

## **WAPA LEGISLATIVE UPDATE**

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### **A. New Legislation**

#### **1. Representative Owens Introduces Legislation Changing the Procedures for Appointing Members to A Town Planning Commission**

On December 29, 2005, Representative Owens introduced AB 904. This legislation alters the current method of appointing members to a town planning commission.

Under existing law, appointments to a town plan commission of a town that is authorized to exercise village powers must be made by the town board chairperson, who also selects the commission chairperson. The town chairperson may appoint himself or herself to the commission. This applies only to towns with a population of less than 2,500. Under AB 904, appointments to a town plan commission would still be made by the town board chairperson, but would be subject to confirmation by the town board. The town board chairperson would continue to select the commission chairperson. AB 904 would also authorize a majority of the town board to remove appointees from the town plan commission. All other current provisions relating to the appointment of citizen members of the commission, terms of the commission members, and authority of the commission remain unchanged and the bill also applies to towns with a population of at least 2,500.

AB 904 was read for the first time on December 29, 2005 and referred to Committee on Urban and Local Affairs. A fiscal estimate was received on January 10, 2006. To review a copy of AB 904, go to <http://www.legis.state.wi.us/2005/data/AB-904.pdf> on the Internet.

#### **2. Representative Albers Introduces Legislation Expanding a Town's Authority to Create an Official Town Map**

On December 29, 2005, Representative Albers introduced AB 899, legislation that extends a town's authority to create an official town map.

Current law allows a town to adopt an official map under certain situations if the town is located in a county that has not enacted a county zoning ordinance. AB 899 authorizes a town to adopt an official map at any time. It requires that a county development plan include both the official map of any town in the county that has adopted a comprehensive plan and the comprehensive plan, which is defined under current law as a plan that must contain planning elements including the following: housing; transportation; utilities and community facilities; agricultural, natural, and cultural resources; economic development; and land use. Also under AB 899, a city or village master plan and official map control in the city's or village's extraterritorial zoning jurisdiction only if an official town map is not part of the county development plan.

AB 899 was read for the first time on December 29, 2005 and referred to the Committee on Property Rights and Land Management. A fiscal estimate was received on January 12, 2006. To review a copy of AB 899, go to <http://www.legis.state.wi.us/2005/data/AB-899.pdf> on the Internet.

### **3. Representative Nelson Introduces Legislation Increasing the Certification Period for Environmental Remediation Tax Incremental Financing Districts**

On December 29, 2005, Representative Nelson introduced AB 896, legislation that expands the maximum life and expenditure period for environmental remediation tax incremental financing districts (ERTID).

Under current law, the environmental remediation tax incremental financing program permits a city, village, town, or county (political subdivision) to defray the costs of remediating contaminated property that is owned by the political subdivision. If the remediated property is transferred to another person and is then subject to property taxation, environmental remediation tax incremental financing may be used to allocate some of the property taxes that are levied on the property to the political subdivision to pay for the costs of remediation. A political subdivision that has incurred “eligible costs” to remediate environmental pollution on a parcel of property may apply to the Department of Revenue (DOR) to certify the “environmental remediation tax incremental base” of the parcel. Currently, the maximum life of an ERTID is 16 years, which is the maximum allowable “period of certification.” The period of certification is defined as the sooner of either a period beginning after DOR certifies the environmental remediation tax incremental base of a parcel of property or a period before all eligible costs have been paid. Also under current law, no expenditure for an eligible cost may be made by a political subdivision later than 15 years after the environmental remediation tax incremental base is certified by DOR.

AB 896 increases the maximum allowable period of certification to 27 years, and the maximum expenditure period to 20 years. This bill takes effect on October 1, 2006, and first applies to an ERTID that is in existence or that is created on that date.

AB 896 was read for the first time on December 29, 2005 and referred to the Committee on Ways and Means. To review a copy of AB 896, go to <http://www.legis.state.wi.us/2005/data/AB-896.pdf> on the Internet.

### **4. Representative Towns and Senator Olson Introduce Legislation Revising the Calculation of a School District’s Special Adjustment Aid and Revenue Limit When Territory is Removed to Create a New School District**

On December 20 and 21, 2005, Senator Olson and Representative Towns introduced, respectively, SB 482 and AB 891. Their legislation makes changes to the current calculation method for a school district’s special assessment aid and revenue limits where territory from the school district has been removed to create a new school district.

Under current law, a school district is guaranteed to receive in each school year at least 85% of the amount of state aid that it received in the previous school year (special adjustment aid). For a school district from which territory is removed to create a new school district, this legislation revises the method for calculating special adjustment aid in the second and third school years after the reorganization takes effect using the ratio of retained pupils. Current law increases a school district’s revenue limit if the average enrollment of the school district in the current and two preceding school years is less than the average enrollment in the three previous school years, by the additional amount that would have been calculated had the decline in enrollment been 25 percent of what it was. This legislation also revises the method for calculating the revenue limit of a school district affected by a reorganization described above for the three years immediately following the effective date of the reorganization.

AB 891 was read for the first time and referred to the Committee on Education on December 20, 2006. SB 482 was read for the first time on December 21, 2005 and referred to the Committee on Education. Fiscal estimates were received on January 10 and 11, 2006, and a public hearing was held on January 10, 2006.

To review a copy of SB 482, go to <http://www.legis.state.wi.us/2005/data/SB-482.pdf> on the internet. To review a copy of AB 891, go to <http://www.legis.state.wi.us/2005/data/AB-891.pdf> on the Internet.

#### **5. Representative Albers Introduces Legislation Regarding the Use of Stewardship Funds for Acquisition of Land Around Military Bases**

On December 20, 2005, Representative Albers introduced AB 886, legislation that would allow the use of environmental stewardship funds for acquiring land around certain military bases.

Current law authorizes the state to incur public debt, including bonds, for certain conservation activities under the Warren Knowles-Gaylord Nelson Stewardship 2000 Program, which is administered by the Department of Natural Resources (DNR). One of the subprograms under the stewardship program is for property development and local assistance. Bonding under the property development and local acquisition subprogram may be used only for nature-based outdoor recreation, as defined in rules promulgated by DNR, with limited exceptions.

This bill creates an additional exception by allowing DNR to award grants to towns and counties under this subprogram to acquire land or development rights that are located next to certain military bases for the purpose of keeping the land free of development. To be eligible for a grant, a base commanding officer must make a recommendation to keep the land free of development to the town or county and the town or county must approve the acquisition for that purpose. The military base affected must have at least 200 assigned military personnel or must contain at least 2,000 acres. AB 886 requires DNR to give the highest priority to these grants under the property development and local assistance subprogram. The bill prohibits the acquisition of land if the development rights are not included in the acquisition. Matching funding is not required for these grants, and DNR may not award a grant if federal funding is available to the town or county for the acquisition.

AB 886 was read for the first time on December 20, 2005 and referred to the Committee on Natural Resources. A fiscal estimate was received on December 27, 2005. To review a copy of AB 886, go to <http://www.legis.state.wi.us/2005/data/AB-886.pdf> on the Internet.

#### **6. Senator Grothman Introduces Legislation on the Recording and Filing of Transportation Plats**

On January 6, 2006, Senator Grothman introduced SB 499. This legislation makes certain changes to the recording and filing requirements for transportation plats.

Under current law, when the Department of Transportation (DOT) or a municipality acquires land, or interests or rights in land, for a public project, it files a plat describing the acquired land in the office of the register of deeds where the land is located. The plat depicts the order authorizing the acquisition of the land and may be referred to in legal documents to describe the land or interests in the land. SB 499 changes the way plats are filed and recorded. Under the bill, DOT or a municipality may 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 title sheet that describes the limits of the project involving the land, a location map, and identification of plat symbols and

abbreviations. SB 499 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.

SB 499 was read for the first time on January 6, 2006 and referred to the Committee on Natural Resources and Transportation. To review a copy of SB 499, go to <http://www.legis.state.wi.us/2005/data/SB-499.pdf> on the Internet.

## **7. Senators Leibham and Kanavas Introduce Legislation Regarding Excavation Notices and Installation of Utility Laterals**

On January 6, 2006, Senators Leibham and Kanavas introduced SB 498, legislation clarifying utility excavation notices and creating additional installation requirements.

Current law requires all transmission facilities owners to ensure that a statewide communications system is in place to receive notices of proposed excavations and to forward the notices to owners of transmission facilities that may be affected by the excavations. Upon receiving a notice of a proposed excavation, the owner of transmission facilities must mark the area of the excavation described in the notice in such a way that the excavator will be able to locate the affected transmission facilities and perform the excavation without endangering the facilities or the public.

Under SB 498, any local governmental unit that receives such a notice relating to its sewer or water facilities must mark the location within the public right-of-way of all laterals connected to the sewer or water facilities at the area described in the notice. However, if the lateral was installed before January 1, 2007, instead of marking the location, the local government unit may provide the excavator with information on the location of the lateral as shown on maps, drawings, diagrams, or other records. If the local government has no such information regarding a lateral installed before January 1, 2007, the local government unit is not required to mark the location if the local government unit provides the excavator with a notice certifying that the local government unit has no such information. In addition, SB 498 requires local government units to require any person who, after December 31, 2006, installs a nonconductive water or sewer lateral in the local government unit's jurisdiction to also install a locating wire or other equally effective means for marking the location of the lateral. This requirement does not apply to minor repairs to, or partial replacements of, laterals installed before January 1, 2007.

SB 498 was read for the first time on January 6, 2006 and referred to the Committee on Natural Resources and Transportation. To review a copy of SB 498, go to <http://www.legis.state.wi.us/2005/data/SB-498.pdf> on the Internet.

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

#### **1. Public Hearing Held on AB 657 – Prohibition of Condemnation of Property Under Certain Circumstances**

Introduced by Representative Williams, AB 657 prohibits the condemnation of property that is not blighted if the condemnor intends to convey or lease the acquired property to a private entity. The bill defines "blighted property" and provides that property that includes one or more dwelling units is not blighted unless the property has been abandoned or the property has been converted from a single dwelling unit to multiple dwelling units and the crime rate in, on, or adjacent to the property is higher than in the rest of the municipality. The bill also requires a condemnor, before

commencing the condemnation of property that the condemnor intends to convey or lease to a private entity, to make a written finding that the property is blighted.

A public hearing on AB 657 was held on January 11, 2006. To review a copy of AB 657, go to <http://www.legis.state.wi.us/2005/data/AB-657.pdf> on the Internet.

## **2. Public Hearing Held on SJR 33/AJR 52 – Constitutional Amendment Prohibiting Partial Vetoes Creating New Sentences**

Introduced by Senator Harsdorf, SJR 33 would prohibit gubernatorial partial vetoes from creating new sentences. A public hearing was held on January 12, 2006. To review a copy of SJR 33, go to <http://www.legis.state.wi.us/2005/data/SJR-33.pdf> on the Internet.

## **3. Consideration of AB 558 – Limitation on Reasons for Which Local Government May Withhold Permit Approval**

Introduced by Senator Brown on July 12, 2005, SB 283 provides that no zoning entity may condition or withhold approval of a permit that it may issue under its zoning authority based on the property owner entering into, discontinuing, modifying, extending, or renewing a contract with a third party under which the third party is engaging in a lawful use of the property.

SB 283 will be considered on January 17, 2006 before the Committee on Senate Organization. To review a copy of SB 283, go to <http://www.legis.state.wi.us/2005/data/SB-283.pdf> on the Internet.

## **4. Governor Signs AB 464 Into Law – 2005 Wisconsin Act 93**

As reported previously in the *Update*, AB 464 changes the definition of “brownfield” for reassignment of property subject to disclosure for delinquent taxes. Currently, a brownfield is any abandoned, underused or idle property that has not been expanded or redesigned due to perceived or real environmental contamination. AB 464 adds to that definition any abandoned residential property.

AB 464 was presented to Governor Doyle on January 3, 2006. The Governor signed the bill on January 4, 2006 (2005 Wisconsin Act 93). It is scheduled to be published on January 19, 2006. To review a copy of 2005 Wisconsin Act 93, go to <http://www.legis.state.wi.us/2005/data/acts/05Act93.pdf> on the Internet.

## **5. Governor Signs AB 155 Into Law – 2005 Wisconsin Act 81**

AS reported previously in the *Update*, AB 155 placed restrictions on local government’s control over certain nonconforming uses. AB 155 extends current law to apply to structures and fixtures, and explicitly specifies that no municipality or county may require the removal of a nonconforming building, premises, structure, or fixture, which may be lawfully used under current law, by an amortization ordinance. The bill defines “amortization ordinance” as an ordinance that allows the continuance of the lawful use of a nonconforming building, premises, structure, or fixture that may be lawfully used, but only for a specified period of time, after which such lawful nonconforming use must be discontinued without the payment of just compensation.

AB 155 was presented to Governor Doyle on December 15, 2005. The Governor signed the bill on December 22, 2005 (2005 Wis. Act 81). It was published on January 6, 2006. To review a

copy of 2005 Wisconsin Act 81, go to <http://www.legis.state.wi.us/2005/data/acts/05Act81.pdf> on the Internet.

#### **6. Governor Signs SB 4 Into Law - 2005 Wisconsin Act 100**

As previously reported in the *Update*, SB4 addressed the size of county board of supervisors and common councils in cities. Under current law, generally a county board is required to redistrict its supervisory districts once every 10 years following the decennial federal census, through adoption of a decennial redistricting plan. SB 4 sets forth criteria and procedures under which either a county board, or the electors by petition and referendum, in counties other than Milwaukee and Menominee Counties, may decrease the size of the county board of supervisors one time only after the county board adopts its decennial redistricting plan. If the decrease affects a city entirely within a county that has aldermanic districts shared with the supervisory districts, the common council of the city may decrease the number of aldermanic districts and corresponding members of the council to keep the boundaries coterminous.

SB 4 was presented to Governor Doyle on December 30, 2005. The Governor signed the bill on January 4, 2006 (2005 Wisconsin Act 100). It is scheduled to be published on January 19, 2006.

To review a copy of 2005 Wisconsin Act 100, go to <http://www.legis.state.wi.us/2005/data/acts/05Act100.pdf> on the Internet.

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