the county board of supervisors earlier than the first date for filing nomination papers for the
9 upcoming term; and

12
13 **NOW, THEREFORE, BE IT RESOLVED** by the Winnebago County Board of Supervisors that it hereby
14 establishes the following annual salary rates for the Sheriff for Winnebago County for the term commencing after
15 January 1, 2015:

16
17 **BE IT FURTHER RESOLVED** by the Winnebago County Board of Supervisors that Winnebago County shall
18 provide the above-mentioned officer with health, dental, life, and long-term disability insurance benefits at the same
19 level and on the same terms and conditions as are provided to the County's appointed department heads, including
20 modifications which may be made from time to time during the office holder's term, and that the officer participate in
21 the Wisconsin Retirement System on the same terms as apply to other law enforcement management personnel.

24					
25	Fiscal Note:	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
26	Wages	\$6,888	\$1,926	\$1,964	\$2,003
27	Fringes.....	\$ 734	\$ 205	\$ 209	\$ 213
28	Total Increase Over Previous Year ..	\$7,622	\$2,131	\$2,173	\$2,213
29		(7.7%)	(2.0%)	(2.0%)	(2.0%)

PERSONNEL AND FINANCE COMMITTEE

Vote Required for Passage: **Majority of Those Present**

Mark L Harris
Winnebago County Executive

TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:

WHEREAS, § 59.22, Wis Stats, requires that any changes in the compensation for these elected positions must be adopted by the county board of supervisors earlier than the first date for filing nomination papers for the upcoming term; and

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that it hereby establishes the following annual salary rates for Clerk of Courts for Winnebago County for the term commencing after January 1, 2015:

BE IT FURTHER RESOLVED by the Winnebago County Board of Supervisors that Winnebago County shall provide the above-mentioned officer with health, dental, life, and long-term disability insurance benefits at the same level and on the same terms and conditions as are provided to the County's appointed department heads, including modifications which may be made from time to time during the office holder's term, and that the officer participate in the Wisconsin Retirement System on the same terms as apply to other elected officials

Fiscal Note:

Respectfully submitted by:

PERSONNEL AND FINANCE COMMITTEE

Vote Required for Passage: **Majority of Those Present**

Mark L Harris
Winnebago County Executive

RESOLUTION: Establish Salary for Winnebago County Coroner

TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:

WHEREAS, the next four-year term of office for the Winnebago County Sheriff, Clerk of Courts, and Coroner will begin in January 2015; and

WHEREAS, § 59.22, Wis Stats, requires that any changes in the compensation for these elected positions must be adopted by the county board of supervisors earlier than the first date for filing nomination papers for the upcoming term; and

WHEREAS, reasonable salaries are necessary to attract well-qualified candidates to these full-time elected positions.

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that it hereby establishes the following annual salary rates for Coroner for Winnebago County for the term commencing after January 1, 2015:

Office (Current Salary)	2015 Annual Salary	2016 Annual Salary	2017 Annual Salary	2018 Annual Salary
Coroner (\$62,527)	\$65,818	\$67,134	\$68,477	\$69,846

BE IT FURTHER RESOLVED by the Winnebago County Board of Supervisors that Winnebago County shall provide the above-mentioned officer with health, dental, life, and long-term disability insurance benefits at the same level and on the same terms and conditions as are provided to the County's appointed department heads, including modifications which may be made from time to time during the office holder's term, and that the officer participate in the Wisconsin Retirement System on the same terms as apply to other elected officials

BE IT FURTHER RESOLVED by the Winnebago County Board of Supervisors that funds to cover the cost of this action be included as part of the budgets for the respective years.

Fiscal Note:	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Wages	\$3,291	\$1,316	\$1,343	\$1,370
Fringes.....	\$ 252	\$ 101	\$ 103	\$ 105
Total Increase Over Previous Year ..	\$3,543 (5.3%)	\$1,417 (2.0%)	\$1,446 (2.0%)	\$1,475 (2.0%)

Respectfully submitted by:

PERSONNEL AND FINANCE COMMITTEE

Committee Vote: **3-1**

Vote Required for Passage: **Majority of Those Present**

Approved by the Winnebago County Executive this day of , 2014.

Mark L Harris
Winnebago County Executive

TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:

WHEREAS, the Tax Listing unit of the Planning and Zoning Department includes very little work of the type that would normally be performed by an employee having an Account Clerk I job title, and the needs of the Department are for an employee with sufficient skill, training, and experience to assist the Tax Listing and Assessment Coordinator with the full range of technical duties associated with that function; and

WHEREAS, a job description for the proposed new position of Tax Listing Specialist position has been developed (a copy of which is attached hereto for informational purposes), and although the pay grade for the proposed new position would be higher than the pay grade for the Account Clerk I position, because of the savings associated with the turnover in the position, no budget transfer will be needed.

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that it hereby it hereby authorizes amending the Table of Organization for the Winnebago County Planning and Zoning Department by deleting one full-time Account Clerk I position and adding one full-time Tax Listing Specialist position.

Wage Cost.....	\$ 1,053
Fringe Benefit Cost.....	<u>154</u>
Total.....	\$ 1,207

PERSONNEL AND FINANCE COMMITTEE

Vote Required for Passage: **Two-Thirds of Membership**

Approved by the Winnebago County Executive this _____ day of _____, 2014.

Resolution Number: 326-32014

**WINNEBAGO COUNTY
POSITION DESCRIPTION**

POSITION TITLE: TAX LISTING SPECIALIST

DEPARTMENT: PLANNING & ZONING

DATE: February 2014

POSITION PURPOSE: Assists the Tax Listing and Assessment Coordinator in various aspects of property tax listing and assessment procedures.

POSITION IN ORGANIZATION: Reports to Tax Listing and Assessment Coordinator.

ESSENTIAL DUTIES:

1. Performs updates to the land records system to reflect accurate and current information resulting from deeds, certified survey maps, splits, mergers, ownership changes, address changes, and legal description changes.
2. Confirms accuracy of titles; assigns parcel numbers and enters them into the land records system when needed.
3. Reads and answers correspondence; answers telephone calls and responds in person to inquiries from attorneys, realtors, surveyors, title companies, and the general public regarding legal descriptions, assessments, parcel ownership, lot sizes, and related matters; provides copies of records on request and collects fees as appropriate.
4. Provides information to municipal assessors, clerks, and treasurers at their request.
5. Enters assessment data into land records system and assists in preparation of assessment rolls and in transmission of rolls to municipal officials.
6. Enters data regarding special assessments for trust and non-trust charges, and real estate and personal property assessments from state manufacturing roll.
7. Assists in preparing tax bills.
8. Verifies accuracy of all information entered into land records system.
9. Becomes familiar with all aspects of the tax listing and assessment system and is prepared to perform all duties of the Tax Listing and Assessment Coordinator in his or her absence.
10. Performs other duties as assigned.

EDUCATION AND EXPERIENCE:

1. High school diploma or GED is required; bachelor's or associate's degree or other post-high school formal training in a related field is preferred.
2. A minimum of two years' work experience in property assessment, title examination, appraising, surveying, geographic information systems, or another related field is required.

KNOWLEDGE, SKILLS AND ABILITIES:

1. Thorough knowledge of legal descriptions for real property, including ability to read and interpret legal descriptions and correlate them with parcel maps.
2. Ability to understand Wisconsin statutes pertaining to real estate assessment, property taxation, surveying, and document recording.
3. Ability to perform title searches and to research and interpret land records.
4. Knowledge of basic cartographic and geographic information system methods, including ability to read and interpret survey maps.
5. Knowledge of mathematics including addition, subtraction, multiplication, division, ratios, area calculations, and algebraic formulas.
6. Ability to type a minimum of 35 words per minute.

7. Demonstrated ability to use computer software including the ability to learn and become proficient with using land records management software.
8. Ability to communicate effectively in oral and written format.
9. Ability to establish and maintain effective working relationships with co-workers, other governmental agencies and departments, and the general public.

PHYSICAL REQUIREMENTS:

1. Ability to perform most work from a sedentary position and work with a computer for 6 to 7 hours a day.
2. Ability to function in situations encountered in a normal office setting and to use office equipment including telephone, computer, printers, and photocopiers.

1 **327-32014**

2 **RESOLUTION:** **Appropriate \$12,000 from the 2013 General Fund Undesignated Fund**
3 **Balance to the Legal Services Account of the Corporation Counsel**
4 **Department's 2013 Budget to Cover a Cost-Overrun**

6 **TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:**

7 **WHEREAS**, the Other Operating Expenses category of the Corporation Counsel Department's 2013 Budget
8 has exceeded its annual budget for 2013; and

9 **WHEREAS**, the overage is the result of a larger amount of outside legal services and transcript fees due to
10 the rising number of contested legal matters; and

1 **WHEREAS**, there are not sufficient funds in other areas of the Corporation Counsel Department's 2013
2 Budget to transfer to cover the overage.

14 **NOW, THEREFORE, BE IT RESOLVED** by the Winnebago County Board of Supervisors that it hereby
15 appropriates \$12,000 from the General Fund Undesignated Fund Balance to the Legal Services Account of the
16 Corporation Counsel Department's 2013 Budget to cover the overage.

8 **Fiscal Note:** This will reduce the Undesignated Fund Balance of the General Fund by \$12,000. It is projected that
9 the Undesignated Fund Balance will close the 2013 year with a balance of approximately \$14 million.

20 Respectfully submitted by:

21 JUDICIARY AND PUBLIC SAFETY COMMITTEE

22 Committee Vote: **4-0**

23 Respectfully submitted by:

24 PERSONNEL AND FINANCE COMMITTEE

25 Committee Vote: **4-0**

26 Vote Required for Passage: **Two-Thirds of Membership**

28 Approved by the Winnebago County Executive this day of , 2014.

31 Mark L Harris
32 Winnebago County Executive

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TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:

WHEREAS, it was necessary to hire temporary help to process the mail; and

WHEREAS, one employee in the General Services Department has many years of service and has rarely used sick time resulting in a very large bank of sick time for that employee; and

WHEREAS, because of these two items, the funds in the Labor Account within the General Services Department's 2013 Budget have been exceeded.

Fiscal Note: The 2013 Salary Contingency Fund has a balance of \$284,385 prior to this transfer. Any unused balance in the Contingency Fund will revert back to the General Fund at the end of the year.

PERSONNEL AND FINANCE COMMITTEE

Vote Required for Passage: Two-Thirds of Membership

Approved by the Winnebago County Executive this _____ day of _____, 2014.

Mark L Harris
Winnebago County Executive

2 **RESOLUTION: Authorize the Finance Department to Extend the Audit Contract of**
3 **Schenck Business Solutions for a Three-Year Period (2014, 2015, 2016)**
4

5 **TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:**

6 **WHEREAS**, Winnebago County contracted with Schenck Business Solutions to perform the County's annual
7 audit and provide consulting services for the years 2008 through 2013; and

8 **WHEREAS**, Winnebago County has been very satisfied with the work Schenck Business Solutions has
9 performed; and

10 **WHEREAS**, Schenck Business Solutions and the Winnebago County Finance Department desire to renew
11 the audit contract for an additional three (3)-year period (2014, 2015, 2016); and

12 **WHEREAS**, Schenck Business Solutions has offered to perform the audits at the rates and percent changes
13 listed below (2013 shown for comparison purposes).

Year	Total Fees	Percent Change From Last Year
2013	\$ 77,500	
2014	\$ 77,500	0.00%
2015	\$ 78,250	0.97%
2016	\$79,000	0.96%

14
15 **NOW, THEREFORE, BE IT RESOLVED** by the Winnebago County Board of Supervisors that it hereby
16 authorizes the Winnebago County Finance Department of extend the contract with Schenck Business Solutions to
17 provide audit and consulting services to Winnebago County at the prices listed above for the years 2014, 2015, and
18 2016.

19 **BE IT FURTHER RESOLVED** by the Winnebago County Board of Supervisors that the Winnebago County
20 Finance Department will include such fees in the annual budgets for audits of years 2014, 2015, and 2016.

21
22 **Fiscal Note:** As indicated in the table above, the audit fee for the year 2014 will be the same as 2013, and
23 increases of about 1% for audits of the years 2015 and 2016.

24 Respectfully submitted by:

25 **PERSONNEL AND FINANCE COMMITTEE**

26 Committee Vote: **4-0**

27 Vote Required for Passage: **Two-Thirds of Membership**

28

29 Approved by the Winnebago County Executive this ____ day of _____, 2014.

30

31

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33

Mark L Harris
Winnebago County Executive

TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:

WHEREAS, under current law, a city, village, town, or county may not establish a minimum wage ordinance, except, that a municipality may enact an ordinance that requires an employee of that municipality who performs work under a contract for the municipality, or an employee who performs work that is funded by financial assistance from a municipality to be paid a specified minimum wage; and

WHEREAS, AB 750 eliminates that exemption, thereby prohibiting a local municipality from enacting such an ordinance; and

WHEREAS, AB 750 would also prohibit a local municipality from requiring that any laborer, worker, mechanic, or truck driver employed on a public works project to which the prevailing wage law applies and whose wages are paid in part with funds from the State of Wisconsin or federal funds passing through the State Treasury to reside within any jurisdictional limit; and

WHEREAS, your undersigned Committee is opposed to this proposed Bill in that it restricts local municipal units from making decisions regarding expenditure of local municipal funds.

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that it hereby expresses Winnebago County's opposition to the passage of 2013 Assembly Bill 750..

BE IT FURTHER RESOLVED by the Winnebago County Board of Supervisors that it hereby directs the Winnebago County Clerk to transmit a copy of this Resolution to all legislators representing Winnebago County constituents; to the Wisconsin Counties Association; and to the Office of Governor Scott Walker.

Respectfully submitted by:

LEGISLATIVE COMMITTEE

Committee Vote: **Passed by Voice Vote**

Vote Required for Passage: **Majority of Those Present**

Approved by the Winnebago County Executive this day of , 2014.

Mark L Harris
Winnebago County Executive

LRB-3139/2

GMM:wlj:rs

2013 - 2014 LEGISLATURE

2013 ASSEMBLY BILL 750

February 11, 2014 - Introduced by Representative KAPENGA,
cosponsored by
Senator GROTHMAN. Referred to Committee on Labor.

1 **AN ACT** *to repeal* 104.001 (3) (b); *to renumber and amend*
2 104.001 (2); *to*
3 *consolidate, renumber and amend* 104.001 (3) (intro.) and
4 (a); and *to create*
5 66.0903 (1r) and 104.001 (2) (c) of the statutes; **relating to:**
6 preemption of local
7 ordinances that require employees of a local governmental
8 unit, employees of
9 a contractor of a local governmental unit, or employees who
 perform work
 funded by a local governmental unit to be paid at a minimum
 wage rate
 specified in the ordinance and preemption of residency
 requirements for
 laborers, workers, mechanics, and truck drivers employed on
 local projects of
 public works to which the prevailing wage law applies.

Analysis by the Legislative Reference Bureau

Under current law, a city, village, town, or county may not enact and administer an ordinance establishing a living wage, which is defined under current law as compensation sufficient to enable an employee to maintain himself or herself under conditions consistent with his or her welfare. Current law, however, exempts from that prohibition an ordinance that requires an employee of a county, city, village, or town, an employee who performs work under a contract for the

provision of services
to a county, city, village, or town, or an employee who performs work
that is funded

by financial assistance from a county, city, village, or town to
be paid at a minimum
wage rate specified in the ordinance.

This bill eliminates that exemption, thereby prohibiting a
city, village, town, or
county from enacting and administering an ordinance that requires
an employee of
the county, city, village, or town, an employee who performs work
under a contract
for the provision of services to the county, city, village, or town, or an
employee who
performs work that is funded by financial assistance from the county,
city, village,
or town to be paid at a minimum wage rate specified in the ordinance.

Under current law, no local governmental unit may require,
as a condition of
employment, that any employee or prospective employee reside within
any
jurisdictional limit.

This bill prohibits a local governmental unit from requiring
that any laborer,
worker, mechanic, or truck driver employed on a project of public
works to which the
prevailing wage law applies whose wages are paid, in whole or in part,
with funds
of this state or federal funds passing through the state treasury reside
within any
jurisdictional limit. Generally, the prevailing wage law applies to any
single-trade
project of public works for which the estimated project cost of
completion is \$48,000
or more and to any multiple-trade project of public works for which
the estimated
project cost of completion is \$100,000 or more.

For further information see the *local* fiscal estimate, which
will be printed as
an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and
assembly, do
enact as follows:*

- 1 SECTION 1. 66.0903 (1r) of the statutes is created to read:
2 66.0903 (1r) RESIDENCY REQUIREMENTS PROHIBITED. (a) The
3 legislature finds
 that residency requirements for laborers, workers, mechanics, and

truck drivers

employed on projects of public works to which this section applies
whose wages are
paid, in whole or in part, with funds of this state or federal funds
passing through
the state treasury are a matter of statewide concern.

(b) Except as provided in par. (c), no local governmental unit
may require that
any laborer, worker, mechanic, or truck driver employed on a project
of public works
to which this section applies whose wages are paid, in whole or in
part, with funds
of this state or federal funds passing through the state treasury reside
within any
jurisdictional limit. If a local governmental unit has a residency
requirement

described in this paragraph that is in effect on the effective
date of this paragraph
.... [LRB inserts date], the residency requirement does not apply and
may not be
enforced.

(c) This subsection does not affect any statute that requires a
person described
in par. (b) to reside within the jurisdictional limit of any local
governmental unit or
any provision of state or local law that requires a person described in
par. (b) to reside
in this state.

SECTION 2. 104.001 (2) of the statutes is renumbered 104.001
(2) (a) and
amended to read:

104.001 (2) (a) A-Except as provided in sub. (3), a city, village,
town, or county
may not enact and administer an ordinance establishing a living
wage.

(b) Any city, village, town, or county living wage ordinance
that is in effect on
June 16, 2005, is void.

SECTION 3. 104.001 (2) (c) of the statutes is created to read:

104.001 (2) (c) Any city, village, town, or county ordinance
described in s.
104.001 (3) (b), 2011 stats., that is in effect on the effective date of this
paragraph
[LRB inserts date], is void.

SECTION 4. 104.001 (3) (intro.) and (a) of the statutes are
consolidated,
renumbered 104.001 (3) and amended to read:

104.001 (3) This section does not affect ~~any of the following:~~
(a) ~~The~~ the

21 requirement that employees employed on a public works project
22 contracted for by a
23 city, village, town, or county be paid at the prevailing wage rate, as
24 defined in s.
25 66.0903 (1) (g), as required under s. 66.0903.

24 SECTION 5. 104.001 (3) (b) of the statutes is repealed.

25 SECTION 6. Initial applicability.

1 (1) COLLECTIVE BARGAINING AGREEMENTS.. This act first
2 applies to an employee
3 who is affected by a collective bargaining agreement that contains
4 provisions that
5 are inconsistent with this act on the day on which the collective
bargaining
agreement expires or is modified, extended, or renewed, whichever
occurs first.

(END)

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TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:

WHEREAS, among other things, said Bill, if passed, would slightly increase workers compensation rates; reduce the statute of limitations for filing a claim for traumatic injuries from 12 years to 9 years; provide for the indexing of benefit amounts for injuries occurring on or after July 1, 2015; require employers to extend healthcare benefits to employees who are partially disabled; establish employer financial liability for the cost of repackaged prescription drugs; allow for the provision of medical reports at hearings electronically; and allow the Department of Workforce Development to order that an employer or insurer shall pay for future course instruction or rehabilitative training services for a disabled worker; and

NOW, THEREFORE, BE IT RESOLVED by the Winnebago County Board of Supervisors that it hereby indicates its support for 2013 Senate Bill 550/Assembly Bill 711.

Respectfully submitted by:

LEGISLATIVE COMMITTEE

Vote Required for Passage: **Majority of Those Present**

Approved by the Winnebago County Executive this _____ day of _____, 2014.

Mark L Harris
Winnebago County Executive

LRB-4097/2

GMM:kjfrs

2013 - 2014 LEGISLATURE

2013 SENATE BILL 550

February 3, 2014 - Introduced by Senator GROTHMAN, cosponsored by Representative KNODL. Referred to Committee on Judiciary and Labor.

1 **AN ACT** *to renumber and amend* 102.07 (12m), 102.125,
2 102.18 (1) (b), 102.23
3 (1) (a), 102.28 (2) (c), 102.28 (7) (b), 102.44 (1) (c) and 102.44
4 (4); *to amend*
5 20.445 (1) (ra), 101.654 (2) (b), 102.01 (2) (d), 102.03 (4),
6 102.04 (1) (a), 102.04
7 (2m), 102.07 (1) (a), 102.07 (1) (b), 102.07 (3), 102.07 (7) (a),
8 102.07 (10), 102.077
9 (1), 102.077 (2), 102.11 (1) (intro.), 102.125 (title), 102.13 (2)
10 (b), 102.13 (2) (c),
11 102.16 (1m) (a), 102.16 (2) (d), 102.17 (1) (a) 3., 102.17 (4),
12 102.18 (1) (bg) 1.,
13 102.18 (3), 102.18 (4) (b), 102.21, 102.23 (1) (c), 102.23 (1)
14 (cm), 102.28 (2) (a),
 102.28 (2) (b) (title), 102.28 (2) (c) (title), 102.28 (2) (d), 102.28
 (7) (a), 102.29 (1)
 (b) 2., 102.29 (8), 102.31 (2) (b) 2., 102.315 (2), 102.425 (3) (b),
 102.425 (4) (a),
 102.425 (4) (b), 102.425 (4m) (b), 102.43 (5) (c), 102.44 (1) (ag),
 102.44 (1) (ag),
 102.44 (1) (am), 102.44 (1) (b), 102.44 (3), 102.65 (4) (intro.),
 102.75 (1), 102.75
 (1m), 102.75 (2), 102.75 (4), 102.81 (1) (a), 108.10 (4) and
 165.60; and *to create*
 102.07 (12m) (a), 102.125 (2), 102.16 (2) (i), 102.28 (2) (bm),
 102.28 (2) (c) 2.,
 102.28 (7) (bm), 102.423, 102.425 (3) (am), 102.44 (1) (c) 2.,
 102.44 (1) (c) 3.,

1 102.44 (1m), 102.44 (4) (b), 102.44 (4m), 102.445, 102.75 (1g), 102.80
2 (1) (f) and
3 102.81 (1) (c) of the statutes; **relating to:** various changes to
4 the worker's
compensation law, granting rule-making authority, and
making an
appropriation.

Analysis by the Legislative Reference Bureau

This bill makes various changes to the worker's compensation law, as administered by the Department of Workforce Development (DWD).

GENERAL COVERAGE

Local governmental units

Under current law, each county, city, town, village, school district, sewer district, drainage district, long-term care district, and other public or quasi-public corporation (municipality) is liable for worker's compensation when an employee in the service of the municipality, whether elected, appointed, or under a contract of hire, is injured while performing services growing out of and incidental to his or her employment.

This bill changes the term "municipality" to "local governmental unit" for purposes of the worker's compensation law and redefines that term to mean a political subdivision of this state; a special purpose district or taxing jurisdiction in this state; an instrumentality, corporation, combination, or subunit of any of the foregoing; or any other public or quasi-public corporation. Under current law, cities, villages, towns, and counties are political subdivisions of this state; special purpose districts include school districts, sewer districts, drainage districts, long-term care districts, and other districts created for special purposes; and taxing jurisdictions are entities, not including the state, that are authorized by law to levy property taxes.

Postsecondary students participating in work study programs

Currently, a student of a public school or a private school, while he or she is engaged in performing services as part of a school work training, work experience, or work study program, who is not on the payroll of an employer that

is providing the work training or work experience or who is not otherwise receiving compensation on which a worker's compensation carrier could assess premiums on that employer, is an employee of a school district or private school that elects to name the student as an employee for purposes of worker's compensation coverage. Also, under current law, a student who is named as an employee of a school district or private school for purposes of worker's compensation coverage and who makes a claim for worker's compensation against his or her school district or private school may not also make a claim for worker's compensation or maintain an action in tort against the employer that provided the work training or work experience from which the claim arose.

This bill extends those provisions to a student of an institution within the University of Wisconsin System, a technical college, a tribally controlled college controlled by an Indian tribe that has elected to become subject to the worker's

compensation law, a school approved by the Educational Approval Board, or a private, nonprofit institution of higher education located in this state (institution of higher education). Specifically, under the bill, a student of an institution of higher education, while he or she is engaged in performing services as part of a school work training, work experience, or work study program, who is not on the payroll of an employer that is providing the work training or work experience or who is not otherwise receiving compensation on which a worker's compensation carrier could assess premiums on that employer, is an employee of an institution of higher education that elects to name the student as an employee for purposes of worker's compensation coverage. The bill also provides that a student who is named as an employee of an institution of higher education for purposes of worker's compensation coverage and who makes a claim for worker's compensation against that institution may not also make a claim for worker's compensation or maintain an

action in tort
against the employer that provided the work training or work
experience from which
the claim arose.

PAYMENT OF BENEFITS

Maximum weekly compensation for permanent partial disability

Under current law, permanent partial disability benefits are
subject to
maximum weekly compensation rates specified by statute. Currently,
the maximum
weekly compensation rate for permanent partial disability is \$322.
This bill
increases that maximum weekly compensation rate to \$337 for
injuries occurring
before January 1, 2015, and to \$352 for injuries occurring on or after
that date.

Supplemental benefits

Under current law, an injured employee who is receiving the
maximum weekly
benefit in effect at the time of the injury for permanent total disability
or continuous
temporary total disability resulting from an injury that occurred
before January 1,
2001, is entitled to receive supplemental benefits in an amount that,
when added to
the employee's regular benefits, equals \$582. Those supplemental
benefits are
payable in the first instance by the employer or insurer, but the
employer or insurer
then is entitled to reimbursement for those supplemental benefits
paid from the
work injury supplemental benefit (WISB) fund, which is a fund that,
among other
things, is used to pay supplemental worker's compensation to injured
employees
with permanent total disability.

This bill makes an employee who is injured prior to January
1, 2003, eligible
for those supplemental benefits beginning on the effective date of the
bill and
increases the maximum supplemental benefit amount for a week of
disability
occurring after the effective date of the bill to an amount that, when
added to the
employee's regular benefits, equals \$669.

The bill also terminates reimbursement from the WISB fund
for supplemental
benefits paid by employers or insurers beginning on the effective date

of the bill. For supplemental benefits paid by an insurer for an injury that occurs before July 1, 2015, the bill provides that reimbursement of those benefits is from the worker's compensation operations fund and not from the WISB fund. To fund that reimbursement, the bill requires DWD to collect from each licensed worker's compensation carrier the proportion of reimbursement approved by DWD for

supplemental benefits paid in the year before the previous year that the total indemnity paid or payable by the carrier in worker's compensation cases initially closed during the preceding calendar year bore to the total indemnity paid in cases closed the previous calendar year by all carriers.

Traumatic injuries

Under current law, an application for worker's compensation that is not filed within 12 years from the date of the injury or from the date that worker's compensation, other than for treatment or burial expenses, was last paid, whichever is later, is barred by the statute of limitations, except that in certain cases of traumatic injury there is no statute of limitations. In cases in which there is no statute of limitations, benefits or treatment expenses for traumatic injury becoming due 12 years after the date of injury or the date that compensation was last paid, whichever is later, are paid by DWD from the WISB fund if that date is before April 1, 2006.

This bill provides that an application for worker's compensation for a traumatic injury that is not filed within *nine* years from the date of injury or the date that worker's compensation, other than for treatment or burial expenses, was last paid, whichever is later, is barred by the statute of limitations. The bill also provides that for traumatic injuries for which there is no statute of limitations benefits or treatment expenses for traumatic injury becoming due *nine* years after the date of injury or the date that compensation was last paid, whichever is later,

are paid by
DWD from the WISB fund, if that date is before April 1, 2006.

Indexing of benefits

Under current law, subject to certain exceptions, the amount of an injured employee's worker's compensation benefits is determined in accordance with the law that is in effect as of the date of injury, regardless of the length of time that has elapsed since that date.

This bill provides for the indexing of the weekly benefit for permanent total disability or continuous temporary total disability resulting from an injury that occurs on or after July 1, 2015. Specifically, under the bill, an injured employee who is receiving worker's compensation for permanent total disability or continuous temporary total disability more than 24 months after the date of injury resulting from an injury that occurs on or after July 1, 2015, is entitled to receive the maximum rate that is in effect at the time the benefit accrues and becomes payable for periods of disability occurring more than six years after the date of injury.

The bill similarly provides for the indexing of the weekly benefit for permanent partial disability. Specifically, under the bill, an injured employee who is receiving worker's compensation for permanent partial disability is entitled to receive the maximum rate that is in effect at the time the benefit accrues and becomes payable for periods of permanent partial disability beginning with the 201st week of permanent partial disability.

Vocational rehabilitation

Under current law, an injured employee is entitled to receive compensation for temporary disability while the employee is receiving vocational rehabilitation services under the federal Rehabilitation Act of 1973. If, however, the injury causes

only partial disability, the employee's weekly indemnity is the proportion of the weekly indemnity rate for total disability that the actual wage loss of the injured employee bears to the injured employee's average weekly wage at the

time of injury,
except that compensation for temporary disability on account of
receiving vocational
rehabilitation services shall not be reduced on account of any wages
earned for the
first 24 hours worked by an employee during a week in which the
employee is
receiving those services and only hours worked in excess of 24 during
that week shall
be offset against the employee's average weekly wage in calculating
compensation
for temporary disability. That exception, however, does not apply after
April 30,
2014. This bill extends that exception to April 30, 2016.

Continuation of health care coverage

Currently, the family and medical leave law requires an
employer to maintain
group health insurance coverage during a period an employee takes
family or
medical leave under the conditions that applied immediately before
the family or
medical leave began. If the employee continues making any
contribution required
for participation in the group health insurance plan, the employer
must continue
making group health insurance premium contributions as if the
employee has not
taken the family or medical leave.

This bill similarly requires an employer that at the time of an
injured
employee's injury is providing the injured employee with group health
care coverage
to maintain that coverage during the injured employee's period of
temporary
disability at the level and under the conditions that the employer
would have
provided coverage if the injured employee had continued in
employment
continuously during that period of temporary disability, without
regard to the
injured employee's employment status during that period. Under the
bill, if during
an injured employee's period of temporary disability the injured
employee continues
making any contributions required of the injured employee for
participation in the
plan providing the employee's group health care coverage, the
employer must
continue making any contributions required of the employer for the
injured

employee's participation in that plan as if the injured employee were not in a period of temporary disability.

The bill provides that any employer that fails to maintain group health care coverage for an injured employee or the employer's worker's compensation insurer is liable to the injured employee for an amount that is equal to 100 percent of the contributions required of the employer that the employer failed to pay, in addition to any temporary disability benefits payable under the worker's compensation law. That liability also applies to an employer that fails to maintain group health care coverage provided at the time of injury for an injured employee or to the employer's worker's compensation insurer in a case in which the employer's liability for worker's compensation for the employee's injury or the period of the employee's temporary disability is in dispute, if the injured employee submits the dispute to DWD and the injury or period of disability is found to be compensable under the worker's compensation law. Under the bill, if an employer fails to maintain group health care coverage for an injured employee as required under the bill, the injured employee may request DWD to conduct a hearing on the violation. If, after hearing, the

hearing examiner finds that the employer has failed to maintain group health care coverage as required under the bill, the hearing examiner may order the employer to pay the injured employee the contributions for group health care coverage that the employer failed to pay.

Prescription drug treatment

Under current law, an employer or insurer is liable for providing medicines as may be reasonably required to cure and relieve an injured employee from the effects of an injury sustained while performing services growing out of and incidental to employment. Current law, however, limits the liability of an employer or insurer for the cost of a prescription drug dispensed for outpatient use by an injured employee

to the average wholesale price of the prescription drug as quoted in the Drug Topics Red Book (average wholesale price).

This bill provides that if a prescription drug dispensed for outpatient use by an injured employee is a repackaged prescription drug, the liability of the employer or insurer for the cost of the repackaged prescription drug is limited to the average wholesale price of the prescription drug set by the original manufacturer of the prescription drug, except that if the National Drug Code number of the prescription drug as packaged by the original manufacturer cannot be determined from the billing statement submitted to the employer or insurer, that liability is limited to the average wholesale price of the lowest-priced drug product equivalent. That limitation of liability, however, does not apply to a repackaged prescription drug dispensed from a retail, mail-order, or institutional pharmacy.

HEARINGS AND PROCEDURES

Health care records in electronic format

Under current law, a physician, chiropractor, psychologist, podiatrist, dentist, physician assistant, advance practice nurse prescriber, hospital, or health service provider, upon request by an injured employee, employer, insurer, or DWD, must provide that person with any written material that is reasonably related to an injury for which the employee claims worker's compensation, upon payment of the actual cost of providing those materials, not to exceed the greater of 45 cents per page or \$7.50 per request, plus the actual costs of postage.

This bill permits that material to be provided in electronic format upon payment of \$26 per request.

Final practitioner's report

Under current law, if an injured employee has a period of temporary disability of more than three weeks or a permanent disability, has undergone surgery to treat an injury, other than surgery to correct a hernia, or sustains an eye injury requiring medical treatment on three or more occasions off the employer's premises, the

employer or insurer must submit to DWD a final treating practitioner's report. Current law, however, prohibits DWD from requiring submission of that report when the employer or insurer denies the employee's claim for compensation and the employee does not contest that denial. This bill limits that prohibition to cases in which the employer or insurer denies the employee's claim for compensation *in its entirety*.

Prospective vocational rehabilitation training orders

Under current law, any party in interest may submit to DWD any controversy concerning worker's compensation and DWD, after hearing, must issue an order determining the rights of the parties regarding the controversy. Current law also permits DWD to issue interlocutory, *i.e.*, nonfinal, findings, orders, and awards, which may be enforced in the same manner as final awards. Current law specifically permits DWD to include in an interlocutory or final award or order an order directing the employer or insurer to pay for any future treatment that may be necessary to cure and relieve an injured employee from the effects of the employee's injury.

This bill permits DWD to include in an interlocutory or final award or order an order directing the employer or insurer to pay for a future course of instruction or other rehabilitation training services provided under a rehabilitation training program.

Administrative review of a worker's compensation decision

Under current law, a party to a worker's compensation proceeding may petition the Labor and Industry Review Commission (LIRC) for review of a DWD hearing examiner's decision awarding or denying worker's compensation (petition for review) if DWD or LIRC receives the petition for review within 21 days after DWD mailed a copy of the examiner's findings and order to the petitioner's last-known address. Currently, LIRC must dismiss a petition for review that is not timely filed

unless the petitioner shows probable good cause that the reason for failure to timely file the petition was beyond the petitioner's control. This bill requires a party to file a petition for review with LIRC, not DWD. The bill also requires LIRC to dismiss a petition for review that is not filed within those 21 days unless the petitioner shows that the petition was filed late for a reason that was beyond the petitioner's control.

Under current law, within 28 days after a decision of LIRC is mailed to the last-known address of each party to a worker's compensation proceeding, LIRC may, on its own motion, set aside the decision for further consideration. This bill permits LIRC to set aside a decision within 28 days after the date of the decision, not the date of its mailing.

LRB-3729/2

GMM:kjf:jm

2013 - 2014 LEGISLATURE

2013 ASSEMBLY BILL 711

January 31, 2014 - Introduced by Representative KNODL, cosponsored
by Senator
GROTHMAN. Referred to Committee on Labor.

1 **AN ACT** *to renumber and amend* 102.07 (12m), 102.125,
2 102.18 (1) (b), 102.23
3 (1) (a), 102.28 (2) (c), 102.28 (7) (b), 102.44 (1) (c) and 102.44
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 (1m), 102.75 (2), 102.75 (4), 102.81 (1) (a), 108.10 (4) and
 165.60; and *to create*
 102.07 (12m) (a), 102.125 (2), 102.16 (2) (i), 102.28 (2) (bm),
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This bill changes the term "municipality" to "local governmental unit" for purposes of the worker's compensation law and redefines that term to mean a political subdivision of this state; a special purpose district or taxing jurisdiction in this state; an instrumentality, corporation, combination, or subunit of any of the foregoing; or any other public or quasi-public corporation. Under current law, cities, villages, towns, and counties are political subdivisions of this state; special purpose districts include school districts, sewer districts, drainage districts, long-term care districts, and other districts created for special purposes; and taxing jurisdictions are entities, not including the state, that are authorized by law to levy property taxes.

Postsecondary students participating in work study programs

Currently, a student of a public school or a private school, while he or she is engaged in performing services as part of a school work training, work experience, or work study program, who is not on the payroll of an employer that

is providing the work training or work experience or who is not otherwise receiving compensation on which a worker's compensation carrier could assess premiums on that employer, is an employee of a school district or private school that elects to name the student as an employee for purposes of worker's compensation coverage. Also, under current law, a student who is named as an employee of a school district or private school for purposes of worker's compensation coverage and who makes a claim for worker's compensation against his or her school district or private school may not also make a claim for worker's compensation or maintain an action in tort against the employer that provided the work training or work experience from which the claim arose.

This bill extends those provisions to a student of an institution within the University of Wisconsin System, a technical college, a tribally controlled college controlled by an Indian tribe that has elected to become subject to the worker's

compensation law, a school approved by the Educational Approval Board, or a private, nonprofit institution of higher education located in this state (institution of higher education). Specifically, under the bill, a student of an institution of higher education, while he or she is engaged in performing services as part of a school work training, work experience, or work study program, who is not on the payroll of an employer that is providing the work training or work experience or who is not otherwise receiving compensation on which a worker's compensation carrier could assess premiums on that employer, is an employee of an institution of higher education that elects to name the student as an employee for purposes of worker's compensation coverage. The bill also provides that a student who is named as an employee of an institution of higher education for purposes of worker's compensation coverage and who makes a claim for worker's compensation against that institution may not also make a claim for worker's compensation or maintain an

action in tort
against the employer that provided the work training or work
experience from which
the claim arose.

PAYMENT OF BENEFITS

Maximum weekly compensation for permanent partial disability

Under current law, permanent partial disability benefits are
subject to
maximum weekly compensation rates specified by statute. Currently,
the maximum
weekly compensation rate for permanent partial disability is \$322.
This bill
increases that maximum weekly compensation rate to \$337 for
injuries occurring
before January 1, 2015, and to \$352 for injuries occurring on or after
that date.

Supplemental benefits

Under current law, an injured employee who is receiving the
maximum weekly
benefit in effect at the time of the injury for permanent total disability
or continuous
temporary total disability resulting from an injury that occurred
before January 1,
2001, is entitled to receive supplemental benefits in an amount that,
when added to
the employee's regular benefits, equals \$582. Those supplemental
benefits are
payable in the first instance by the employer or insurer, but the
employer or insurer
then is entitled to reimbursement for those supplemental benefits
paid from the
work injury supplemental benefit (WISB) fund, which is a fund that,
among other
things, is used to pay supplemental worker's compensation to injured
employees
with permanent total disability.

This bill makes an employee who is injured prior to January
1, 2003, eligible
for those supplemental benefits beginning on the effective date of the
bill and
increases the maximum supplemental benefit amount for a week of
disability
occurring after the effective date of the bill to an amount that, when
added to the
employee's regular benefits, equals \$669.

The bill also terminates reimbursement from the WISB fund
for supplemental
benefits paid by employers or insurers beginning on the effective date

of the bill. For supplemental benefits paid by an insurer for an injury that occurs before July 1, 2015, the bill provides that reimbursement of those benefits is from the worker's compensation operations fund and not from the WISB fund. To fund that reimbursement, the bill requires DWD to collect from each licensed worker's compensation carrier the proportion of reimbursement approved by DWD for

supplemental benefits paid in the year before the previous year that the total indemnity paid or payable by the carrier in worker's compensation cases initially closed during the preceding calendar year bore to the total indemnity paid in cases closed the previous calendar year by all carriers.

Traumatic injuries

Under current law, an application for worker's compensation that is not filed within 12 years from the date of the injury or from the date that worker's compensation, other than for treatment or burial expenses, was last paid, whichever is later, is barred by the statute of limitations, except that in certain cases of traumatic injury there is no statute of limitations. In cases in which there is no statute of limitations, benefits or treatment expenses for traumatic injury becoming due 12 years after the date of injury or the date that compensation was last paid, whichever is later, are paid by DWD from the WISB fund if that date is before April 1, 2006.

This bill provides that an application for worker's compensation for a traumatic injury that is not filed within *nine* years from the date of injury or the date that worker's compensation, other than for treatment or burial expenses, was last paid, whichever is later, is barred by the statute of limitations. The bill also provides that for traumatic injuries for which there is no statute of limitations benefits or treatment expenses for traumatic injury becoming due *nine* years after the date of injury or the date that compensation was last paid, whichever is later,

are paid by
DWD from the WISB fund, if that date is before April 1, 2006.

Indexing of benefits

Under current law, subject to certain exceptions, the amount of an injured employee's worker's compensation benefits is determined in accordance with the law that is in effect as of the date of injury, regardless of the length of time that has elapsed since that date.

This bill provides for the indexing of the weekly benefit for permanent total disability or continuous temporary total disability resulting from an injury that occurs on or after July 1, 2015. Specifically, under the bill, an injured employee who is receiving worker's compensation for permanent total disability or continuous temporary total disability more than 24 months after the date of injury resulting from an injury that occurs on or after July 1, 2015, is entitled to receive the maximum rate that is in effect at the time the benefit accrues and becomes payable for periods of disability occurring more than six years after the date of injury.

The bill similarly provides for the indexing of the weekly benefit for permanent partial disability. Specifically, under the bill, an injured employee who is receiving worker's compensation for permanent partial disability is entitled to receive the maximum rate that is in effect at the time the benefit accrues and becomes payable for periods of permanent partial disability beginning with the 201st week of permanent partial disability.

Vocational rehabilitation

Under current law, an injured employee is entitled to receive compensation for temporary disability while the employee is receiving vocational rehabilitation services under the federal Rehabilitation Act of 1973. If, however, the injury causes

only partial disability, the employee's weekly indemnity is the proportion of the weekly indemnity rate for total disability that the actual wage loss of the injured employee bears to the injured employee's average weekly wage at the

time of injury,
except that compensation for temporary disability on account of
receiving vocational
rehabilitation services shall not be reduced on account of any wages
earned for the
first 24 hours worked by an employee during a week in which the
employee is
receiving those services and only hours worked in excess of 24 during
that week shall
be offset against the employee's average weekly wage in calculating
compensation
for temporary disability. That exception, however, does not apply after
April 30,
2014. This bill extends that exception to April 30, 2016.

Continuation of health care coverage

Currently, the family and medical leave law requires an
employer to maintain
group health insurance coverage during a period an employee takes
family or
medical leave under the conditions that applied immediately before
the family or
medical leave began. If the employee continues making any
contribution required
for participation in the group health insurance plan, the employer
must continue
making group health insurance premium contributions as if the
employee has not
taken the family or medical leave.

This bill similarly requires an employer that at the time of an
injured
employee's injury is providing the injured employee with group health
care coverage
to maintain that coverage during the injured employee's period of
temporary
disability at the level and under the conditions that the employer
would have
provided coverage if the injured employee had continued in
employment
continuously during that period of temporary disability, without
regard to the
injured employee's employment status during that period. Under the
bill, if during
an injured employee's period of temporary disability the injured
employee continues
making any contributions required of the injured employee for
participation in the
plan providing the employee's group health care coverage, the
employer must
continue making any contributions required of the employer for the
injured

employee's participation in that plan as if the injured employee were not in a period of temporary disability.

The bill provides that any employer that fails to maintain group health care coverage for an injured employee or the employer's worker's compensation insurer is liable to the injured employee for an amount that is equal to 100 percent of the contributions required of the employer that the employer failed to pay, in addition to any temporary disability benefits payable under the worker's compensation law. That liability also applies to an employer that fails to maintain group health care coverage provided at the time of injury for an injured employee or to the employer's worker's compensation insurer in a case in which the employer's liability for worker's compensation for the employee's injury or the period of the employee's temporary disability is in dispute, if the injured employee submits the dispute to DWD and the injury or period of disability is found to be compensable under the worker's compensation law. Under the bill, if an employer fails to maintain group health care coverage for an injured employee as required under the bill, the injured employee may request DWD to conduct a hearing on the violation. If, after hearing, the

hearing examiner finds that the employer has failed to maintain group health care coverage as required under the bill, the hearing examiner may order the employer to pay the injured employee the contributions for group health care coverage that the employer failed to pay.

Prescription drug treatment

Under current law, an employer or insurer is liable for providing medicines as may be reasonably required to cure and relieve an injured employee from the effects of an injury sustained while performing services growing out of and incidental to employment. Current law, however, limits the liability of an employer or insurer for the cost of a prescription drug dispensed for outpatient use by an injured employee

to the average wholesale price of the prescription drug as quoted in the Drug Topics Red Book (average wholesale price).

This bill provides that if a prescription drug dispensed for outpatient use by an injured employee is a repackaged prescription drug, the liability of the employer or insurer for the cost of the repackaged prescription drug is limited to the average wholesale price of the prescription drug set by the original manufacturer of the prescription drug, except that if the National Drug Code number of the prescription drug as packaged by the original manufacturer cannot be determined from the billing statement submitted to the employer or insurer, that liability is limited to the average wholesale price of the lowest-priced drug product equivalent. That limitation of liability, however, does not apply to a repackaged prescription drug dispensed from a retail, mail-order, or institutional pharmacy.

HEARINGS AND PROCEDURES

Health care records in electronic format

Under current law, a physician, chiropractor, psychologist, podiatrist, dentist, physician assistant, advance practice nurse prescriber, hospital, or health service provider, upon request by an injured employee, employer, insurer, or DWD, must provide that person with any written material that is reasonably related to an injury for which the employee claims worker's compensation, upon payment of the actual cost of providing those materials, not to exceed the greater of 45 cents per page or \$7.50 per request, plus the actual costs of postage.

This bill permits that material to be provided in electronic format upon payment of \$26 per request.

Final practitioner's report

Under current law, if an injured employee has a period of temporary disability of more than three weeks or a permanent disability, has undergone surgery to treat an injury, other than surgery to correct a hernia, or sustains an eye injury requiring medical treatment on three or more occasions off the employer's premises, the

employer or insurer must submit to DWD a final treating practitioner's report. Current law, however, prohibits DWD from requiring submission of that report when the employer or insurer denies the employee's claim for compensation and the employee does not contest that denial. This bill limits that prohibition to cases in which the employer or insurer denies the employee's claim for compensation *in its entirety*.

Prospective vocational rehabilitation training orders

Under current law, any party in interest may submit to DWD any controversy concerning worker's compensation and DWD, after hearing, must issue an order determining the rights of the parties regarding the controversy. Current law also permits DWD to issue interlocutory, *i.e.*, nonfinal, findings, orders, and awards, which may be enforced in the same manner as final awards. Current law specifically permits DWD to include in an interlocutory or final award or order an order directing the employer or insurer to pay for any future treatment that may be necessary to cure and relieve an injured employee from the effects of the employee's injury.

This bill permits DWD to include in an interlocutory or final award or order an order directing the employer or insurer to pay for a future course of instruction or other rehabilitation training services provided under a rehabilitation training program.

Administrative review of a worker's compensation decision

Under current law, a party to a worker's compensation proceeding may petition the Labor and Industry Review Commission (LIRC) for review of a DWD hearing examiner's decision awarding or denying worker's compensation (petition for review) if DWD or LIRC receives the petition for review within 21 days after DWD mailed a copy of the examiner's findings and order to the petitioner's last-known address. Currently, LIRC must dismiss a petition for review that is not timely filed

unless the petitioner shows probable good cause that the reason for failure to timely file the petition was beyond the petitioner's control. This bill requires a party to file a petition for review with LIRC, not DWD. The bill also requires LIRC to dismiss a petition for review that is not filed within those 21 days unless the petitioner shows that the petition was filed late for a reason that was beyond the petitioner's control.

Under current law, within 28 days after a decision of LIRC is mailed to the last-known address of each party to a worker's compensation proceeding, LIRC may, on its own motion, set aside the decision for further consideration. This bill permits LIRC to set aside a decision within 28 days after the date of the decision, not the date of its mailing.

1 **332-32014**

2 RESOLUTION: Support 2013 Assembly Bill 481 (Sale of Tobacco Products)

4 **TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:**

5 **WHEREAS**, 2013 Assembly Bill 481, if passed, would make a number of changes in present state law in
6 relationship to the sale of tobacco products; and

7 **WHEREAS**, said Bill would increase the tax rate on tobacco products, not including moist snuff, from 71% to
8 84% of the manufacturer's list price to distributors; and

9 **WHEREAS**, said Bill would also increase the tax rate on smokeless tobacco products, such as snuff, to an
10 amount equal to the cigarette tax imposed on a pack of 20 cigarettes for 1.2 ozs of loose leaf tobacco product or a
11 proportionate rate for any other quantity; and

12 **WHEREAS**, said Bill would require a retailer to place cigarettes or tobacco products only in locations that are
13 not accessible to customers without the assistance of a retailer or his agent (said restriction would not apply to
14 cigarettes or tobacco products sold in a vending machine at a business where individuals under the age of 18 are
15 prohibited from entering); and

16 **WHEREAS**, a retailer who violates the Bill restriction would be subject to a forfeiture of not more than \$500 if
17 the retailer has committed a previous violation within 12 months and a forfeiture of not less than \$200 nor more than
18 \$500 if the retailer has not committed a previous violation within the past 12 months; and suspension of the retailers
19 license depending on the number of previous violations committed by the retailer; and

20 **WHEREAS**, your undersigned Legislative Committee supports AB 481.

22 **NOW, THEREFORE, BE IT RESOLVED** by the Winnebago County Board of Supervisors that it hereby
23 supports passage of 2013 Assembly Bill 481.

24 **BE IT FURTHER RESOLVED** by the Winnebago County Board of Supervisors that it hereby directs the
25 Winnebago County Clerk to transmit a copy of this Resolution to all legislators representing Winnebago County
26 constituents; to the Wisconsin Counties Association; and to the Office of Governor Scott Walker.

Respectfully submitted by:

LEGISLATIVE COMMITTEE

30 Committee Vote: **Passed by Voice Vote**

31 Vote Required for Passage: **Majority of Those Present**

Approved by the Winnebago County Executive this _____ day of _____, 2014.

Mark L Harris
Winnebago County Executive

LRB-0574/1

JK:jld&sac:rs

2013 - 2014 LEGISLATURE

2013 ASSEMBLY BILL 481

November 1, 2013 - Introduced by Representatives BIES, BERCEAU, BERNARD
SCHABER, BEWLEY, BILLINGS, GENRICH, GOYKE,
HESSELBEIN, HULSEY, KAHL,
KOLSTE, KRUG, T. LARSON, MASON, MURPHY, OHNSTAD, A.
OTT, RICHARDS,
RIEMER, RINGHAND, SARGENT, SPIROS, TITTL and WRIGHT,
cosponsored by
Senators HARRIS, CARPENTER, HANSEN, LEHMAN and
SHILLING. Referred to
Committee on State Affairs and Government Operations.

1 **AN ACT** *to amend* 73.01 (4) (a), 134.66 (4) (a) 1., 139.30 (1m),
2 139.75 (5d), 139.75
3 (12), 139.76 (1), 139.78 (1), 139.78 (2), 139.803 (intro.),
4 139.805 and 139.82 (8);
5 and *to create* 134.66 (2) (f), 139.75 (4b), 139.75 (9n), 139.75
6 (14), 139.76 (3),
 139.761 and 139.78 (3m) of the statutes; **relating to:** a
 minimum tax on tobacco
 products, placement of cigarettes or tobacco products by
 retailers, and
 providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, the excise tax rate on tobacco products sold in this state is 71 percent of the manufacturer's list price to distributors, except that the tax rate on moist snuff sold in this state is 100 percent of the manufacturer's list price to distributors. Under current law, the maximum tax on cigars is 50 cents for each cigar.

This bill increases the tobacco products tax rate on tobacco products, not including moist snuff, to 84 percent of the manufacturer's list price to distributors and eliminates the maximum rate on cigars of 50 cents on each cigar. Under the bill, however, the excise tax rate on tobacco products sold or consumed in this state is the greater of the rate based on the manufacturer's list price or the rate determined as follows:

1. For a package of four cigars, an amount equal to the amount of the cigarette excise tax (cigarette tax) imposed on a pack of 20 cigarettes, and at a proportionate rate for any other quantity.

2. For single-unit tobacco products, on each single-use unit, an amount equal to the cigarette tax imposed on one cigarette.

3. For any smokeless tobacco product that consists of loose tobacco, including moist snuff, on 1.2 ounces, an amount equal to the cigarette tax imposed on a pack of 20 cigarettes, and at a proportionate rate for any other quantity.

4. For any loose tobacco that is intended for smoking, on 0.65 ounce, an amount equal to the cigarette tax imposed on a pack of 20 cigarettes, and at a proportionate rate for any other quantity.

5. For any other tobacco product, on each package or container, an amount equal to the cigarette tax imposed on a pack of 20 cigarettes.

Under current law the cigarette tax is 12.6 cents per cigarette (\$2.52 for a pack of 20 cigarettes). Under current law, an inventory tax is imposed on cigarettes held in inventory for sale or resale so that, if the cigarette tax rate increases, the person holding cigarettes in inventory must pay the increase on those cigarettes. The bill creates an inventory tax on tobacco products held in inventory for sale or resale so that, if the tobacco products tax rates increase, the person holding tobacco products must pay the increase on those products.

Under current law, for cigarette tax purposes, a cigarette is defined as any roll of tobacco wrapped in paper or any substance other than tobacco. Under the bill, a

cigarette is defined as any roll of tobacco weighing not more than 4.5 pounds per thousand that is wrapped in paper or any substance other than tobacco or that is wrapped in any substance containing tobacco that, because of the type of tobacco used in the filter or because of its appearance, size, packaging, pricing, or marketing, is likely to be offered to, purchased by, or consumed by individuals as a cigarette, regardless of how the roll of tobacco is labeled, but not including any roll of tobacco that is wrapped in whole tobacco leaf and does not have a filter.

Under current law, for purposes of the tax imposed on tobacco products, moist snuff is defined as any finely cut, ground, or powdered smokeless tobacco that is intended to be placed or dipped in the mouth. Under the bill, moist snuff is defined as any finely cut, ground, or powdered smokeless tobacco, or blend containing tobacco, that is intended for oral consumption without being lit.

Under current law, a retailer of cigarettes or tobacco products must obtain a license from the city, village, or town in which the sales take place. Current law also imposes certain restrictions on a retailer's sale of cigarettes or tobacco products. This bill creates a new restriction by allowing a retailer to place the cigarettes or tobacco products only in locations that are inaccessible to customers without the assistance of the retailer or the retailer's employee or agent. The bill specifies that an allowable location includes behind the counter or in a locked case. The bill's restriction does not apply to cigarettes or tobacco products sold in a vending machine or at a business where individuals under the age of 18 are prohibited from entering. Current law imposes restrictions on sales from a vending machine that this bill does not affect.

A retailer who violates the bill's restriction is subject to the same penalties that apply to violations of certain restrictions that apply under current law to retailers of cigarettes or tobacco products. Those penalties include: 1) a forfeiture of not more than \$500, if the retailer has committed a previous violation within 12 months; 2) a

forfeiture of not less than \$200 nor more than \$500, if the retailer has not committed a previous violation within 12 months; and 3) suspension of the retailer's license for a period of time that depends on the number of previous violations committed by the retailer.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 73.01 (4) (a) of the statutes is amended to read:
2 73.01 (4) (a) Subject to the provisions for judicial review
3 contained in s. 73.015,
4 the commission shall be the final authority for the hearing and
5 determination of all
6 questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985
7 stats., and ss.
8 70.38 (4) (a), 70.397, 70.64, and 70.995 (8), s. 76.38 (12) (a), 1993
9 stats., ss. 76.39 (4)
10 (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (5m) and (6) (b), 78.01, 78.22,
11 78.40, 78.555,
12 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76, 139.761,
13 139.78, 341.405,
14 and 341.45, subch. XIV of ch. 71, and subch. VII of ch. 77. Whenever
15 with respect
16 to a pending appeal there is filed with the commission a stipulation
17 signed by the
18 department of revenue and the adverse party, under s. 73.03 (25), or
the department
of transportation and the adverse party agreeing to an affirmance,
modification, or
reversal of the department of revenue's or department of
transportation's position
with respect to some or all of the issues raised in the appeal, the
commission shall
enter an order affirming or modifying in whole or in part, or canceling
the assessment
appealed from, or allowing in whole or in part or denying the
petitioner's refund
claim, as the case may be, pursuant to and in accordance with the
stipulation filed.
No responsibility shall devolve upon the commission, respecting the
signing of an
order of dismissal as to any pending appeal settled by the department
of revenue or

19 the department of transportation without the approval of the
commission.

1 SECTION 2. 134.66 (2) (f) of the statutes is created to read:

2 134.66 (2) (f) A retailer may place cigarettes or tobacco
products only in
3 locations that are inaccessible to customers without the assistance of
the retailer or
4 the retailer's employee or agent, including behind the counter or in a
locked case.
5 This paragraph does not apply to cigarettes or tobacco products sold
from a vending
6 machine or at a business where individuals who are less than 18 years
old are
7 prohibited from entering.

8 SECTION 3. 134.66 (4) (a) 1. of the statutes is amended to
read:

9 134.66 (4) (a) 1. In this paragraph, "violation" means a
violation of sub. (2) (a),
10 (am), (cm), ~~or (e)~~, or (f) or a local ordinance which strictly conforms to
sub. (2) (a), (am),
11 (cm), ~~or (e)~~, or (f).

12 SECTION 4. 139.30 (1m) of the statutes is amended to read:

13 139.30 (1m) "Cigarette" means any roll of tobacco weighing
not more than 4.5
14 pounds per thousand that is wrapped in paper or any substance other
than tobacco
15 or that is wrapped in any substance containing tobacco that, because
of the type of
16 tobacco used in the filter or because of its appearance, size, packaging,
pricing, or
17 marketing, is likely to be offered to, purchased by, or consumed by
individuals as a
18 cigarette, regardless of how the roll of tobacco is labeled, but not
including any roll
19 of tobacco that is wrapped in whole tobacco leaf and does not have a
filter.

20 SECTION 5. 139.75 (4b) of the statutes is created to read:

21 139.75 (4b) "Dry pipe tobacco" means tobacco that is labeled
as pipe tobacco
22 but, because of its moisture content and pricing, is likely to be offered
to, purchased
23 by, or consumed by individuals as tobacco for rolling cigarettes.

24 SECTION 6. 139.75 (5d) of the statutes is amended to read:

1 139.75 (5d) "Moist snuff" means any finely cut, ground, or
powdered smokeless
2 tobacco, or blend containing tobacco, that is intended ~~to be placed or~~
~~dipped in the~~
3 ~~mouth~~ for oral consumption without being lit, not including any single

-unit tobacco
product.

SECTION 7. 139.75 (9n) of the statutes is created to read:

139.75 (9n) "Single-unit tobacco product" means any tobacco product other than a cigarette or cigar that is offered in discrete single-use tablets, lozenges, pouches, pills, or other single dose or single unit, or in packages of such single-use doses or units.

SECTION 8. 139.75 (12) of the statutes is amended to read:

139.75 (12) "Tobacco products" means cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff, including moist snuff; single-unit tobacco products; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and ~~other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking~~ any other product containing, or made or derived from, tobacco that is intended for human consumption, regardless of whether it is chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by other means; but "tobacco products" does not include cigarettes, as defined under s. 139.30 (1m), or any tobacco product that the federal Food and Drug Administration has approved for sale as a tobacco cessation or tobacco dependence product, or for another medical purpose, and that is being marketed and sold solely for the approved purpose.

SECTION 9. 139.75 (14) of the statutes is created to read:

139.75 (14) "Wet pipe tobacco" means tobacco that is intended for smoking in a pipe and that is not suitable or practical for use in rolling cigarettes because of its moisture content and pricing.

SECTION 10. 139.76 (1) of the statutes is amended to read:

139.76 (1) ~~An~~ Except as provided in sub. (3), an excise tax is imposed upon the sale, offering or exposing for sale, possession with intent to sell or removal for consumption or sale or other disposition for any purpose of tobacco

products by any
person engaged as a distributor of them at the rate, for tobacco
products, not
including moist snuff, of ~~71~~ 84 percent of the manufacturer's
established list price
to distributors without diminution by volume or other discounts on
domestic
products and, for moist snuff, at the rate of 100 percent of the
manufacturer's
established list price to distributors without diminution by volume or
other discounts
on domestic products. ~~The tax imposed under this subsection on cigars
shall not
exceed an amount equal to 50 cents for each cigar.~~ On products
imported from
another country, not including moist snuff, the rate of tax is ~~71~~ 84
percent of the
amount obtained by adding the manufacturer's list price to the federal
tax, duties
and transportation costs to the United States. On moist snuff
imported from another
country, the rate of the tax is 100 percent of the amount obtained by
adding the
manufacturer's list price to the federal tax, duties, and transportation
costs to the
United States. The tax attaches at the time the tobacco products are
received by the
distributor in this state. The tax shall be passed on to the ultimate
consumer of the
tobacco products. All tobacco products received in this state for sale or
distribution
within this state, except tobacco products actually sold as provided in
sub. (2), shall
be subject to such tax.

SECTION 11. 139.76 (3) of the statutes is created to read:

139.76 (3) Beginning on the effective date of this
subsection [LRB inserts
date], a person who is subject to the tax imposed under sub. (1) shall
pay the greater
of the amount determined under sub. (1) or the following:

(a) For a package of 4 cigars, an amount equal to the amount
of the tax imposed
under s. 139.31 (1) (a) on a pack of 20 cigarettes, and at a
proportionate rate for any
other quantity. No cigars with a wholesale price of less than \$1 per
cigar may be sold
in this state in a package containing fewer than 5 such cigars.

(b) For single-unit tobacco products, on each single-use unit,
an amount equal
to the amount of the tax imposed under s. 139.31 (1) (a) on one

cigarette. No

single-unit tobacco products may be sold in this state in packages containing fewer than 20 single-use units.

(c) For any smokeless tobacco product that consists of loose tobacco, including moist snuff, or that is otherwise not a product described under par. (b), on 1.2 ounces, an amount equal to the tax imposed under s. 139.31 (1) (a) on a pack of 20 cigarettes, and at a proportionate rate for any other quantity.

(d) For any loose tobacco that is intended for smoking, including dry pipe tobacco, but not including wet pipe tobacco, on 0.65 ounces, an amount equal to the tax imposed under s. 139.31 (1) (a) on a pack of 20 cigarettes, and at a proportionate rate for any other quantity.

(e) For any tobacco product other than that listed in pars. (a) to (d), on each package or container, an amount equal to the tax imposed under s. 139.31 (1) (a) on a pack of 20 cigarettes. For purposes of this paragraph, the tax applies to the smallest, discrete package or container in any larger package or container intended for sale to consumers that contains multiple smaller packages or containers.

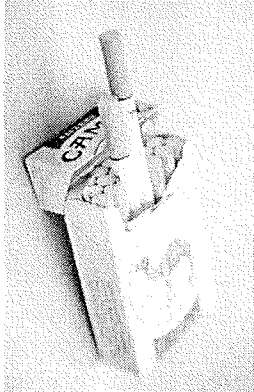
SECTION 12. 139.761 of the statutes is created to read:

A Closer Look at the Tax Loophole

A loophole in Wisconsin law allows some tobacco products to be treated differently than cigarettes, making these fruit-flavored tobacco products cheaper and more accessible to Wisconsin youth.

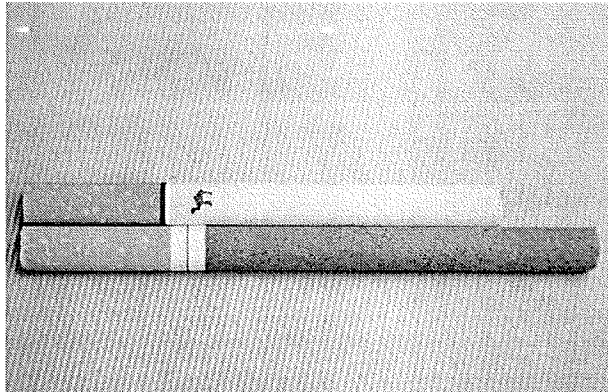
Functionally little cigars are cigarettes. However, because they are wrapped in brown paper, they have been misclassified in law as "other tobacco products."

20 Cigarettes



Cigarette Tax: \$2.52 a pack

20 Little Cigars



Tobacco Tax: Approx. \$0.78*

*The exact tobacco tax will differ based on wholesale prices

All cigarettes are taxed at \$2.52 per pack. Why should little cigars and other cigarette-like products be treated differently?



**These tobacco products are addictive and harmful.
When they are less expensive, they appeal to children.**

TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:

WHEREAS, it is alleged that said Program has been plagued with major problems since its implementation initially under the contract with Logisticare, and more recently with MTM. Individuals that rely on this Program are primarily elderly or have significant health conditions. Some require time-sensitive treatment such as dialysis; and

WHEREAS, your undersigned Committee supports an audit of this Program by the Joint Legislative Audit Committee.

BE IT FURTHER RESOLVED by the Winnebago County Board of Supervisors that it hereby directs the Winnebago County Clerk to transmit a copy of this Resolution to Senator Robert Cowles and Representative Samantha Kerkman of the Joint Legislative Audit Committee; to all legislators representing Winnebago County constituents; to the Wisconsin Counties Association; and to the Office of Governor Scott Walker.

LEGISLATIVE COMMITTEE

Vote Required for Passage: **Majority of Those Present**

Mark L Harris
Winnebago County Executive



WISCONSIN LEGISLATURE

P.O. BOX 8952 • MADISON, WI 53708

February 13, 2014

Sen. Robert Cowles, Co-Chair
Joint Legislative Audit Committee
State Capitol, Rm 118 South

Rep. Samantha Kerkman
Joint Legislative Audit Committee
State Capitol, Rm 315 North

Dear Audit Co-Chairs,

This letter is to request that the Joint Legislative Audit Committee approve an audit of the state's non-emergency medical transportation program, currently contracted to Medical Transportation Management Inc., or "MTM."

This program has been plagued with major problems since its implementation, initially under the contract with Logisticare, and more recently with MTM. Individuals that rely on this program are primarily elderly or have significant health conditions. Some require time-sensitive treatments such as dialysis. However, these individuals continue to report significant problems with the medical transportation program.

Legislative offices receive numerous contacts from constituents who are repeatedly late to appointments or abandoned for hours at appointments without a ride. Last month the Milwaukee Journal Sentinel also documented this troubling issue (article attached). Shawano County officials also sent the attached letter to MTM, the Greater Wisconsin Agency on Aging Resources, and legislative offices documenting concerning issues with the program in their county in January.

Riders also report being picked up in vehicles that don't conform to their needs, in at times unmarked vehicles, sometimes in disrepair; being forced to arrange their own rides; and being told to take the bus for rides that go outside of the bus system service routes. Complaints are not adequately acted upon. Citizens report long hold times and phone operators are at times rude or provide misinformation. It is also unclear that the Department of Health Services is appropriately assessing fiscal damages for the poor service our constituents have received.

In addition to the concerning difficulties faced by the populations this program is intended to serve, the current program is also negatively impacting our longstanding local transportation providers. These small businesses feel MTM has not been a fair partner in administering this program, limiting the number of rides placed unless they substantially drop their rates and instead using problematic, less reputable providers that leave our constituents without a ride to or from an appointment.

Finally, it is unclear if this program is financially prudent for our state. The reason the state chose to pursue a privatization of this service was to reduce the cost. However, the state does not appear to be saving money under this model. The transition to Logisticare was estimated to save \$4 million a year, largely due to increased

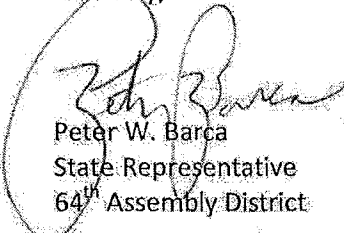
federal aid in exchange for the state's tracking rider information, but the new contract with MTM costs Wisconsin taxpayers \$6.3 million more per year than the first contract.

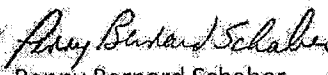
Beyond the larger than expected costs of privatization, the current program also sets up a perverse incentive without appropriate oversight. MTM receives a fixed amount of funding so the company makes more profit providing less service. While we should welcome innovation and efficiency, we must provide a reasonable baseline of service to the people who rely on this program. We are currently paying higher costs for less reliable services. Perhaps there is another model the state could pursue that could be more cost-effective and provide better service to these citizens.

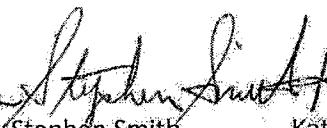
In the past two years the Joint Legislative Audit Committee has received three bipartisan legislative requests for an audit of the non-emergency medical transportation program. A legislative audit could appropriately study the impact of the program on the riders who are elderly or have disabilities and use the program, the local providers that transport our constituents, and the state. An audit should consider the volume of complaints, the complaint process, the process for scheduling rides with local providers and determining which provider is selected, oversight actions by the Department of Health Service, and the financial effect of the program on taxpayers.

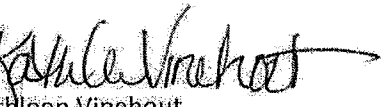
We hope that you will seriously consider this and earlier requests to review the non-emergency medical transport program and act quickly to begin an audit.


Sincerely,

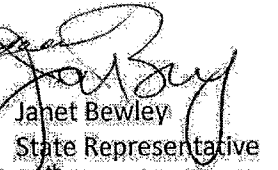

Peter W. Barca
State Representative
64th Assembly District

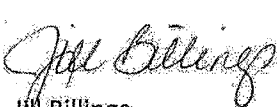

Penny Bernard Schaber
State Representative
57th Assembly District



Stephen Smith
State Representative
75th Assembly District



Kathleen Vinehout
State Senator
31st Senate District



Terese Berceau
State Representative
77th Assembly District



Janet Bewley
State Representative
74th Assembly District



JHL Billings
State Representative
95th Assembly District


Fred Clark
State Representative
81st Assembly District


Tim Carpenter
State Senator
3rd Senate District


Jon Erpenbach
State Senator
27th Senate District


Dave Hansen
State Senator
30th Senate District


Nikkiya Harris
State Senator
6th Senate District

Chris Danou
State Representative
92nd Assembly District

Steve Doyle
State Representative
94th Assembly District

Eric Genrich
State Representative
90th Assembly District

Gordon Hintz
State Representative
54th Assembly District

Chris Larson
State Senator
7th Senate District

John Lehman
State Senator
21st Senate District

Fred Risser
State Senator
26th Senate District

Jennifer Shilling
State Senator
32nd Senate District

Brett Hulsey
State Representative
78th Assembly District

LaTonya Johnson
State Representative
17th Assembly District

Andy Jorgensen
State Representative
43rd Assembly District

Fred Kessler
State Representative
12th Assembly District

Bob Wirth
State Senator
22nd Senate District

Deb Kolste
State Representative
44th Assembly District

Cory Mason
State Representative
66th Assembly District

Nick Milroy
State Representative
77rd Assembly District

Tod Ohnstad
State Representative
65th Assembly District

Sandy Pasch
State Representative
10th Assembly District

Sondy Pope
State Representative
80th Assembly District

Jon Richards
State Representative
19th Assembly District

Daniel Riemer
State Representative
7th Assembly District

Janis Ringhand
State Representative
45th Assembly District

Evan Goyke
State Representative
18th Assembly District

Amy Sue Yrwin
State Representative
70th Assembly District

Tom Weatherston
State Representative
62nd Assembly District

Mandy Wright
State Representative
85th Assembly District

JoCasta Zamarripa
State Representative
8th Assembly District

Josh Zepnick
State Representative
9th Assembly District



Chris Taylor
State Representative
76th Assembly District

Mandela Barnes
State Representative
11th Assembly District



Gary Hebl
State Representative
46th Assembly District



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State Representative
79th Assembly District



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State Senator
16th Senate District

Lena Taylor
State Senator
4th Senate District



Julie Lassa
State Senator
24th Senate District



Leon Young
State Representative
16th Assembly District



Melissa Sargent
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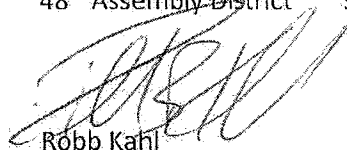
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State Representative
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Public Investigator

MTM medical ride ratings in Wisconsin take a beating

By Gitte Laasby of the Journal Sentinel
Jan. 28, 2014

The honeymoon appears to be over for non-emergency medical transportation provider MTM Inc. in Wisconsin. Multiple BadgerCare and Medicaid members have complained to the Public Investigator in recent weeks about repeated no-show rides to medical appointments and long hold times on MTM's hotlines.

Jill Daniecki of Racine said her daughter, Sasha Hunter — she has cerebral palsy and uses a wheelchair — has missed 13 of her weekly appointments since MTM took over dispatching of rides from LogistiCare in August. She said that in several cases the companies scheduled to give Hunter rides canceled at the last minute and without notice.

Sometimes, Daniecki said, she won't find out that the scheduled company turned back her daughter's ride until the pickup time has passed and she calls MTM to find out where the ride is. At other times, MTM will call to say it's unable to find a different transportation provider on such short notice. Daniecki is getting frustrated.

"We had 13 no-shows from Racine to Milwaukee for her therapy," Daniecki said. "They still need to provide some kind of transportation for her. Just because they turn it back doesn't mean it's excusable."

Daniecki said her daughter, who is non-verbal, has been regressing because she missed so many therapy sessions. She said one particular company had habitually turned away rides with less than the required 24 hours' notice even though the trips were scheduled weeks in advance.

"I filed a grievance with MTM. Nothing's become of it," she said.

Michele Lucas, a spokeswoman for MTM, said in an email that the company "works diligently to meet all trip requests" and stays in touch with the member to provide updates on the status of his or her trip in the meantime.

MTM's contract with the state requires the company to keep track of patterns of complaints about particular providers, who can be dismissed from the network of providers if problems persist. According to the state's original request for proposals, the state can also assess financial damages of \$100 to \$1,000 from providers each time a ride doesn't show up or shows up late.

Claire Smith, speaking for the Wisconsin Department of Health Services, said MTM closely monitors no-show and cancellation rates.

"If a provider falls below the established performance standard, they will be counseled and put on a Performance Improvement Plan," she wrote in an email. "If the provider is not able to perform to MTM's standards, they will be removed from the network."

Lucas refused to say whether MTM has removed any providers from its network, saying it doesn't disclose disciplinary actions.

Riders, including Anthony Coleman of Janesville, question whether MTM is actually holding providers accountable for their mistakes. He suspects MTM continues to use problematic providers because they charge low rates.

Coleman had woes similar to Daniecki's, with a particular company not showing up. The company — it is different from the one in Daniecki's case — had been a no-show for three appointments. When Coleman called to schedule another ride and MTM assigned him the same provider, he objected.

"I told them the previous three times, they didn't show up to pick me up," he said. "The lady was pretty snotty on the phone. She told me to either deal with it or she's going to hang up the phone and (cancel) my ride. They didn't show up and take me to my appointment."

Lucas couldn't comment on Coleman's specific situation but said in the situation described, its ombudsman or patient advocate "would not suggest that canceling transportation to a health care appointment was an acceptable resolution to the issue."

Lucas said that since MTM took over in August, it has consistently met its contract requirements of answering hotlines within 4 minutes.

MTM submits monthly reports to the state health department with statistics on complaints, reservations and calls. The reports have a three-month lag time. The latest report, which is for September, shows the average speed to answer was 2 minutes 15 seconds.

Smith added that the daily hold times are calculated as an average.

MTM handled nearly 100,000 calls in September. About 11% of callers hung up before they got through.

Substantiated complaints declined from LogistiCare's last month in Wisconsin — June — until September, the statistics show. LogistiCare had just over 1,000 substantiated complaints in July, according to statistics supplied by the Wisconsin Department of Health Services in response to a Public Investigator request. By comparison, MTM had 947 substantiated complaints in August and 723 in September.

In 172 of the September cases, no vehicle was available. In 229 cases, the provider was either late or didn't show up, and 169 were "internal" issues with MTM, such as processes, customer service and trip accuracy.

The complaints about no-show rides and long hold times echo similar complaints about LogistiCare, the vendor that MTM replaced, when LogistiCare first took over dispatching of rides in all of Wisconsin in the fall of 2012. At that time, riders also complained about erratic drivers, rude phone operators and long hold times. The state did not assess any damages against LogistiCare.

MTM's reports to the state are updated monthly and can be viewed at

dhs.wisconsin.gov/aboutdhs/initiatives/transportation/data/index.htm.

For more consumer stories, visit the Public Investigator blog at www.jsonline.com/piblog.

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Check the box to include the list of links referenced in the article.

SHAWANO COUNTY
DEPARTMENT OF SOCIAL SERVICES

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Shawano County Department of Social Services provides Equal Opportunity in employment and service delivery.

January 16, 2014

MTM, Inc.
Attn: Quality Management
5117 W. Terrace, Suite 400
Madison, WI 53718

Carrie Porter
OAA Consultant
Transportation Specialist
Greater WI Agency on Aging Resources
1414 MacArthur Road
Suite A
Madison, WI 53714

RE: MTM

To Whom It May Concern:

I am writing this letter representing of the Shawano County Department of Social Services Long Term Support Planning Committee. This letter is a result of numerous ongoing concerns regarding the transportation services of MTM.

The Long Term Support Unit provides services to the elderly and physically disabled, which can be a very vulnerable population depending on their needs. Issues and problems which have risen include, arranged rides not showing up, transportation vehicles showing up which are not able to transport clients in wheelchairs, drivers coming late for appointments, MTM not allowing someone to accompany the client who has the appointment even with Dr's approval, MTM not allowing driver to wait for client while they have the appointment (clients now need to call when their appt is completed and can wait up to an hour for their ride).

Examples of concerns include:

- 84 year old woman had transportation arranged for a medical appt regarding her eyes. Eye appt was required before scheduling her eye surgery. Transportation never showed up. Eye surgery had to be delayed.
- 50 year old woman had two (2) transports "no shows" within 30 days. Now she is refusing to make any further medical appointments as she does not want to use MTM for her transportation

- 87 year old woman had her transport no show. When she called her physician to reschedule her appointment she had to wait two (2) months due to his schedule
- 53 year old male had transport arranged but no one showed to take him to his appointment
- 51 year old male. MTM arranged for a volunteer driver. Social worker called to confirm arrangements. Worker was informed by driver that he had informed MTM he could not do transport. Unknown driver did show up for transport. Neither client or worker was informed of change of drivers
- 54 year old female confined to wheelchair. MTM made aware of clients wheelchair needs. Vehicle sent to transport that could not accommodate client's physical needs
- 69 year old confined to a wheelchair. No day before medical appointment confirmation call from MTM regarding ride arrangements. Worker contacted MTM who stated they did not make any arrangements. MTM instructed to call company they would have contracted with to make arrangements. That company was unable to make arrangements due to lack of prior notice
- A 68 year old woman who is confined to a wheelchair who currently is suffering from broken bones in her ankle and shoulder in addition to being a diabetic, obese, numerous joint disorders, GERD, osteoporosis and macular degeneration has called in to set up two different appointments with doctors in Green Bay. The first appointment was arranged and no one showed up. The second time, just before the driver should have arrived, she received a call that said they had no drivers available, appointment had to be cancelled at the last moment.
- A 70 year old woman under guardianship had an appointment and a driver arranged through North Central. She was due at the clinic at 10:40 AM. After an hour had passed from the time of her appointment, assigned social worker went to her home and found her on the porch, still waiting for the driver. No one ever called or showed up.
- 62 year old female client with cerebral palsy. As her body does not move on its own, she is always accompanied by a friend who assists her. The friend is capable of lifting client in and out of her wheelchair and can "translate" the client's mumbled speech to the doctors. Involved physicians completed statements for MTM stating it was required that an additional person accompany the client to all appointments. When the client's POA has called in to make an appointment for a driver, she was told repeatedly that the "extra person" cannot be accommodated for the ride. This client has been stood up with no driver ever appearing, the driver has come late for the appointment, or at the last minute she has received a call that, after all, a driver wasn't available. Sadly, this client has a lot of medical appointments so this is a source of incredible frustration to her. She never knows if she will be picked up or not or if the driver will give her a hard time about the "extra" person accompanying her. An additional problem for this client was that twice a year generally she has to go to Mayo Clinic in Minneapolis to consult doctors there regarding rods that have been inserted into her back to support her backbone and spinal column. When she called for a driver this fall, once again MTM Services gave her a horrible time about going out of state. These appointments at Mayo have been longstanding for approximately 5 years, and will probably continue. Although they sent a driver, it was a young girl who got lost on several occasions and spent her time while driving doing her nails. The driver never bothered to ask the client if she needed to stop during the trip to use the bathroom or to get something to eat. During another transport the driver was busy smoking while driving. When the client asked the driver to please stop smoking, due to her having asthma, he just rolled down the window.

- A 65 year old client who suffered a spinal stroke and is confined to a wheelchair has used MTM Services quite frequently. Two appointments were made to see doctors in Green Bay. A driver was assigned to pick her up unfortunately no one showed up. The next time this client received a call just as they were supposed to leave, saying that a driver was no longer available for her. Her husband called MTM to share a piece of his mind with them. The person on the other end of the phone told him that it would be noted in his wife's file, and for any future trips needed, Koeppens would take her. That worked for several trips. Then when more trips to the doctor were scheduled, she was told she had to go with North Central, even though they had not shown up previously. Both the client and her husband are very upset about getting the run around and the lack of follow through. Clients state that if they had another means to get to the doctor, MTM would be the last option ever used.

We as a department have made complaints on behalf of our clients and have when appropriate suggested they file complaints themselves. On one occasion when a client filed a complaint, the response she got was a letter from MTM Services indicating that her complaint had been received and that the client was correct "they had not been able to send a driver".

These are just some case examples of issues with MTM, unfortunately there are many more. I am concerned about the millions of dollars spent on a service that does not meet the needs of the consumer not to mention the money lost on "no showed" appointments. Under our county volunteer driver system, clients knew their drivers and had a friendship with them. They trusted them and knew they were reliable. Unfortunately this is no longer the case.

I hope this information will assist in creating change. We believe our responsibility is to provide the best care possible for our clients. This service is clearly falling short of that goal.

Sincerely,

Bonnie A. Olson
Bonnie Olson, Chairman

1-16-14
Date

Kelley
Kevin Conradt, Committee member

1-16-14
Date

John W. Hill
John Hill, Committee member

1-16-14
Date

Jody Johnson
Jody Johnson, Committee member

1/16/14
Date

Linda Vandemack
Linda Vandemack, Committee member

1-16-14
Date

Robert Rebman 1-16-14
Robert Rebman, Committee member Date

Caroline M. Melcher 1-16-14
Caroline Melcher, Committee member Date

Sharon Coats, pw 1-16-14
Sharon Coats, Committee member Date

Absent
Judy King, Committee member Date

Shirley Ebel 1-16-14
Shirley Ebel, Committee member Date

Lynnae Zahring 1/16/14
Lynnae Zahring, Supervisor LTS Date

CC: Office of Governor Scott Walker
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Beth Nachreiner, Commission Staff Director
WisDOT Office of Policy, Budget and Finance
P. O. Box 7910
Madison, WI 53707-7910

Representative Jeffrey Mursau
36th Assembly District - Wisconsin

Representative Kevin Peterson
40th Assembly District - Wisconsin

Representative Gary Tauchen
6th Assembly District - Wisconsin

Senator Robert Cowles
Senate District 2 - Wisconsin

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January 16, 2014

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Attn: Quality Management
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Madison, WI 53718

Carrie Porter
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Transportation Specialist
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Jody Johnson
Jody Johnson, Committee member

1/16/14
Date

Linda Vandenaack
Linda Vandenaack, Committee member

1-16-14
Date

Robert Rebman 1-16-14
Robert Rebman, Committee member Date

Caroline M. Melcher 1-16-14
Caroline Melcher, Committee member Date

Sharon Coats, RN 1-16-14
Sharon Coats, Committee member Date

Absent
Judy King, Committee member Date

Shirley Ebel 1-16-14
Shirley Ebel, Committee member Date

Lynnae Zahringer 1/16/14
Lynnae Zahringer, Supervisor LTS Date

CC: Office of Governor Scott Walker
115 E. Capitol
Madison, WI 53702

Beth Nachreiner, Commission Staff Director
WisDOT Office of Policy, Budget and Finance
P. O. Box 7910
Madison, WI 53707-7910

Representative Jeffrey Mursau
36th Assembly District - Wisconsin

Representative Kevin Peterson
40th Assembly District - Wisconsin

Representative Gary Tauchen
6th Assembly District - Wisconsin

Senator Robert Cowles
Senate District 2 - Wisconsin

In August 2013, MTM, Inc. began providing Non-Emergency Medical Transportation (NEMT) brokerage services, a contract previously held by LogistiCare Solutions, LLC. Concurrent with the new contract, the State implemented several new procedures for oversight and quality control. Advocacy groups are also keeping a close eye on the quality of service, to ensure that Wisconsin residents are well-served by the new provider.

If you, a family member, or someone for whom you provide services has questions or complaints about the service received from MTM, it is important to follow the steps outlined below, in order to secure better service, and to provide important feedback about the program.

- First, it is very important to file a complaint. You can file on behalf of a family member or client with their permission, if they are not able to do so. You can contact MTM directly at (866) 907-1494. Ask to be transferred to the Quality Assurance department. Telling your complaint to a Customer Service Representative will not result in your complaint being recorded. You may also file a complaint online at <http://www.mtm-inc.net/wisconsin-website/wisconsin-home/>.
- You can ask MTM to elevate the complaint to the Ombudsman at MTM, Sunja Bennett sbennett@mtm-inc.net.
- DHS has a person responsible for contract oversight. Her name is Danielle Dale and she can be contacted to resolve issues. Danielle.dale@dhs.wisconsin.gov
- DHS has contracted with an external entity, Hewlett Packard (HP, Inc.) to provide additional complaint resolution. The HP representative is Shawn Fredrickson Shawn.Fredrickson@wisconsin.gov (not to be confused with Shawn Thomas of DHS).
- It is good practice to also have the member alert their local legislator to the issues they are having. There is much discussion among legislators about the need for an audit, which in spite of two legislative requests, has not occurred. The purpose of the audit would be to determine if this model of NEMT transportation management is cost effective for the Wisconsin taxpayers.
- Another suggestion is for members, advocates, or providers to file a complaint with the Legislative Audit Bureau Fraud, Waste and Mismanagement Hotline. If enough complaints go directly here, this could trigger an audit without the need for legislative approval. All information provided in this way is completely confidential by law. The information for the hotline is here <http://legis.wisconsin.gov/LAB/hotline/> or call 1-877-FRAUD-17 (1-877-372-8317).