

1999 ASSEMBLY BILL 872

March 13, 2000 – Introduced by Representative POWERS, cosponsored by Senator BURKE. Referred to Committee on Conservation and Land Use.

1 **AN ACT to repeal** 66.0295 (4) (c) 1. and 2.; **to renumber and amend** 66.0295 (4)
2 (c) (intro.); **to amend** 1.13 (3), 16.965 (4) (intro.), 20.505 (1) (z), 59.69 (3) (a),
3 62.23 (2), 62.23 (3) (b), 66.0295 (2) (h), 66.0295 (4) (b) (intro.), 66.0295 (4) (b) 2.,
4 66.034 (3) (title), 66.034 (3) (a) and 66.034 (3) (b); and **to create** 66.0295 (4) (b)
5 5. and 66.0295 (4) (b) 6. of the statutes; **relating to:** requirements for enacting
6 comprehensive plans, requirements for comprehensive subdivision ordinances,
7 the applicability of traditional neighborhood development ordinances, the
8 timing of transportation planning grants and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, a county board may engage in zoning and land use planning by creating a county planning agency or by designating a previously constituted county committee or commission as the county planning agency. If a county board creates or designates such an agency, the agency is required to direct the preparation of a county development plan for the physical development of the towns within the county and for the cities and villages within the county whose governing bodies agree to have their areas included in the county plan.

Also under current law, a city or village, or certain towns that exercise village powers, may create a city, village or town plan commission to engage in zoning and

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land use planning. If a city, village or town creates such a commission, the commission is required to adopt a master plan for the physical development of the city, village or town including in some instances, in the case of a city or village, unincorporated areas outside of the city or village which are related to the city's or village's development.

A regional planning commission (RPC) may, under current law, conduct all types of research studies, collect and analyze data and prepare maps, charts and tables to be used in accomplishing its duties. RPC duties include making plans for the physical, social and economic development of the region. An RPC is also required to prepare a master plan for the physical development of the region. The master plan must contain the RPC's recommendations for such physical development, although all of an RPC's functions are solely advisory to the political subdivisions that comprise the region.

Under current law, if a local governmental unit (city, village, town, county or RPC) creates a comprehensive plan (a development plan or a master plan) or amends an existing comprehensive plan, the plan must contain certain planning elements. The required planning elements consist of the following:

1. An issues and opportunities element that contains background information on the local governmental unit and a statement of objectives, policies, goals and programs to guide the growth of the local governmental unit over the next 20 years.
2. A housing element that contains information on the local governmental unit's housing stock and plans for housing for residents with all income levels and various needs.
3. A transportation element that addresses transportation issues and evaluates the relationship between the local governmental unit's transportation plans and state and regional transportation plans.
4. A utilities and community facilities element to guide the development of public and private utilities, governmental services and community facilities.
5. A natural and cultural resources element to guide the development of conservation policies for, and the effective management of, natural, historic and cultural resources.
6. An economic development element that promotes the stabilization, retention or expansion of the economic base of, and quality employment opportunities in, the local governmental unit.
7. An intergovernmental cooperation element that provides for joint planning and decision making with other jurisdictions.
8. A land use element to guide the future development and redevelopment of public and private property in the local governmental unit.
9. An implementation element that contains programs and specific actions to be completed in a stated sequence, including proposed changes to any applicable zoning ordinances, building codes or subdivision ordinances, to implement the other elements.

Local governmental units that adopt or amend a comprehensive plan that contains these elements are eligible for state land use planning grants that must be used to finance the development of the comprehensive plan.

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Beginning on January 1, 2010, any program or action of a local governmental unit that affects land use must be consistent with that local governmental unit's comprehensive plan. The actions to which this requirement applies include zoning ordinances, municipal incorporation procedures, annexation procedures, agricultural preservation plans and impact fee ordinances.

This bill specifies that beginning on January 2, 2010, if a local governmental unit engages in any program or action that affects land use, the comprehensive plan must contain at least all of the required planning elements.

Current law requires the University of Wisconsin–Extension to develop, not later than January 1, 2001, a model ordinance for traditional neighborhood development and an ordinance for conservation subdivision. “Traditional neighborhood development” means a compact, mixed–use neighborhood where residential, commercial and civic buildings are within close proximity to each other. “Conservation subdivision” means a housing development in a rural setting that is characterized by compact lots and common open space, and where the natural features of land are maintained to the greatest extent possible. If the model ordinances are approved, or considered approved, by a legislative committee in the assembly and in the senate, every city and village, and every town with a population of at least 12,500 is required to enact a traditional neighborhood development ordinance and a conservation subdivision ordinance that is similar to the model ordinances.

Under this bill, only a city or village with a population of at least 12,500 is required to enact a traditional neighborhood ordinance. There is no requirement that a city, village or town enact a conservation subdivision ordinance.

Currently, each state agency must ensure that, consistently with other laws, whenever it administers a law under which a local governmental unit prepares a plan, the actions of the local governmental unit are designed to further certain local comprehensive planning goals. This bill provides instead that, consistently with other laws, each state agency, whenever it administers a law under which a local governmental unit prepares a plan, is encouraged to design its planning requirements in a manner that makes it practical for local governmental units to incorporate these plans into local government comprehensive plans.

Finally, the bill changes an annual appropriation to the department of administration (an appropriation from which the department provides grants to local governmental units to be used to finance the cost of planning activities related to the transportation element of a comprehensive plan) to a biennial appropriation. The bill also provides that the amount lapsed, if any, from the annual appropriation at the end of fiscal year 1999–2000 is appropriated to that biennial appropriation for transportation planning grants. An annual appropriation is expendable only up to the amount shown in the schedule and only for the fiscal year for which made. At the end of the fiscal year, the unencumbered balance in an annual appropriation lapses to the fund from which appropriated. In contrast, dollar amounts shown in the schedule for a biennial appropriation represent the most reliable estimates of the amounts which will be expended in each fiscal year, the total for both years being the

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biennial appropriation. Only at the end of the biennium do unencumbered balances of biennial appropriations lapse to the fund from which appropriated.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 1.13 (3) of the statutes, as created by 1999 Wisconsin Act 9, is
2 amended to read:

3 1.13 **(3)** ~~Each state agency shall ensure that, consistently~~ Consistently with
4 other laws, each state agency, whenever it administers a law under which a local
5 governmental unit prepares a plan, ~~the actions of the~~ is encouraged to design its
6 planning requirements in a manner that makes it practical for local governmental
7 ~~unit under the plan are designed to further the goals specified in sub. (2), to the~~
8 ~~extent practical~~ units to incorporate these plans into local comprehensive plans
9 prepared under s. 66.0295.

10 **SECTION 2.** 16.965 (4) (intro.) of the statutes, as created by 1999 Wisconsin Act
11 9, is amended to read:

12 16.965 **(4)** (intro.) In determining whether to approve a proposed grant, ~~greater~~
13 ~~precedence~~ preference shall be accorded to applications of local governmental units
14 that contain all of the following elements:

15 **SECTION 3.** 20.505 (1) (z) of the statutes, as created by 1999 Wisconsin Act 9,
16 is amended to read:

17 20.505 **(1)** (z) *Transportation planning grants to local governmental units.*
18 ~~From~~ Biennially, from the transportation fund, the amounts in the schedule to
19 provide transportation planning grants to local governmental units under s.
20 16.9651. All moneys received from the federal government and transferred from the

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1 appropriation account under s. 20.395 (3) (ix) shall be credited to this appropriation
2 account.

3 **SECTION 4.** 59.69 (3) (a) of the statutes, as affected by 1999 Wisconsin Act 9, is
4 amended to read:

5 59.69 (3) (a) The county zoning agency may direct the preparation of a county
6 development plan or parts thereof for the physical development of the
7 unincorporated territory within the county and areas within incorporated
8 jurisdictions whose governing bodies by resolution agree to having their areas
9 included in the county's development plan. The plan may be adopted in whole or in
10 part and may be amended by the board and endorsed by the governing bodies of
11 incorporated jurisdictions included in the plan. The county development plan, in
12 whole or in part, in its original form or as amended, is hereafter referred to as the
13 development plan. The Beginning on January 1, 2010, if the county engages in any
14 program or action described in s. 66.0295 (3), the development plan shall contain at
15 least all of the elements described specified in s. 66.0295 (2).

16 **SECTION 5.** 62.23 (2) of the statutes, as affected by 1999 Wisconsin Act 9, is
17 amended to read:

18 62.23 (2) FUNCTIONS. It shall be the function and duty of the commission to
19 make and adopt a master plan for the physical development of the city, including any
20 areas outside of its boundaries which in the commission's judgment bear relation to
21 the development of the city provided, however, that in any county where a regional
22 planning department has been established, areas outside the boundaries of a city
23 may not be included in the master plan without the consent of the county board of
24 supervisors. The master plan, with the accompanying maps, plats, charts and
25 descriptive and explanatory matter, shall show the commission's recommendations

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1 for such physical development, and shall, as described in sub. (3) (b), contain at least
2 the elements described in s. 66.0295 (2). The commission may from time to time
3 amend, extend or add to the master plan or carry any part or subject matter into
4 greater detail. The commission may adopt rules for the transaction of business and
5 shall keep a record of its resolutions, transactions, findings and determinations,
6 which record shall be a public record.

7 **SECTION 6.** 62.23 (3) (b) of the statutes, as affected by 1999 Wisconsin Act 9, is
8 amended to read:

9 62.23 **(3)** (b) The commission may adopt the master plan as a whole by a single
10 resolution, or, as the work of making the whole master plan progresses, may from
11 time to time by resolution adopt a part or parts thereof, ~~any such part to correspond~~
12 ~~with one or more of the elements specified in s. 66.0295 of a master plan.~~ Beginning
13 on January 1, 2010, if the city engages in any program or action described in s.
14 66.0295 (3), the master plan shall contain at least all of the elements specified in s.
15 66.0295 (2). The adoption of the plan or any part, amendment or addition, shall be
16 by resolution carried by the affirmative votes of not less than a majority of all the
17 members of the city plan commission. The resolution shall refer expressly to the
18 elements under s. 66.0295 and other matters intended by the commission to form the
19 whole or any part of the plan, and the action taken shall be recorded on the adopted
20 plan or part thereof by the identifying signature of the secretary of the commission,
21 and a copy of the plan or part thereof shall be certified to the common council. The
22 purpose and effect of the adoption and certifying of the master plan or part thereof
23 shall be solely to aid the city plan commission and the council in the performance of
24 their duties.

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1 **SECTION 7.** 66.0295 (2) (h) of the statutes, as created by 1999 Wisconsin Act 9,
2 is amended to read:

3 66.0295 **(2)** (h) *Land-use element.* A compilation of objectives, policies, goals,
4 maps and programs to guide the future development and redevelopment of public
5 and private property. The element shall contain a listing of the amount, type,
6 intensity and net density of existing uses of land in the local governmental unit, such
7 as agricultural, residential, commercial, industrial and other public and private
8 uses. The element shall analyze trends in the supply, demand and price of land,
9 opportunities for redevelopment and existing and potential land-use conflicts. The
10 element shall contain projections, based on the background information specified in
11 par. (a), for 20 years ~~with detailed maps~~, in 5-year increments, of future residential,
12 agricultural, commercial and industrial land uses including the assumptions of net
13 densities or other spatial assumptions upon which the projections are based. The
14 element shall also include a series of maps that shows current land uses and future
15 land uses that indicate productive agricultural soils, natural limitations for building
16 site development, floodplains, wetlands and other environmentally sensitive lands,
17 the boundaries of areas to which services of public utilities and community facilities,
18 as those terms are used in par. (d), will be provided in the future, consistent with the
19 timetable described in par. (d), and the general location of future land uses by net
20 density or other classifications.

21 **SECTION 8.** 66.0295 (4) (b) (intro.) of the statutes, as created by 1999 Wisconsin
22 Act 9, is amended to read:

23 66.0295 **(4)** (b) (intro.) The planning plan commission or other body of a local
24 governmental unit that is authorized to prepare or amend a comprehensive plan may
25 recommend the adoption or amendment of a comprehensive plan only by adopting

ASSEMBLY BILL 872**SECTION 8**

1 a resolution by a majority vote of the entire commission. The vote shall be recorded
2 in the official minutes of the planning plan commission or other body. The resolution
3 shall refer to maps and other descriptive materials that relate to one or more
4 elements of a comprehensive plan. One copy of an adopted comprehensive plan, or
5 of an amendment to such a plan, shall be sent to all of the following:

6 **SECTION 9.** 66.0295 (4) (b) 2. of the statutes, as created by 1999 Wisconsin Act
7 9, is amended to read:

8 66.0295 (4) (b) 2. ~~Every~~ The clerk of every local governmental unit that is
9 adjacent to the local governmental unit which is the subject of the plan that is
10 adopted or amended as described in par. (b) (intro.).

11 **SECTION 10.** 66.0295 (4) (b) 5. of the statutes is created to read:

12 66.0295 (4) (b) 5. The regional planning commission in which the local
13 governmental unit is located.

14 **SECTION 11.** 66.0295 (4) (b) 6. of the statutes is created to read:

15 66.0295 (4) (b) 6. The public library that serves the area in which the local
16 governmental unit is located.

17 **SECTION 12.** 66.0295 (4) (c) (intro.) of the statutes, as created by 1999 Wisconsin
18 Act 9, is renumbered 66.0295 (4) (c) and amended to read:

19 66.0295 (4) (c) No ~~recommended~~ comprehensive plan that is ~~adopted or~~
20 ~~amended~~ recommended for adoption or amendment under par. (b) may take effect
21 until the local governmental unit enacts an ordinance that adopts the plan or
22 ~~amendment is enacted as an ordinance by the local governmental unit~~. The local
23 governmental unit may not enact an ordinance under this paragraph unless the
24 comprehensive plan contains all of the elements specified in sub. (2). An ordinance
25 may be enacted under this paragraph only by a majority vote of the members-elect,

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1 as defined in s. 59.001 (2m), of the governing body. An ordinance that is enacted
2 under this paragraph, and the plan to which it relates, shall be filed with at least all
3 of the following: entities specified under par. (b).

4 **SECTION 13.** 66.0295 (4) (c) 1. and 2. of the statutes, as created by 1999
5 Wisconsin Act 9, are repealed.

6 **SECTION 14.** 66.034 (3) (title) of the statutes, as created by 1999 Wisconsin Act
7 9, is amended to read:

8 66.034 (3) (title) CITY, AND VILLAGE AND TOWN REQUIREMENTS.

9 **SECTION 15.** 66.034 (3) (a) of the statutes, as created by 1999 Wisconsin Act 9,
10 is amended to read:

11 66.034 (3) (a) Not later than January 1, 2002, every city and village, ~~and every~~
12 ~~town~~ with a population of at least 12,500 shall enact an ordinance ~~under s. 62.23 (7)~~
13 that is similar to the model traditional neighborhood development ordinance that is
14 developed under sub. (2) (a) if the ordinance is approved under sub. (2) (b), although
15 the ordinance is not required to be mapped.

16 **SECTION 16.** 66.034 (3) (b) of the statutes, as created by 1999 Wisconsin Act 9,
17 is amended to read:

18 66.034 (3) (b) A city or village ~~that comes into existence, or town~~ whose
19 population reaches at least 12,500, after January 1, 2002, shall enact an ordinance
20 ~~under s. 62.23 (7)~~ that is similar to the model traditional neighborhood development
21 ordinance that is developed under sub. (2) (a) if the ordinance is approved under sub.
22 (2) (b) not later than the first day of the 12th month beginning after the ~~city or village~~
23 ~~comes into existence or after the town's~~ city's or village's population reaches at least
24 12,500, although the ordinance is not required to be mapped.

25 **SECTION 17. Appropriation changes.**

