

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: **06/22/99**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Senate Democratic Caucus 6-2257**

By/Representing: **Walter**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Alt. Drafters: **traderc**

Subject: **Munis - miscellaneous
Agriculture - miscellaneous**

Extra Copies:

Pre Topic:

SDC:.....Walter - Caucus #2133,

Topic:

Town of Troy farmland protection and preservation pilot program

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	shoveme 06/28/99	ygeller 06/29/99	jfrantze 06/29/99	_____	lrb_docadmin 06/29/99		

FE Sent For:

<END>

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Subject: **Munis - miscellaneous
Agriculture - miscellaneous**

Extra Copies:

Pre Topic:

SDC:.....Walter - Caucus # 2133,

Topic:

~~Impact fee~~ Town of Troy farmland protection and preservation pilot program

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	shoveme	4 6/29/99	6/26/99	==			
1, MES 6/28/99							

FE Sent For:

<END>

61003

SDC

yes

Agency: Shared Revenue and Tax Relief - Property Taxation

caucus number 1807

duplicate flag:

duplicate with:

Other reference numbers:	LFB Sum #:
FM 719	
bill number/amendment number:	
LRB draft #	LRB P-draft:

description: Delete language from ASA 1 to AB 153 that limits the ability of local government to impose impact fees. Local fiscal impact only

other notes

drafting instructions: See above and attached

more instructions:

caucus number 2133

duplicate flag:

duplicate with:

Other reference numbers:	LFB Sum #:
bill number/amendment number:	
LRB draft #	LRB P-draft:

description: Impact/Conversion fees. Provide \$500,000 GPR to Town of Troy for farmland protection and preservation pilot program.

other notes

drafting instructions: See above and attached

more instructions:

Agency: **Shared Revenue and Tax Relief - Property Taxation**

Number of Amendments: 2

LOCAL REVENUE SOURCES

CN [REDACTED] 2133

Impact/Conversion Fees – Town of Troy Pilot Project (No Motion Paper)

+

Provide \$500,000 GPR to Town of Troy to establish pilot project provide for permanent protection of farmland and farming opportunities within exclusive agriculture zoning areas by purchasing development rights and providing a special residential zoning option to landowners. Permit Town to rezone exclusive agricultural land to allow for limited residential development pursuant to Farm-Residential Cluster Program. Provide Town with authority to assess a 6% farmland conversion fee (i.e. impact fee) when residential lots are sold on land rezoned from exclusive agriculture, provided that the funds are used for purchase of development rights program that will permanently protect farmland.

SHARED REV TAX . PROP

call Bill in
Sen. Clausen's office

Town of Troy
St. Croix County

Lance says to call
Bill in Sen. Clausen's
office

Memorandum

Bill - home
873-0124

To: Senator Alice Clausen
Representative Kitty Rhoades

From: Town of Troy Farmland Preservation Committee
Dan Pearson, Town Board Member, Farmland Committee Chair (715-425-9488)
Bob Rolle, Planning Committee Chair (715-425-2700)

Subject: Description of proposed Farmland Preservation Pilot Project
Date: 4/28/99

Summary / Background

The Town of Troy in St. Croix county is asking legislative designation for a "pilot project" within the Farmland Preservation Program that will demonstrate innovative ways for rural areas that are facing intense development pressure to adopt changes in their exclusive-agriculture zoning that will permanently protect their best farmland, while still providing opportunity for thoughtful residential development.

St. Croix County is now Wisconsin's fastest growing county. Troy's population is currently 3,400 and the Town has largely retained its rural character. The area is now experiencing strong development pressure from the nearby St. Paul - Minneapolis metropolitan area. About 15,000 acres of land in the Town are zoned for exclusive-agriculture, and this includes most of the remaining developable land in the Town. The UW-River Falls is constructing its new world-class dairy research farm in the Town's fertile Mann Valley area.

Troy's pilot farmland preservation program will provide for *permanent protection of farmland and farming opportunities* within its exclusive agriculture area using two principal methods:

- (1) purchasing development rights (PDR) from willing sellers, and
- (2) providing a special residential zoning option to landowners.

This zoning option will allow a limited number of residential sites on a portion of the land, but will also require that at least 60% of the total land must be permanently protected as farmland, open space and buffer. This protected land must be covered by a permanent agricultural easement that will restrict future development on the land. The easement will be held and enforced by the Town. The purchase of development rights portion of the program will be supported, for the most part, with funds raised by local taxes and fees.

what land?
60% of the town
area?

The Troy Farmland Preservation Committee has developed the basic components of this program over the past two years, and the program is supported by the Town board. In January of 1999, all Town residents were provided an eight page summary of the committee's findings and recommendations. Residents were also surveyed as to their support for this program. Survey results showed that over 70% supported establishing the program, 70% supported the use of conversion fees on land converted to residential use, and 60% favored increasing local property taxes to help pay for the program.

Legislative / Budgetary References

The proposed pilot project could involve several legislative and budgetary components:

- Clarify that the ^{time period?} ~~during the pilot project~~ the Town will be able, within the Farmland Preservation Program rules, to rezone land in exclusive-agriculture in order to allow for limited residential development - provided that the program also provides for permanent protection of the best farmland.
- Provide an initial "seed money" authorization (i.e. \$500,000) to the Town's PDR program so that it can be implemented at a significant level during the initial years. *from which agency?*
- Clarify the Town's authority to assess a 6% farmland conversion fee when residential lots are sold on land that was rezoned from exclusive-agriculture under provisions of the pilot project, provided that the funds are used in the Town's PDR program to provide for permanent protection of other farmland. The existing Farmland Preservation pay back penalties would be waived for landowners in the Town during the term of the pilot project.

Pilot Project Description

The Troy Farmland Preservation Pilot Program will have two main goals:

- *Providing permanent protection to the best farmland, and maintaining viable farming opportunities*
- *Providing landowners with a number of options that can provide a fair financial return*

Purchase of Development Rights (PDR)

The Town will establish a program to purchase development rights from willing sellers. The PDR program and its funding will be administered by the Town through an appointed land trust board.

- The PDR program will focus on areas of the Town where it is most important to maintain blocks of exclusive agricultural use.
- The Town will establish priorities for fairly evaluating applications.
- Farmers will be paid for the development value of their land, and will have options on how to receive this payment - including tax-free annuities and retirement plans.
- An agricultural easement will assure land is permanently protected for agriculture.
- Farmers may keep ownership farm, and may resell or pass on to children.
- Program will develop options to assist with generational transfer and beginning farmers.
- Local funding sources for the PDR program will include an increase in the Town mill rate, and a farmland conversion fee on lots that are sold on land that was in exclusive-agriculture zoning.

Farm - Residential Cluster Program

*the landowners
may rezone
land on their
own authority?*

The Town will establish a limited development option to address the concerns of landowners who are not a high priority for the PDR program. This program will allow landowners in exclusive-agriculture areas to rezone into a special Farm-Residential Cluster program. This program will allow landowners to develop a limited number of lots on a portion of their land, and provide for the permanent protection of the remainder.

- The Town will establish an overall density for residential development on land that is rezoned out of exclusive-agriculture.
- The development plan must provide for siting houses on no more than 40% of the land.
- At least 60% of the land must remain as farmland and open space, including the best farmland.
- Farmland and open space will be permanently protected with a conservation easement.
- The farmer may sell lots themselves, or may sell the residential portion to a developer.
- The farmer may keep ownership of the protected farmland, or may sell or pass on to their children.

*what land?
all land
that's zoned
exclusive ag
at some point?

what is
this?*

Projections / Expectations for the pilot program

Financial

- The Town will raise \$ 5.5 million from a mill rate increase of .5 (\$50 per \$100,000 value)
- The Town will raise \$ 6.5 million from a 6% farmland conversion fee

Land Protection

- The PDR program will permanently protect at least 3,000 acres of the best farmland in a large contiguous area. An initial seed grant from the state would allow the Town to negotiate PDR agreements with at least two farms during the first year.
- The Farm Cluster program will permanently protect at least 5,000 acres of prime farmland. This will include retaining connections to viable farmsteads.

Complementary Effects

- The program will enhance the effectiveness of Wisconsin's use-value taxation program in the area, and will increase the incentives for non-farm owners of farmland parcels to retain their land in farming over the long-term. This will also provide increased access and security to neighboring farmers who wish to lease land.
- The program will provide opportunities for innovative farming options that can benefit from having access to affordable land that has proximity to nearby consumer markets.
- The Town will develop a local "right-to-farm" ordinance that will be designed to address the mutual concerns and interests of both new residents and farmers in the Town. This process will provide models for other areas facing development pressure.
- The Town will continue to engage its citizens and farmers in the ongoing process of developing fair and effective options for farmland protection. These options will provide a fair balance between the different land use interests in the community, and will provide valuable examples for programs in other areas.

What will living in Troy be like in the future?

During the next few months our Town Board will consider adopting policies that may shape the future development of our Town.

What will our countryside look like in the year 2020? How many people will live here? Will Troy still feel like a rural area? Can we keep our rural atmosphere and still provide fairness to landowners?

Your opinion on these questions is essential.

The most far-reaching and contentious land use issue we face will be requests to rezone farmland for residential development. Troy currently has about 3,300 residents. Depending on how we resolve these rezoning issues, our population could grow to over 20,000 people in the next twenty years.

Troy currently has two zoning categories that allow for residential use; *agriculture-residential* and *exclusive-agriculture*. Land that is zoned ag-residential may have a density of one house for every three acres. A developer is also allowed to cluster houses on smaller lots, and provide for permanently protected open space. There is already enough undeveloped land that is zoned ag-residential in Troy for another 900 homes. As this land is developed, it will add about 2,700 additional people, bringing our population to about 6,000.

About 15,000 acres of land in Troy is now zoned as exclusive-agriculture. This land is covered by a state program that is designed to protect farmland, and farmers have received some property tax benefits from it over the years. The provisions of this state program allow farmers to subdivide for residential development on this land at a maximum density of one house per thirty-five acres. Troy's growth management plan also calls for preserving farmland by not allowing rezoning of land that is now in exclusive-ag. **What will happen to this exclusive-ag land is our most important land use issue.**

Some Troy residents argue that this land is often a farmer's only financial and retirement asset, and that, to be fair to them, the Town should change its growth management plan and allow exclusive-ag land to be developed at the same one house per three acre density as other land in the Town. They argue that these landowners have a right to benefit from the significant increase in value their land has received from development pressure.

Other Troy residents argue that this kind of rezoning would cause a level of development and population growth that would change the rural character of the Town forever. They argue that rezoning all of our exclusive-ag land would result in up to 5,000 additional houses, and 15,000 new people. Also, school and other infrastructure costs to service this new development could exceed \$150 million, and result in significant property tax increases in the future.

Over the past two years the Farmland Preservation Committee has gathered information about alternatives that could address these concerns. Some of these are outlined in this pamphlet.



Principles To Guide Troy's Farmland Protection Program

- 1). If we want to keep the rural character of our Town, it is essential that we preserve blocks of farmland and open space, and assist farmers in maintaining viable farming opportunities. It is important to encourage stewardship of our richest and most productive farmlands and natural areas.
- 2). We need to provide landowners in areas now zoned exclusive-agriculture with reasonable and equitable zoning options that will allow them a fair return on the development value of their land. While our programs can support and encourage farming, the decision to farm must be voluntary.
- 3). We need to assure that farmland and open space is *permanently protected*. Without permanent protection our long-term planning will be ineffective.
- 4). Our farmland protection program must be flexible, and must provide a variety of options and assistance to landowners in planning and financing.
- 5). The Town should enact its own "right to farm" ordinance to minimize potential farm residential conflicts, and to encourage and protect farming opportunities.
- 6). We should recognize that protecting farmland and open space makes good economic sense for our Town. It will reduce the need for future property tax increases, and help maintain property and home values.
- 7). Our program should assure that Troy remains a very desirable place to live, work, and farm in the future.

1) create a new approp in DATCP
all of the \$ 500,000 is paid out in 1st year

2) Pilot program is 2 years

→ tax \$ → town Board + the Town
Board actually purchases the developts.

3) 60% of what ... Bill will find
out + call back

→ The 40% - 60% stuff refers
only to land subject to exclusive
ag. zoning

1) Authorize Town to PDR w/ 500K from
DATCP & conversion fees, recapture of taxes paid (devel. must pay).

2) auth town to rezone exclusive
agr use land under FPP to ltd residential
use - i.e. 60% of land that's rezoned

must be remain agr w/ a permanent
conservation easement held by the town

40% may be developed (as residential)

- Town must establish density for
areas zoned res. out of excl-ag zoning

3) Right to Farm ord??

4) town but shall determine "the best" agr land
& ensure that land is subject to the
conservation easement

5) town

11.77(1) must be notified/allowed to
allow rezoning

11.77(2) notified/allowed to get out
of DATCP lien

~~Bill Wozzel~~ as "other"

Bill Wozzel

2

8.7.30.12.4
provisions; make developer who wants to take the land out of ~~development~~ agriculture zoning have the burden

1

don't do impact fee route --
get the \$ from ^{for} PDR conversion
bees under farmland pres --
recapture all tax ^{credit and tax} benefits paid
to farmer / ^{under farm pres program} increase in use value
fee couple w/ penalty + interest
provision under farmland pres program



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1003/1
MES.....
LJG
SPOT

WFO-
Please fix on request sheet

SDC:.....Walter - Caucus # 2133, ~~Impact Area~~ Town of Troy farmland protection and preservation pilot program

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

D-note

1 At the locations indicated, amend the substitute amendment[✓] as follows:

2 1. Page 101, line 11: after that line insert:

\$sched

3 "(dr) Town of Troy grant, purchase of development rights

4 GPR

5 A

6

7

8

2. Page 283, line 10: after that line insert:

9

"SECTION 184c. 20.115 (7) (dr)[✓] of the statutes^x is created to read:

-0-"

500,000

1 20.115 (7) (dr) *Town of Troy grant, purchase of development rights.* The
 2 amounts in the schedule for a grant to the town of Troy for the purchase of
 3 development rights to agricultural land within the town under s. 60.615. No moneys
 4 may be encumbered from this appropriation after the first day of the 12th month
 5 beginning after ^{the effective date of this paragraph} ~~publication~~ [revisor inserts date]."

6 **3.** Page 763, line 23: after that line insert:

7 "SECTION 1580p. 60.615 of the statutes is created to read:

8 **60.615 Town of Troy farmland preservation pilot program; special**
 9 **zoning powers, purchase of development rights.** (1) TOWN BOARD PURCHASE OF
 10 DEVELOPMENT RIGHTS. (a) *Definitions.* In this section:

11 1. "Board" means the town of Troy board of supervisors.

12 2. "Conservation easement" means a holder's nonpossessory interest in real
 13 property that imposes a limitation or affirmative obligation the purpose of which is
 14 to retain or protect natural, scenic or open space values of real property, assuring the
 15 availability of real property for agricultural, forest, wildlife habitat, recreational or
 16 open space use, protecting natural resources or maintaining or enhancing air or
 17 water quality.

18 3. "Developer" means a person that constructs or creates a land development.

19 4. "Development rights" means a holder's nonpossessory interest in farmland
 20 that imposes a limitation or affirmative obligation the purpose of which is to retain
 21 or protect natural, scenic or open space values of farmland, assuring the availability
 22 of farmland for agricultural, forest, wildlife habitat, recreational or open space use,
 23 protecting natural resources or maintaining or enhancing air or water quality.

24 5. "Farmland" has the meaning given for eligible farmland under s. 91.01 (6).

? "Town of Troy" means the town of Troy in St. Croix county.

1 6. "Land development" means the construction of residential dwelling units
2 within the Town of Troy in an area that is subject to zoning under sub. (2) (b).

3 (b) *Purchase of development rights.* 1. The board may purchase development
4 rights to farmland that is located in the town of Troy.

5 2. The town may purchase the development rights with the grant received from
6 the department of agriculture, trade and consumer protection under s. 20.115 (7) (dr)
7 or from funds received by a developer who makes the payments described under sub.

8 (2) (c) 2 ^{plain} If the board adopts a resolution requesting the department of agriculture,
9 trade and consumer protection to make the grant payment described under this
10 subdivision, the department shall do so.

11 3. The board shall determine which farmland in the town is the best farmland
12 and shall attempt to purchase the development rights to that farmland.

13 (2) SPECIAL ZONING PROVISIONS. (a) *Zoning authority.* Notwithstanding s. 91.77

14 (1), the board may rezone a parcel that is zoned for exclusive agricultural use under
15 ^{subch. I of} ch. 91 if the owner of the parcel grants a permanent conservation easement to the
16 town of Troy [✓] that applies to at least 60% of the parcel, including the best farmland
17 in the parcel as determined by the board. Except as provided in par. (c), the
18 provisions of s. 91.77 (2) [✓] do not apply to a parcel that is rezoned under this paragraph
19 or that is developed under par. (b).

20 (b) *Development procedures.* With regard to the portion of a parcel described
21 under par. (a) that is not subject to a permanent conservation easement, a developer
22 may, subject to par. (c), create a land development.

23 (c) *Development conditions.* 1. The board may determine population density
24 limits that apply to a land development.

1 2. If a developer creates a land development under par. (b) the developer shall
2 pay to the town of Troy the amount of tax credits that would be subject to a lien, as
3 calculated under s. 91.77 (2), on the parcels on which the land development is
4 proposed.

5 (3) SUNSET PROVISIONS. ✓ The board may not exercise the zoning authority
6 described under sub. (2) after the first day of the 24th month beginning after
7 publication. ” .

8

(END) ✓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

b1003/1dn
LRB0610/1dn
MES: ~~mls~~ jlg:arm
↑
stays

new date { Wednesday, June 4, 1997

the town of any

This note is meant to alert you that it is possible that a Wisconsin court would find that this legislation is a "private or local bill" that, under art. IV, sec. 18, of the Wisconsin Constitution, must be enacted as single-subject legislation. If so, this legislation cannot validly be enacted as part of the state budget bill because the budget bill clearly encompasses more than one subject.

Under *Milwaukee Brewers Baseball Club v. Wisconsin Dept. of Health and Social Services*, 130 Wis. 2d 79, 115 (1986), "a legislative provision which is specific to any person, place or thing is a private or local law within the meaning of art. IV, sec. 18, unless: 1) the general subject matter of the provision relates to a state responsibility of statewide dimension; and 2) its enactment will have direct and immediate effect on a specific statewide concern or interest". This proposal is applicable only to ~~XXXXX~~.

Because it is difficult to predict the potential for and outcome of any court action on this proposal, should it be enacted as part of the budget, you may wish to consider introducing this proposal as a separate bill.

Marc E. Shoyers
Senior Legislative Attorney
266-0129

MS

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1003/1dn
MES:jlj:jf

June 29, 1999

This note is meant to alert you that it is possible that a Wisconsin court would find that this legislation is a "private or local bill" that, under art. IV, sec. 18, of the Wisconsin Constitution, must be enacted as single-subject legislation. If so, this legislation cannot validly be enacted as part of the state budget bill because the budget bill clearly encompasses more than one subject.

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Because it is difficult to predict the potential for and outcome of any court action on this proposal, should it be enacted as part of the budget, you may wish to consider introducing this proposal as a separate bill.

Marc E. Shovers
Senior Legislative Attorney
266-0129



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1003/1
MES&RCT:jlg:jf

SDC:.....Walter - Caucus #2133, Town of Troy farmland protection and preservation pilot program

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 101, line 11: after that line insert:

3 “(dr) Town of Troy grant, purchase of

4 development rights . GPR A 500,000 -0-”.

5 **2.** Page 283, line 10: after that line insert:

6 “SECTION 184c. 20.115 (7) (dr) of the statutes is created to read:

7 20.115 (7) (dr) *Town of Troy grant, purchase of development rights.* The

8 amounts in the schedule for a grant to the town of Troy for the purchase of

9 development rights to agricultural land within the town under s. 60.615. No moneys

1 may be encumbered from this appropriation after the first day of the 12th month
2 beginning after the effective date of this paragraph [revisor inserts date].”.

3 **3.** Page 763, line 23: after that line insert:

4 **“SECTION 1580p.** 60.615 of the statutes is created to read:

5 **60.615 Town of Troy farmland preservation pilot program; special**
6 **zoning powers, purchase of development rights. (1) TOWN BOARD PURCHASE OF**
7 **DEVELOPMENT RIGHTS. (a) Definitions.** In this section:

8 1. “Board” means the town of Troy board of supervisors.

9 2. “Conservation easement” means a holder’s nonpossessory interest in real
10 property that imposes a limitation or affirmative obligation the purpose of which is
11 to retain or protect natural, scenic or open space values of real property, assuring the
12 availability of real property for agricultural, forest, wildlife habitat, recreational or
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15 3. “Developer” means a person that constructs or creates a land development.

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19 of farmland for agricultural, forest, wildlife habitat, recreational or open space use,
20 protecting natural resources or maintaining or enhancing air or water quality.

21 5. “Farmland” has the meaning given for eligible farmland under s. 91.01 (6).

22 6. “Land development” means the construction of residential dwelling units
23 within the town of Troy in an area that is subject to zoning under sub. (2) (b).

24 7. “Town of Troy” means the town of Troy in St. Croix County.

1 (b) *Purchase of development rights.* 1. The board may purchase development
2 rights to farmland that is located in the town of Troy.

3 2. The town may purchase the development rights with the grant received from
4 the department of agriculture, trade and consumer protection under s. 20.115 (7) (dr)
5 or from funds received by a developer who makes the payments described under sub.
6 (2) (c) 2. If the board adopts a resolution requesting the department of agriculture,
7 trade and consumer protection to make the grant payment described under this
8 subdivision, the department shall do so.

9 3. The board shall determine which farmland in the town is the best farmland
10 and shall attempt to purchase the development rights to that farmland.

11 (2) SPECIAL ZONING PROVISIONS. (a) *Zoning authority.* Notwithstanding s. 91.77
12 (1), the board may rezone a parcel that is zoned for exclusive agricultural use under
13 subch. V of ch. 91 if the owner of the parcel grants a permanent conservation
14 easement to the town of Troy that applies to at least 60% of the parcel, including the
15 best farmland in the parcel as determined by the board. Except as provided in par.
16 (c), the provisions of s. 91.77 (2) do not apply to a parcel that is rezoned under this
17 paragraph or that is developed under par. (b).

18 (b) *Development procedures.* With regard to the portion of a parcel described
19 under par. (a) that is not subject to a permanent conservation easement, a developer
20 may, subject to par. (c), create a land development.

21 (c) *Development conditions.* 1. The board may determine population density
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24 pay to the town of Troy the amount of tax credits that would be subject to a lien, as

1 calculated under s. 91.77 (2), on the parcels on which the land development is
2 proposed.

3 (3) SUNSET PROVISIONS. The board may not exercise the zoning authority
4 described under sub. (2) after the first day of the 24th month beginning after
5 publication.”

6 (END)