

## WAPA LEGISLATIVE UPDATE

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November 17, 2003

### A. 2003-03 Legislative Session Schedule

The Regular Session of the Wisconsin State Legislature is now in recess until Tuesday, January 20, 2003. However, the Legislature will convene in an Extraordinary Session on Monday, December 1, 2003. Currently, the Extraordinary Session agenda includes the “Jobs Creation Act of 2003” (i.e., AB 655 and SB 313). A public hearing was held on this bill on November 12, 2003. However, dates of additional statewide hearings are expected to be announced by leadership this week.

### B. New Stand-Alone Legislation

#### 1. *Assembly Bill 506 – Definition of Navigability*

Assembly Bill 506, introduced on September 11, 2003 by Representative Scott Gunderson (R – Town of Norway), specifies that a lake or stream is “navigable” only if during a total of at least six months in the current calendar year, it is capable of supporting watercraft carrying a person. The current test for navigability is contained in case law only – not statute and specifies that a stream is navigability if it is capable of floating the shallowest draft boat available for recreational use, such as a kayak or canoe. AB 506 had a public hearing before the Assembly Natural Resources Committee on October 15, 2003. Representative Gunderson is the vice-chair of the Assembly Natural Resources Committee.

To review a full text of the bill, go to <http://www.legis.state.wi.us/2003/data/AB-506.pdf>

#### 2. *Assembly Bill 514 – Various Changes to Chapter 30, Wisconsin Statutes*

AB 514, introduced on September 11, 2003 by the Joint Legislative Council, makes various changes to Chapter 30, Wisconsin Statutes. Chapter 30 is primarily concerned with the regulation of navigable waters, harbors and navigation in the State of Wisconsin. Among other changes, this bill codifies the current case law definition of “navigability.”

The current legal standard of navigability comes from the leading case on the navigability of streams, *DeGayner and Co. v. Department of Natural Resources*. The key provisions of the “test” of navigability in *DeGayner* are that navigability of a stream is tested with the shallowest draft boat available for recreational use, such as a kayak or canoe, and that navigability is determined based on the amount of water in the stream during the periodic and recurring spring runoff. AB 514 puts this definition into Wisconsin Statutes.

AB 514 had a public hearing before the Assembly Natural Resources Committee on October 15, 2003.

To review a full text of the bill, go to <http://www.legis.state.wi.us/2003/data/AB514hst.html> . (Note there is an Amendment introduced that makes various technical changes.)

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

On October 23, 2003, Representative Sheryl Albers (R – Reedsburg) introduced AB 608 (LRB 3204/2). AB 608 was referred to the Assembly Property Rights and Land Management Committee and is scheduled for a public hearing before this Committee on November 19, 2003 at 1:00 p.m. (Note: This bill previously had a public hearing before this Committee in its LRB form on October 8, 2003.)

Beginning on January 1, 2010, under Smart Growth, any program or action of a local governmental unit that affects land use must be consistent with that local governmental unit's comprehensive plan. This bill reduces the number of programs or actions with which a comprehensive plan must be consistent. Under the bill, the only actions which must be consistent with a comprehensive plan are official mapping, local subdivision regulation, and zoning ordinances, including zoning of shorelands or wetlands in shorelands. In addition, the bill 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.

To review the full text of this bill, go to <http://www.legis.state.wi.us/2003/data/AB-608.pdf> .

4. *Assembly Bill 655/Senate Bill 313 – “Jobs Creation Act of 2003”*

The 114 page bill popularly referred to as the “Jobs Creation Act of 2003,” was introduced by Representative Gard (R – Peshtigo), Speaker of the State Assembly, and Senator Mary Panzer (R – West Bend), Senate Majority Leader on November 11, 2003. This bill makes various changes relating to administrative rule-making and procedures, the control of air pollution, the protection of navigable waters, nonmetallic mining reclamation financial assurances, strategic energy assessments, the partial deregulation of telecommunications services, contributions to and grants from the utility public benefits fund, reciprocal agreements for real estate licenses, comprehensive planning by local governmental units, fees imposed by political subdivisions, the confidentiality of patient health care records, apprentice-to-journeyman job-site ratios, the acquisition of in-state banks and in-state bank holding companies, and credit agreements and related documents.

To review the full text of the bill, go to <http://www.legis.state.wi.us/2003/data/AB-655.pdf>

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 passed out of the Joint Finance Committee with a vote of 13-2 and has been re-referred to Assembly Ways & Means.

SB 305 had a public hearing on November 6, 2003 before the Economic Development, Job Creation and Housing Committee. The Committee passed the bill with a vote of 5-0. On November 13, 2003, the Senate amended and passed SB 305 with a vote of 20-11. (Senator Welch refrained from voting.) It is now available for consideration by the Assembly.

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 passed out of the Joint Finance Committee with a vote of 13-2 on November 13, 2003, and has been re-referred to Assembly Ways & Means.

SB 306 had a public hearing on November 6, 2003 before the Economic Development, Job Creation and Housing Committee. The Committee passed the bill with a vote of 5-0. On November 13, 2003, the Senate passed the bill with a vote of 20-11. (Senator Welch refrained from voting.) It is now available for consideration by the Assembly.

To review the full text of this bill, go to <http://www.legis.state.wi.us/2003/data/SB-306.pdf>.

7. *LRB 3450/1 – Counties Authorized to Build Housing Facilities*

Senator Judy Robson (R – Beloit) is currently circulating LRB draft 3450/1 for co-sponsorship. 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.

C. Update on Previously Introduced Legislation

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

Assembly Bill 130, introduced on March 6, 2003 by Representative Bonnie Ladwig (R – Racine) creates another method for certain towns to consolidate with other municipalities. AB 130 has passed both houses of the Legislature and is not available for consideration by the Governor.

2. *Senate Bill 168 – Dwelling Codes*

Senate Bill 168, introduced on May 14, 2003 by Senator Ronald Brown (R – Eau Claire), 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. SB 168 has passed both houses of the Legislature and is now available for consideration by the Governor.

3. *Senate Bill 88 – Extraterritorial Plat Approval*

Senate Bill 88, introduced by Senator Alan Lasee (R – DePere), requires that the town board show its approval of the municipality's ordinance or map by adopting a resolution. SB 88 had a public hearing before the Senate Committee on Homeland Security on October 15, 2003.

4. *Senate Bill 89 – Town Referenda for Annexations*

Senate Bill 89, introduced by Senator Alan Lasee (R – DePere), prohibits an annexation ordinance or annexation from taking effect unless it is approved in a referendum of all of the town electors in the town from which the town territory is proposed to be annexed. SB 89 had a public hearing on October 15, 2003 before the Senate Committee on Homeland Security.

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

Assembly Bill 442, introduced by Representative Sheryl Albers (R – Reedsburg), requires all municipalities or counties that have a board of appeals or adjustment to appoint alternate members of the board and also specifies that for any such board to take action a quorum must be present. AB 442 is scheduled for an executive session on November 19, 2003 before the Assembly Property Rights and Land Management Committee at 1:00 p.m.

6. *Assembly Bill 551 – Town Board Approval of County Development Plan*

AB 551, introduced by Representative Donald Friske (R – Merrill) prohibits a county development plan, in whole or in part, or an amendment to the plan, from taking effect in a town unless that town's board approves the county board's action. AB 551 had a public hearing before the Assembly Rural Development Committee on October 29, 2003 and was passed out of Committee with a vote of 8-0. It is now available for debate on the Assembly floor.

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