

## **WAPA LEGISLATIVE UPDATE**

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### **A. Possible Extraordinary Legislative Session Monday, December 22, 2003**

The Regular Session of the Wisconsin State Legislature is now in recess until Tuesday, January 20, 2003. However, Assembly Majority Leader, Steven Foti, has instructed his members to keep Monday, Dec. 22, open for a possible floor session on the Jobs Creation Act and Senate Majority Leader Panzer announced today that she is also prepared to call the Senate into Extraordinary Session on Monday to take action on the Jobs Creation Act bill and five contracts with state employee unions. This session call assumes that the Republican majority will reach a final agreement with the Doyle Administration on the Jobs Creation bill by Monday. The Administration and the Majority have been working on a compromise bill for weeks and the Administration is concerned that their work could be lost if the bill is not passed before the end of the year. According to the *Wheeler Report*, "It would be the first time since 1989 the Legislature has been in session in December and only the sixth time in the past 30 years."

### **B. Smart Growth Provisions in the Jobs Creation Act of 2003**

The Jobs Creation Act of 2003 (introduced as identical bills AB 655 and SB 313) contains several provisions affecting the Comprehensive Planning or "Smart Growth" statute.

First, in developing written procedures relating to how a governing body of a local governmental unit will invite public input for the development of a comprehensive plan, the bill specifies that the written procedures required under current law must newly include procedures that would describe the methods the governing body will use to distribute proposed, alternative or amended elements of the comprehensive plan to certain persons with interests in nonmetallic mineral resources. The persons subject to this new distribution procedure would be landowners or leaseholders with an interest in property under which the persons may extract nonmetallic mineral resources where the allowable use or the intensity of use of the property would be affected by the comprehensive plan.

In addition, the bill specifies that at least 30 days before the current law public hearing is called by the governing body of a local governmental unit to discuss the adoption of a comprehensive plan, the governmental unit is required to provide the following individuals written information where the allowable use or the intensity of use of the property would be affected:

1. Landowners or leaseholders with an interest in property under which the persons may extract nonmetallic mineral resources.
2. An operator who has obtained a nonmetallic mining reclamation permit.
3. A person who has registered a marketable nonmetallic mineral deposit.

4. Any other person who the local governmental unit knows has a property interest in nonmetallic mineral resources in the jurisdiction.

Finally, the bill also specifies that the agricultural, natural resources and cultural resources element of the comprehensive plan has to recognize current law limitations on a jurisdiction's ability to place zoning limitations on a property that has been registered as a marketable nonmetallic mineral deposit.<sup>1</sup>

**It is unclear which of these proposed changes to the “Smart Growth” statute will be retained in the final bill. The Administration and the Majority are still negotiating.**

**B. New Stand-Alone Legislation**

1. *Senate Bill 333 – Housing*

On December 3, 2003, Senator Judy Robson (D – Beloit), introduced Senate Bill 506 (formerly discussed as LRB draft 3450/1.) Under this bill, any county may, without creating a housing authority, build, furnish, and rent housing facilities to residents of the county and may act in all other respects as Milwaukee County may currently act in the area of housing projects. To review a full text of the bill, go to <http://www.legis.state.wi.us/2003/data/SB-333.pdf>.

**C. Update on Previously Introduced Legislation**

1. *Assembly Bill 608 – Changes to Smart Growth*

AB 608 bill reduces the number of programs or actions with which a comprehensive plan must be consistent and also reiterates that a regional planning commission’s comprehensive plan is only advisory in its applicability to a political subdivision (a city, village, town, or county) and a political subdivision’s comprehensive plan.

On November 19, 2003, AB 608 was passed out of the Assembly Property Rights and Land Management Committee with a vote of 7-0. It is now available for scheduling for debate on the Assembly floor. To review the full text of this bill, go to <http://www.legis.state.wi.us/2003/data/AB-608.pdf>.

2. *Assembly Bill 130 – Alternative Method for Town Consolidation*

Assembly Bill 130, which creates another method for certain towns to consolidate with other municipalities, was signed into law by Governor Doyle on December 3, 2003 as 2003 Wisconsin Act 93. To review a copy of the Act, go to <http://www.legis.state.wi.us/2003/data/acts/03Act93.pdf>.

3. *Senate Bill 168 – Dwelling Codes*

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<sup>1</sup> Analysis of these provision is excerpted from the Legislative Fiscal Bureau memo to Members of the Wisconsin Legislature dated November 24, 2003.

Senate Bill 168, which repeals the authority of a city, village, or town with a population of 2,500 or less to exempt itself from enforcement of the dwelling code, was signed into law by Governor Doyle on December 3, 2003 as 2003 Wisconsin Act 90. To review a copy of the Act, go to <http://www.legis.state.wi.us/2003/data/acts/03Act90.pdf> .

4. *Assembly Bill 271 – Notices for Zoning Changes*

Assembly Bill 271, introduced on April 18, 2003 by Representative Sheryl Albers (R-Reedsburg) passed the Assembly with a vote of 69-27 on November 13, 2003. It has been messaged to the Senate and referred to the Senate Committee on Homeland Security, Veterans and Military Affairs and Government Reform for consideration.

This bill specifies that a town zoning committee must hold a public hearing and give notice of the hearing on a preliminary report on recommended zoning district boundaries and zoning regulations for such districts and that a town board give notice of a public hearing on a proposed zoning ordinance.

5. *Senate Bill 305/Assembly Bill 654 – Changes to the TIF Program*

Senate Bill 305, introduced on November 5, 2003 by Senator Cathy Stepp (R – Sturtevant) and Assembly Bill 654, introduced on November 10, 2003 by Representative Michael Lehman (R – Hartford), are companion bills that make technical and policy changes in the TIF program based in part on the recommendations of the Governor's December 2000 working group on TIF; authorizes certain counties to create TIF districts; modifies the environmental remediation TIF program.

AB 654 had a public hearing before the Assembly Ways & Means Committee on November 19, 2003.

SB 305 was referred to the Assembly Ways and Means Committee on November 20, 2003 and passed out of that Committee with a vote of 9-3 on December 3, 2003. SB 305 is now available for scheduling for debate on the Assembly floor. To review the full text of this bill, go to <http://www.legis.state.wi.us/2003/data/SB-305.pdf>.

6. *Senate Bill 306/Assembly Bill 653 – Changes to the TIF Program*

Senate Bill 306, introduced on November 5, 2003 by Senator Cathy Stepp (R – Sturtevant) and Assembly Bill 653, introduced on November 10, 2003 by Representative Michael Lehman (R – Hartford), authorizes DOR to impose a fee to determine/redetermine the tax incremental base of a TIF district; requires DOR to prepare a TIF manual.

AB 653 had a public hearing before the Assembly Ways & Means Committee on November 19, 2003.

SB 306 was referred to the Assembly Ways and Means Committee on November 20, 2003 and passed out of that Committee with a vote of 12-0. It is now available for scheduling for debate on the Assembly floor. To review the full text of this bill, go to <http://www.legis.state.wi.us/2003/data/SB-306.pdf>.

7. *Assembly Bill 442 – Quorum Requirements for a Zoning Board of Appeals or Adjustment*

Assembly Bill 442, introduced by Representative Sheryl Albers (R – Reedsburg), pass out of the Assembly Committee on Property Rights and Land Management on November 19, 2003 with a vote of 5-2. NOTE: This bill passed as amended by Assembly Substitute Amendment to AB 442, which is available online at <http://www.legis.state.wi.us/2003/data/AB442-ASA1.pdf>.

This substitute amendment requires all municipalities or counties that have a board of appeals or adjustment to appoint alternate members of the board. The substitute amendment also specifies that if a quorum is present the board of appeals or adjustment may take action by a majority vote, and repeals a current law provision that requires four out of five votes for action by a city, village, or certain town board of appeals.

8. *Assembly Bill 493 – Approval of Conditional Use Permits*

Assembly Bill 493, introduced by Representative Terri McCormick (R - Appleton) had a public hearing before the Assembly Urban and Local Affairs Committee on November 18, 2003.

This bill prohibits a zoning entity from withholding approval of a conditional use permit for a reason that is not directly related to the requested conditional use permit. In addition, the zoning entity may not condition approval of such a permit on the property owner taking, or not taking, some action with respect to an existing use of the property, that is not directly related to the permit.

(Note: There have been no other changes to the status of introduced legislation described in previous issues of the *Update*.)