

WAPA LEGISLATIVE UPDATE

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A. Assembly Bill 608 – Smart Growth Legislation

The State Assembly passed Assembly Bill 608 on February 3, 2004 with a vote of 90 to 9. It has now been referred to the Senate Committee on Economic Development, Job Creation and Housing for consideration.

This legislation was designed to help local governments save on planning costs by simplifying and reducing the number of actions that must be consistent with the governmental unit's comprehensive plan. This bill, which was introduced by Representative Sheryl Albers (R-Reedsburg), makes several technical changes to Wisconsin's Smart Growth Law. Specifically, this legislation requires that the following governmental action be consistent with a comprehensive plan developed by a local unit of government: (1) official mapping; (2) local subdivision regulations; and (3) zoning ordinances.

To review a copy of AB 608, go to <http://www.legis.state.wi.us/2003/data/AB-608.pdf>.

B. New Stand-Alone Legislation

1. *Senate Bill 458 – Authorizing a County to Participate in a Municipal Revenue Sharing Agreement*

Senate Bill 458, which was introduced on February 13, 2004 by Senator Mark Meyer (D-La Crosse), allows a *county* to enter into a revenue sharing agreement with another county, municipality or federally recognized American Indian tribe or band. Under current law, cities, villages, and towns (municipalities) may enter into agreements to share revenues from taxes and special charges with other municipalities and with federally recognized American Indian tribes or bands. SB 458 was referred to the Senate Committee on Homeland Security, Veterans and Military Affairs and Government Reform for consideration. To review a copy of SB 458, go to <http://www.legis.state.wi.us/2003/data/SB-458.pdf>.

2. *Senate Bill 461 – Allowing Certain Counties to Create Tax Incremental Financing Districts*

Senate Bill 461, which was introduced on February 13, 2004 by Senator Roger Breske (D-Eland), authorizes counties in which not cities or villages are located to use tax incremental financing and create a tax incremental district (TID) if the town board of each town in which the proposed TID is to be located approves. This legislation was referred to the Senate Committee on Economic Development, Job Creation and Housing

for consideration. To review a copy of this legislation, go to <http://www.legis.state.wi.us/2003/data/SB-461.pdf>.

3. *Assembly Bill 780 – Activities Exempt from Water Quality Standards Applicable to Wetlands*

Assembly Bill 780, introduced on January 29, 2004 by Representative Gregg Underheim (R-Oshkosh), creates a new exemption from compliance with DNR water quality standards for wetlands affected by an activity in a town, city, village or county that has adopted a Smart Growth Plan, *if* (1) the wetland that will be affected by the activity has negligible functional values; and (2) if the activity incorporates a plan to create at least 1.5 acres of wetland for each acre of wetland affect by the activity (e.g., mitigation.) AB 780 was referred to the Assembly Committee on Natural Resources for consideration and had a public hearing on February 12, 2004.

1000 Friends of Wisconsin and the Wisconsin Wetlands Association have both expressed opposition to this legislation.

To review a copy of AB 780, go to <http://www.legis.state.wi.us/2003/data/AB-780.pdf>.

C. Update on Previously Introduced Legislation

1. *Senate Bill 351 – Size of the County Board of Supervisors*

Senate Bill 351, introduced on December 17, 2003 by Senator Ted Kanavas (R – Brookfield), had a public hearing on January 29, 2004 before the Senate Committee on Homeland Security, Veterans and Military Affairs and Government Reform.

Among other changes, this bill permits the board of supervisors of any county with a population of less than 500,000, except a county having only one town (currently, all counties except Milwaukee and Menominee) to decrease the number of supervisors on the board and adopt a new redistricting plan during the ten-year period between the adoption of decennial redistricting plans. The bill also requires the redistricting plan to satisfy certain criteria that also apply to decennial redistricting plans. To review a copy of this legislation, go to <http://www.legis.state.wi.us/2003/data/SB-351.pdf>.

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

Assembly Bill 271 (Representative Sheryl Albers), which passed the Assembly with a vote of 69-27 on November 13, 2003, had a public hearing before the Senate Committee on Homeland Security, Veterans and Military Affairs and Government Reform on January 14, 2004. The Committee took executive action on AB 271 on January 22, 2004, recommending the bill for passage with a vote of 4-1. The bill is now available for scheduling on the Senate floor.

As you may recall, 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. The political subdivision is obligated to send a notice to each person whose allowable use of the property may be affected by the proposed ordinance or amendment. To review a copy of AB 271, go to <http://www.legis.state.wi.us/2003/data/AB-271.pdf>.

4. *Assembly Bill 369 – DOT Review of School Plans*

On February 5, 2004, the Assembly adopted Assembly Amendment 2 to AB 369, and then passed AB 369 as amended with a vote of 86-10. This legislation has now been referred to the Senate Committee on Transportation and Information Infrastructure for consideration.

As previously reported, Assembly Bill 369, which was introduced on May 29, 2003 by Representative Steve Wieckert (R-Appleton), requires DOT, *upon request of a school board*, to review the site plan of any proposed enlargement of public, private or charter school grounds, or proposed construction or enlargement of school buildings or facilities. A school board may request a DOT review after the site plan has been reviewed by the county traffic safety commission. (Note: The inclusion of private and charter schools was previously added to the bill with the adoption of Assembly Amendment 1 to AB 369.) Assembly Amendment 2 to AB 369 required the DOT to assess a fee for its review of the plan, but the fee may not exceed the cost to the department.

To review a copy of AB 369, go to <http://www.legis.state.wi.us/2003/data/AB-369.pdf>.

To review a copy of AA1 to AB 369, go to <http://www.legis.state.wi.us/2003/data/AB369-AA1.pdf>.

To review a copy of AA2 to AB 369, go to <http://www.legis.state.wi.us/2003/data/AB369-AA2.pdf>.

5. *Assembly Bill 437 – Granting Towns Limited Authority to Create TIF Districts*

Assembly Bill 437 (Representative Gabe Loeffelholz), which passed the Assembly on November 12, 2003 with a vote of 69-27, had a public hearing before the Senate Committee on Homeland Security, Veterans and Military Affairs and Government Reform on January 13, 2004. The Committee took executive action on the bill on January 29, 2004, recommending the bill for passage with a vote of 4-1. The legislation is now available for scheduling for debate on the Senate floor.

As previously reported, AB 437 authorizes towns to use TIF for limited purposes. Under the bill, a town may use the TIF law to expend money or incur monetary obligations as a “project cost” for all of the following: (a) Projects related to tourism; (b) Projects related to agriculture; (c) Projects related to forestry; (d) Residential development, but only to the extent that it has a necessary and incidental relationship to a project related to tourism,

agriculture, or forestry; or (e) Retail development, but only to the extent that it is related to the retail sale of products that are produced due to a project related to agriculture or forestry.

To review a copy of AB 437, go to <http://www.legis.state.wi.us/2003/data/AB-437.pdf> .

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

Representative Terri McCormick (R - Appleton) introduced Assembly Amendment 1 to AB 493, which she introduced on September 8, 2004.

AB 493 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. Assembly Amendment 1 to AB 493 prohibits a zoning entity from withholding the approval of a condition use permit based upon the property owner entering into a contract, or discontinuing, modifying, extending or renewing any existing contract with a 3rd party under which the 3rd party is engaging in an unlawful use of the property.

To review a copy of AB 493, go to <http://www.legis.state.wi.us/2003/data/AB-493.pdf> .

To review a copy of AA1 to AB 943, go to <http://www.legis.state.wi.us/2003/data/AB493-AA1.pdf> .

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

AB 551, which was introduced on October 2, 2003 by Representative Donald Friske (R-Merrill) was amendment by Assembly Amendment 1 to AB 551 and passed out of the Assembly as amended on February 3, 2004. It has not been referred to the Senate Committee on Homeland Security, Veterans and Military Affairs and Government Reform for consideration. It is scheduled for a public hearing before that committee on Wednesday, February 18, 2004 at 9:00 a.m.

Under current law, before a county development plan, or an amendment to a plan, may take effect, it must be adopted by the county board. Under AB 551, neither a county development plan (in whole or in part), nor an amendment to a county development plan, may take effect in a town unless that town's board approves the county board's action. No public hearing has yet been scheduled on this legislation. Under Assembly Amendment 1 to AB 551, a town board must vote to approve or disapprove the county board's action (i.e., a county development plan, part of a county development plan, or an amendment to a county development plan) no later than 90 days after the clerk sends out the duplicate copy of the county board's action. The amendment further provides that if a town board does not approve or disapprove of the county board's action within 90 days after the clerk sends out the duplicate copy of the county board's action, the board's action takes effect in that town.

To review the full text of AB 551 go to <http://www.legis.state.wi.us/2003/data/AB-551.pdf>.

To review AA1 to AB 551, go to <http://www.legis.state.wi.us/2003/data/AB551-AA1.pdf>.

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

Senate Bill 305 (Senator Cathy Stepp and Representative Michael Lehman), was debated and passed the Assembly on January 20, 2004 with a vote of 84-12. On January 21, 2004, the Senate concurred in the Assembly's action. The legislation is now available for consideration by Governor Doyle.

SB 305 makes 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. (Note: SB 305 was amended by Senate Substitute Amendment 1 to SB 305 on November 13, 2004.)

To review a copy of SB 305 in its current form, go to <http://www.legis.state.wi.us/2003/data/SB305-SSA1.pdf> and also review <http://www.legis.state.wi.us/2003/data/SB305-SSA1.pdf> which makes a technical correction to SSA 1 to SB 305. This legislation will soon be enrolled into one comprehensive bill for the Governor's consideration.

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

Senate Bill 306 (Senator Cathy Stepp and Representative Michael Lehman) also was debated and passed the Assembly on January 20, 2004 with a vote of 94-2. This bill authorizes DOR to impose a fee to determine/redetermine the tax incremental base of a TIF district and requires DOR to prepare a TIF manual.

To review a copy of SB 306, go to <http://www.legis.state.wi.us/2003/data/SB-306.pdf> and also review adopted SA1 to SB 306 at <http://www.legis.state.wi.us/2003/data/SB306-SA1.pdf>. This legislation will soon be enrolled into one comprehensive bill for the Governor's consideration.

10. *Assembly Bill 728 – Comprehensive Planning by Local Government Units*

Assembly Bill 728, which was introduced on January 7, 2004 by Representative John Gard (R-Peshtigo) and Senator Mary Panzer (R-West Bend), is the comprehensive planning language that was *not* included in the final Jobs Creation Act compromise that was approved by Governor Doyle (2003 Wisconsin Act 118). On Feb. 5, 2004, AB 728 was amended by Assembly Substitute Amendment 1 and passed the Assembly as

amended by ASA1 with a vote of 60-37. The bill has now been referred to the Senate Select Committee on Job Creation for consideration.

Under ASA1 to AB 728, in general, before the plan may take effect, a local governmental unit must provide written notice to all owners of property and leaseholders who request to be notified and who have an interest in property pursuant to which the persons may extract nonmetallic mineral resources. In addition, the local governmental unit must create written procedures that describe the methods the local governmental unit will use to distribute elements of a comprehensive plan to owners of property and to other persons who have certain leasehold mining interests in such property. If a local governmental unit fails to provide such notice, a plan may still take effect unless the failure to notify is intentional. In addition, the substitute amendment requires that any fee imposed by a political subdivision bear a reasonable relationship to the service for which the fee is imposed. To review a copy of ASA1 to AB 728, go to <http://www.legis.state.wi.us/2003/data/AB728-ASA1.pdf>.

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