

## **WAPA LEGISLATIVE UPDATE**

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### **A. New Legislation**

#### **1. Representatives Lothian, Owens and Shilling Introduce Legislation Regarding Landscape Architects**

On January 30, 2006, Representatives Lothian, Owens and Shilling introduced AB 946, legislation that creates a registration requirement for practicing as a landscape architect.

Currently, no person may use the title “landscape architect” unless he or she holds a certificate of registration issued by the examining board of architects, landscape architects, professional engineers, designers, and land surveyors. In order to be granted a certificate of registration as a landscape architect, a person must hold a bachelor’s or a master’s degree in landscape architecture from a curriculum approved by the examining board and have at least 2 years of practical experience in landscape architecture, or have a specific record of at least 7 years of training and experience in the practice of landscape architecture including at least 2 years of courses in landscape architecture approved by the board, and 4 years of practical experience in landscape architecture. Further, the person must successfully complete an exam by the board.

Under AB 946, no person may practice landscape architecture unless he or she is registered as a landscape architect by the board. The bill defines the practice of landscape architecture as any professional service requiring the application of conceptual land planning and conceptual design for integrated land development based on the analysis of environmental characteristics, operational requirements, land use or commensurate land values. The registration requirements remain the same.

AB 946 was read for the first time on January 30, 2006 and referred to the Committee on Labor. To review a copy of AB 946, go to <http://www.legis.state.wi.us/2005/data/AB-946.pdf>.

#### **2. Representatives Gottlieb Introduces New Tax incremental Financing Legislation**

On February 10, 2006, Representatives Gottlieb, Petrowski, Black, Gielow, Gunderson, Loeffelholz, Musser, Nischke and Pope-Roberts introduced AB 1015 This legislation authorizes a city or village to simultaneously create a new tax incremental financing district (TID) and subtract territory from an existing TID.

Currently, before a TID may be created or its project plan amended, the city or village must adopt a resolution containing a finding that the equalized value of taxable property of the TID plus the value increment of all existing TIDs does not exceed 12% of the total equalized value of taxable property in the city or village (the “12% test”), unless the amendment of the project plan only subtracts territory from the TID. Currently, it may take DOR up to 18 months to recalculate the value increment of a TID from which territory has been subtracted. Typically, a city or village must wait for such a recalculation of the value increment of a TID from which territory has been

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\* In an effort to keep members better informed, the WAPA Legislative Report will now come twice monthly. This is the first bi-monthly report.

subtracted before the city or village will be able to determine whether it can create a new TID and comply with the 12% test.

Under AB 1015, a city or village may simultaneously create a new TID and subtract territory from an existing TID without adopting a resolution containing the 12% test if a number of things occur. The bill requires that the city or village provide DOR with two appraisals that demonstrate the current fair market value (FMV) of the territory in the TID that the city or village proposes to create and the current FMV of the territory that the city or village proposes to subtract from an existing TID. The bill also requires that the appraisals demonstrate that the value of the territory that is subtracted at least equals the amount that DOR believes is necessary to ensure that, when the new TID is created, the 12% test is met. The bill prohibits a city or village from creating a new TID using the method authorized in the bill if a similarly created TID currently exists in the city or village, and the bill requires that the city or village certify to DOR that no other district created under this method currently exists in the city or village.

AB 1015 was read for the first time on February 10, 2006 and referred to the Committee on Ways and Means. A public hearing was held on February 15, 2006. To review a copy of AB 854, go to <http://www.legis.state.wi.us/2005/data/AB-1015.pdf>.

### **3. Representatives Suder, Musser, Hines, Townsend and Mursau Introduce Legislation Limiting Noise from All-Terrain Vehicles**

On December 5, 2005, Representative Suder, Musser, Hines, Townsend and Mursau introduced AB 854, legislation that limits noise from all-terrain vehicles.

Currently, no person may manufacture, sell, rent, or operate an all-terrain vehicle that emits noise exceeding 96 decibels on the A scale as measured in a manner prescribed by rules promulgated by the Department of Natural Resources. This bill provides that this noise limit does not apply to an all-terrain vehicle while it is operated on a privately owned raceway facility. The bill does not define a privately owned raceway facility.

AB 854 was read for the first time on December 05, 2005 and referred to the Committee on Tourism. A public hearing was held on January 10, 2006. To review a copy of AB 854, go to <http://www.legis.state.wi.us/2005/data/AB-854.pdf> on the Internet.

### **4. Representatives Fitzgerald, Shilling and Towns Introduces Legislation Regarding State Building Contracts and Disposal of Village Assets upon Dissolution**

On January 17, 2006, Representatives Fitzgerald, Shilling and Towns introduced AB 921. This legislation makes several changes to the law regarding state building contracts, including increasing the thresholds for Building Commission approval and public solicitation of projects, and increasing the emergency construction and repair threshold.

AB 921 also changes the method of allocation of village assets and liabilities upon dissolution. Currently, the electors of a village may vote at an election to dissolve the village by a 2/3 majority of ballots cast. Within 6 months of a vote to dissolve, the village board must dispose of the village property and settle all just claims against the village. If any assets or property are left after settling the village's debts, the board may determine what to do with the remaining assets or property. If the village's debts exceed its assets, the board may levy a tax to cover the deficiency.

The village territory then reverts back to, and becomes part of, the town or towns from which it was taken or on which it is then located.

AB 921 repeals the current method for disposing of the village property, settling claims, levying taxes, and allocating the village's assets and debts. Under the bill, following a vote to dissolve, all assets and liabilities of the village are assigned to the town or towns to which the village territory reverts, based on a currently existing statute that governs the allocation of assets and liabilities of local governmental units, including cities, villages, towns, and school districts, whose territory is transferred from one local governmental unit to another. If the town or towns from which all of the village territory was taken no longer exists, the village may not dissolve.

AB 921 was read for the first time and referred to the Committee on State Affairs on January 17, 2006. To review a copy of AB 921, go to <http://www.legis.state.wi.us/2005/data/AB-921.pdf> on the internet.

#### **5. Representatives Jeskewitz, Musser, Petrowski, Ott, Owens and Townsend Introduce Legislation Repealing Reporting Requirements for Cooperation Compacts**

On January 24, 2006, Representatives Jeskewitz, Musser, Petrowski, Ott, Owens and Townsend introduced AB 936, legislation that repeals certain reporting requirements for area cooperation compacts.

Currently, municipalities that are adjacent to at least 2 other municipalities in the same cooperation region are required to enter into an area cooperation compact with at least two municipalities or counties that are located in the same cooperation region to create a plan to provide at least two governmental services on a collaborative basis. The compact must provide a method to measure the plan's progress and success. A "cooperation region" is defined as a federal standard metropolitan statistical area, and "governmental service" is defined as a service related to any of 13 different areas, including law enforcement, fire protection, emergency services, public health, public transportation, libraries, and human services. Also under current law, a municipality is required to certify annually to the Department of Revenue that it has complied with the law, and report on whether it has entered into any other agreements within its cooperation region. Current law also requires the Legislative Audit Bureau to annually prepare a report for the legislature on the performance of area cooperation compacts. AB 936 repeals the certification and reporting requirements with which municipalities and the Legislative Audit Bureau must comply under current law.

AB 936 was read for the first time on January 24, 2006 and referred to the Committee on Urban and Local Affairs. A public hearing was held on February 9, 2006. To review a copy of AB 936, go to <http://www.legis.state.wi.us/2005/data/AB-936.pdf>. AB 936's companion bill is SB 510.

#### **6. Senator Kanavas, Erpenbach, Breske, Brown, Grothman, Hansen, Kapanke, Olsen and Reynolds Introduce Legislation Regarding Removal of Vegetation Obstructing View of Signs Along Highways**

On January 31, 2006, Senators Kanavas, Erpenbach, Breske, Brown, Grothman, Hansen, Kapanke, Olsen and Reynolds introduced SB 541, legislation that creates a DOT permit system for the maintenance and removal by sign owners of vegetation obstructing the view of signs along highways under the jurisdiction of DOT for maintenance purposes.

Under SB 541, the Department of Transportation (DOT) may issue permits to sign owners for the trimming, removal, or relocation of vegetation that is located in the right-of-way of a state trunk highway and that obstructs a sign if, within various specified distances along the main traveled way of the highway, the face of the sign is not viewable because of an obstruction to sight by vegetation in the highway right-of-way. A permit authorizes the sign owner, or a third-party contractor employed by the sign owner, to trim obstructing vegetation or remove or relocate obstructing individual plants to the extent necessary to eliminate the obstruction and restore an unobstructed view of the sign for the applicable specified distance along the highway. A permit must specify the vegetation or the portion of the highway right-of-way to which the permit applies. Each permit must require a sign owner that removes planted vegetation to either relocate the planted vegetation or reimburse DOT for the value of the planted vegetation. DOT must present to the sign owner DOT's calculation of the value of the planted vegetation, and the sign owner may elect to relocate the planted vegetation or to reimburse DOT in the amount calculated by DOT.

A permit may not authorize: trimming, removal, or relocation of vegetation located within a municipality and within 10 feet of the nearest edge of the highway pavement unless the municipality approves the trimming, removal, or relocation; trimming, removal, or relocation of vegetation in existence prior to the erection of the sign obstructed by the vegetation; or clear-cutting any highway right-of-way. DOT must grant or deny an application for a permit within 60 days of receiving the application. If an application is incomplete, DOT must return the application within 30 days of receiving the application and inform the applicant of what information must be provided to complete the application. If DOT denies an application, DOT must notify the applicant of reasons for the denial. Under certain conditions, a sign owner applying for a permit must, at the time of the application, provide written notice of the permit application to the owner of any property adjacent to the vegetation that is the subject of the permit application and to the municipality in which this adjacent property is located.

DOT has authority to supervise and determine how the work is carried out, and may require as a condition or restriction under any permit that the work authorized meet standards established by DOT. If a sign owner employs a third-party to perform work authorized under the permit, the sign owner is responsible for any work performed by the contractor that is not authorized by the permit as if the work had been performed directly by the sign owner. The bill generally does not prevent a sign owner and DOT from voluntarily agreeing to a sign owner's trimming, removal, or relocation, without a permit, of vegetation that obstructs the view of a sign. If a sign owner is aggrieved by a DOT decision or by DOT's failure to act on an application, the sign owner may seek review through a contested case hearing before the Division of Hearings and Appeals in the Department of Administration and may thereafter seek court review.

SB 541 was read for the first time on January 31, 2006 and referred to the Committee on Natural Resources and Transportation. To review a copy of SB 541, go to <http://www.legis.state.wi.us/2005/data/SB-541.pdf>.

## **7. Senators Stepp and S. Fitzgerald Introduce Legislation Limiting the Scope of County Zoning Authority Over Commercial Establishments**

On February 8, 2006, Senators Stepp and S. Fitzgerald introduced SB 583, legislation that limits the scope of county zoning authority over commercial establishments.

SB 583 changes the scope of county zoning authority with respect to commercial establishments and the property associated therewith. The bill prohibits a county from enacting or enforcing a zoning ordinance or regulation in a number of specified areas, including landscaping, lighting, the

appearance of a building's exterior, the placement of trash or recycling receptacles on the property, and the size of parking spaces. The bill also prohibits a county from subjecting an establishment to a site plan review unless the establishment consists of only new construction or if the rebuilding, reconstruction, or expansion of an existing establishment increases the interior area of, or available to, the existing establishment by at least 50%.

SB 583 was read for the first time on February 8, 2006 and referred to the Committee on Housing and Financial Institutions. A public hearing was held on February 15, 2006. To review a copy of SB 583, go to <http://www.legis.state.wi.us/2005/data/SB-583.pdf> on the Internet.

## **B. Update on Previously Introduced Legislation**

### **1. Governor Signs SB 253 – Authorizing the Restoration of Nonconforming Structure Destroyed by Vandalism, Fire, Violent Wind or Flood**

Introduced by Senators Stepp, Grothman and Olsen, SB 253 added “other natural occurrences” to the ways in which a nonconforming structure must have been damaged for purposes of restoration. SB 253 also provided that restrictions that are contained in general city, village, town, and county zoning ordinances, and city and village zoning of wetlands in shorelands ordinances, may not prohibit the restoration of a nonconforming structure subject to the same provisions and conditions that currently apply to county zoning of shorelands on navigable waters, including the addition of “other natural occurrence.” With regard to the conditions that apply to the restrictions in the zoning ordinances, the structure must have been damaged or destroyed on or after the effective date of the bill.

SB 253 had passed the legislature overwhelmingly, and was signed by Governor Doyle on February 17, 2006 at the Wisconsin Realtor's Association annual meeting. It is now 2005 Wis. Act 112, and can be found at <http://www.legis.state.wi.us/2005/data/acts/05Act112.pdf>.

### **2. Senate Bill 499 Recommended for Passage – Recording and Filing Transportation Plats**

Introduced by Senators Grothman, Roessler, Lassa and Kedzie, SB 499 allows DOT or a municipality to file a plat describing land that is either acquired or disposed of for a project, and a plat may consist of a single sheet or a detail and a title sheet that describes the limits of the project involving the land, a location map, and identification of plat symbols and abbreviations. The bill clarifies that an affidavit of correction may be filed to correct scrivener errors but may not be used to reconfigure land parcels or rights or interests that are required for a project. The bill also allows a plat to be used to delineate a right-of-way, and allows for more flexibility in the materials used for a plat and the size of an acceptable plat.

On February 16, 2006, the bill came out of the Committee on Natural Resources and Transportation on a vote of 5-0 with a recommendation for passage.