

WAPA LEGISLATIVE UPDATE

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A. 2005-07 Biennial Budget – Joint Finance Committee Deletes Comprehensive Planning Law

On Wednesday, May 11, 2005, the Joint Committee on Finance deleted Wisconsin's comprehensive planning law (Wis. Stat. § 66.1001) with a vote of 10-6.¹ Representative Dan Meyer made the motion to repeal Wis. Stat. § 66.1001, requiring certain local units of government to have comprehensive plans in place by January 1, 2010. In addition, the motion deleted comprehensive planning grants under the Department of Administration and sent the \$2,000,000 in annual program revenue from land record fees to the general fund. The fiscal effect of the motion was an increase of \$4,000,000 in general purpose revenue over the biennium.

In addition, the Committee directed the lapse of \$464,100 in 2005-05 and \$420,300 in 2006-07 to the general fund from the land information aid to counties appropriation and converted the county aids appropriation under Wis. Stat. § 20.505(1)(ij) from a continuing basis to an annual basis.

To review a news report and an editorial discussing the Joint Finance Committee's action on this issue, which were published in the Milwaukee Journal Sentinel, go to:

<http://www.jsonline.com/news/state/may05/325409.asp> and
<http://www.jsonline.com/news/editorials/may05/325920.asp> on the Internet.

Once the Joint Finance Committee has finished with its amendments to the budget bill, the majority and minority party caucuses will meet to evaluate the bill. Once the bill is passed by both houses of the Legislature, it is sent to the Governor for his final approval later this summer.

If you are interested in expressing your opinion on this, or any other legislative topic, consider contacting your legislators via phone, letter or email. You can determine who your legislators are by going to <http://www.legis.state.wi.us/> and clicking on the tab labeled "Who are My Legislators?"

¹ Members of the Committee who voted in favor of the deletion were Senator Scott Fitzgerald, Senator Mary Lazich, Senator Alberta Darling, Senator Joe Leibham, Representative Dean Kaufert, Representative David Ward, Representative Scott Jensen, Representative Jeff Stone, Representative Kitty Rhoades and Representative Dan Meyer.

B. New Stand-Alone Legislation

1. Comprehensive Plans – Assembly Bill 325

Representative Terese Berceau (D-Madison) has introduced Assembly Bill 325, which relates to the applicability of city and village comprehensive plans in unincorporated territory.

Under current law, beginning on January 1, 2010, under Smart Growth certain actions of a local governmental unit that affect land use must be consistent with that local governmental unit's comprehensive plan. The actions to which this requirement applies are official mapping, local subdivision regulation, and zoning ordinances, including zoning of shorelands or wetlands in shorelands. Also beginning on January 1, 2010, under Smart Growth, if a local governmental unit engages in any of these specified actions, the comprehensive plan must contain at least all of the required planning elements.

Current law authorizes cities and villages to exercise zoning authority within their extraterritorial zoning jurisdiction. Extraterritorial zoning jurisdiction consists of unincorporated areas (town or county territory) within 3 miles of the corporate limits of a first, second, or third class city or within 1.5 miles of a fourth class city or a village.

Under AB 325, beginning on January 1, 2010, a comprehensive plan of a city or village that affects the city's or village's extraterritorial zoning jurisdiction shall control over a town or county comprehensive plan that affects that same area. This provision is similar to a current law provision that states that a city or village master plan and official map controls in the city's or village's extraterritorial zoning jurisdiction over a county development plan that affects that same area.

AB 325 has been referred to the Committee on Property Rights and Land Management for consideration.

Link to AB 325: <http://www.legis.state.wi.us/2005/data/AB-325.pdf>

2. Authority for Towns to Withdraw from County Zoning – Assembly Bill 326

Representative Samantha Kerkman has introduced Assembly Bill 326, which gives a town board the authority to enact an ordinance withdrawing from coverage of a county zoning ordinance and a county development plan.

Under *current law*, if a town board has been granted the authority to exercise village powers, the town board may adopt zoning ordinances under the zoning statutes that apply to cities and villages, subject to a number of conditions. If the county in which the town is located has enacted a county zoning ordinance, town zoning ordinances may not take effect until such ordinances are approved either by a town meeting or by a referendum vote of the electors of the town and are approved by the county board. In addition, in counties having a zoning ordinance, no town zoning ordinance, or amendment of a

zoning ordinance, may be adopted by the town unless approved by the county board; *the bill repeals this provision.*

In addition, under AB 326, beginning in 2011, a town board may adopt zoning ordinances under the city and village statutes without receiving approval for such zoning ordinances by the town meeting or by referendum.

Under this bill, a town board may enact an ordinance withdrawing from coverage of a county zoning ordinance and a county development plan. A town board may enact the ordinance during 2011, or during the one-year period every five years after January 1, 2011. Such an ordinance may not take effect unless the town clerk notifies the county clerk of the proposed ordinance and the town enacts, and sends copies to the county clerk, a town zoning ordinance, a comprehensive plan, and an official map. County board approval of a town zoning ordinance is not required if the town has withdrawn from county zoning. The town zoning ordinance and comprehensive plan must be consistent with each other and the zoning ordinance must be at least as restrictive as the county zoning ordinance that applies to the town on January 1 of the year before the year in which the town board enacts the ordinance withdrawing from county zoning.

Finally, the bill authorizes a county board, anytime after December 31, 2010, to enact an ordinance to repeal all of its zoning ordinances, other than shoreland and floodplain zoning ordinances, if it notifies all of the towns that are subject to its zoning ordinances. Such a county ordinance must have a delayed effective date of one year. If a town is so notified, it must enact a zoning ordinance, comprehensive plan, and official map to take effect on the effective date of the county's repeal of its zoning ordinance. The town ordinance and comprehensive plan must be consistent with each other.

AB 326 has been referred to the Committee on Rural Development for consideration.

Link to AB 326: <http://www.legis.state.wi.us/2005/data/AB-326.pdf>

C. Update on Previously Introduced Legislation

1. *Property Tax Exemption for Art and Arts Education Centers –Senate Bill 3 – 2005 Wisconsin Act 4*

On January 11, 2005, Senator Ted Kanavas (R-Brookfield) introduced Senate Bill 3, which creates a property tax exemption for arts and arts education centers.

On April 29, 2005, Governor Doyle signed SB 3 into law making it 2005 Wisconsin Act 4. This Act creates a property tax exemption for property that is owned or leased by an entity that is exempt from income tax under federal law, if the property is used for the purposes for which the federal income tax exemption is granted; the property includes one or more buildings that are owned or leased by the entity and are located within, or are surrounded by, a municipal park; and the property includes one or more theaters for the performing arts that are operated by the entity and the seating capacity of the theater or theaters is not less than 600 persons.

To review a copy of this Act, go to <http://www.legis.state.wi.us/2005/data/acts/05Act4.pdf> on the Internet.

2. *Technical Changes to TIF – Senate Bill 83 / Assembly Bill 147 – 2005 Wisconsin Act 6*

Senator Cathy Stepp (R-Sturtevant) and Representative Mark Gottlieb (R-Port Washington) introduced companion bills Senate Bill 83 and Assembly Bill 146, which make several technical changes to the TIF law. These bills moved simultaneously through both houses, but Senate Bill 83 ultimately was approved by both houses of the Legislature and was signed by Governor Doyle on May 2, 2005, making it 2005 Wisconsin Act 6.

To review a copy of this Act, go to <http://www.legis.state.wi.us/2005/data/acts/05Act6.pdf> on the Internet.

3. *Town TIF – Assembly Bill 253 and Senate Bill 124*

Representative Ann Nischke (R-Waukesha) and Senator Ted Kanavas (R-Brookfield) introduced companion bills AB 253 and SB 124 on March 18, 2005.

These bills authorize a town that has entered into a cooperative plan with a city or village, under which part or all of the town will be annexed by the city or village in the future, to use tax incremental financing. The bills require the annexing city or village to approve the creation of the town TID. Current law authorizes any combination of cities, villages, and towns to determine the boundary lines between themselves under a cooperative plan that is approved by the Department of Administration.

The Senate version of this legislation is working its way through both houses. The Assembly amended the bill, providing that only territory within the town that will be annexed into the city or village under the cooperative plan may be included in the TID. The Senate concurred with the Assembly's amendment on May 11, 2005 and now SB 124 is awaiting final approval.

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