

## **Committee Name:**

# **Senate Select Committee – Job Creation (SSC–JC)**

### **Appointments**

03hr\_SSC–JC\_Appt\_pt00

### **Committee Hearings**

03hr\_SSC–JC\_CH\_pt00

### **Committee Reports**

03hr\_SSC–JC\_CR\_pt00

### **Clearinghouse Rules**

03hr\_SSC–JC\_CRule\_03–

### **Executive Sessions**

03hr\_SSC–JC\_ES\_pt00

# **Hearing Records**

03hr\_ab0000

# **03hr\_sb0375**

### **Misc.**

03hr\_SSC–JC\_Misc\_pt00

### **Record of Committee Proceedings**

03hr\_SSC–JC\_RCP\_pt00

Senate Select Committee on Job Creation

Paper Ballot: Senator Kanavas  
Deadline: Monday, 3-1-04, 12:00 pm

Companion bills AB 728 and SB 375 were both introduced in their respective houses on January 7, 2004. SB 375 received a public hearing on January 27, 2004. On February 4, 2004, the "comprehensive planning by local governmental units" portion was amended out of the bill. SB 375 passed both houses as amended by voice votes.

The Assembly amended the "fees imposed by political subdivisions" portion out of AB 728 and passed it. The bill has been referred to the Senate Select Committee on Job Creation.

Please return your vote via paper ballot to Senator Stepp's office by 12:00 pm, Monday, March 1, 2004.

Thank you.

**Assembly Bill 728**

relating to: comprehensive planning by local governmental units ~~and fees imposed by political subdivisions.~~

Concurrence:

YES     NO



\_\_\_\_\_  
Signature

Distributed 2-27-04 – 11:00 am

Senate Select Committee on Job Creation

Paper Ballot: Senator Leibham  
Deadline: Monday, 3-1-04, 12:00 pm

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Thank you.

**Assembly Bill 728**

relating to: comprehensive planning by local governmental units ~~and fees imposed by political subdivisions.~~

Concurrence:

YES     NO

JOE LEIBHAM

Signature

Distributed 2-27-04 – 11:00 am

Senate Select Committee on Job Creation

Paper Ballot: Senator Jauch

Deadline: Monday, 3-1-04, 12:00 pm

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**Assembly Bill 728**

relating to: comprehensive planning by local governmental units ~~and fees imposed by political subdivisions.~~

Concurrence:

YES     NO

  
Signature

Distributed 2-27-04 - 11:00 am

Senate Select Committee on Job Creation

Paper Ballot: Senator Chvala  
Deadline: Monday, 3-1-04, 12:00 pm

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**Assembly Bill 728**

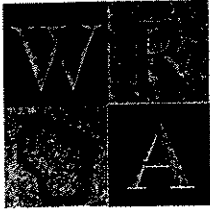
relating to: comprehensive planning by local governmental units and ~~fees imposed by political subdivisions.~~

Concurrence:

YES     NO

Chuck Chvala  
Signature

Distributed 2-27-04 – 11:00 am



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# Memorandum

**To:** All Legislators  
**From:** Tom Larson and Michael Theo  
**Date:** January 16, 2004  
**Re:** SB 375/AB 728, as amended - Local Fees

The Wisconsin REALTORS Association encourages you to support for SB375/AB 728, as amended, legislation that seeks to codify existing case law standards for imposing fees at the local level.

## BACKGROUND

Given the cuts in state aid and the revenue shortfalls facing local governments, more communities are looking to generate additional revenues or cover increased costs by raising fees related to economic development. These proposed fee increases have come in a wide variety including those related to building permits, plat review, erosion control and stormwater management permits, zoning changes, and numerous other permits and government services. While fees are a necessary means to fund government services, excessive fees can significantly increase the costs of housing and economic development in the community.

Although local governments clearly have the authority to assess fees, Wisconsin courts have said that fees cannot exceed the actual government costs incurred by the government in providing the related service. Milwaukee v. Milwaukee & S.T. Corp., 6 Wis.(2d) 299, 309-11 (1959). When the fees exceed the government's costs in providing the services, those fees are considered an illegal tax unless they were specifically authorized by the legislature. Id. More specifically, a government fee must be fair and reasonable and bear a reasonable relationship to the benefits conferred on those receiving the services (i.e., it cannot be used to benefit the general public). 71 Am. Jur. 2d, State and Local Taxation, sec. 13. Although the courts have spoken on this issue, many local communities continue to overlook these standards.

## PROPOSAL

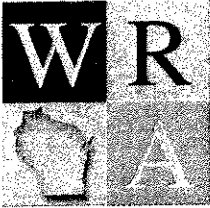
To ensure that local officials are more aware of the legal parameters for imposing local fees, SB 375/AB 728, as amended, only attempts to codify existing case law standards. Under the bill, any fee charged by local units of government for a government-related service may not exceed the actual costs incurred by the local unit of government to provide that service.

Unlike the original version of this legislation, SB 375/AB 728, as amended, does not require local units of government to issue written findings to support their fee calculations. This change was made at the request of the League of Municipalities, Alliance of Cities, Towns Associations, and Counties Association, all of whom agree that the bill, as amended, is a codification of existing case law and have agreed to remove opposition.

We strongly encourage your support for SB 375/AB 728, as amended. If you have any questions, please feel free to contact us at (608) 241-2047.



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William Malkasian, CAE, President  
E-mail: [wem@wra.org](mailto:wem@wra.org)

TO: All Legislators  
FROM: Michael Theo and Rick Staff  
WRA Vice Presidents  
DATE: January 26, 2004  
RE: SB 375 and AB 733 – Real Estate License Reciprocity

(SB 369) (AB 733)

The Wisconsin Realtors Association (WRA) strongly supports SB 375 and AB 733, legislation authorizing the Department of Regulation and Licensing to enter into reciprocal real estate licensing agreements with other states.

Wisconsin's real estate market is no longer solely confined within our state borders, with many buyers and sellers transacting business across state lines. In many border areas, it has become advantageous for real estate brokers to be licensed in more than one state. Under current law however, it is much easier for out-of-state licensees to get a Wisconsin real estate license than it is for Wisconsin agents to get a license in other states. This is because Wisconsin law recognizes that licensees from other states already possess a certain level of expertise. However, the reverse is not true for Wisconsin agents trying to get a license in other states.

To address this disparity, SB 375 and AB 733 authorizes the Department of Regulation and Licensing to enter into real estate license reciprocity agreements with other states. The intent is to authorize (not mandate) agreements delineating what is required for Wisconsin licensees to demonstrate professional competency to practice real estate in other states and vice versa. The goal is to insure that consumers receive competent real estate services, regardless of where they live.

The WRA supports this legislation because:

- Wisconsin must insure licensees from other states are knowledgeable of our real estate laws, and vice versa, in order to protect consumers.
- Without reciprocal licensing agreements, Wisconsin real estate licensees are currently at a competitive disadvantage because it is easier for a non-resident to receive a license in Wisconsin than in other states.
- In most cases, the sale or purchase of real estate (be it residential or commercial) is one of the biggest financial transactions buyers or sellers will ever make and thus it's critical that their real estate professional be fully knowledgeable, licensed and regulated in any state.

This legislation has been supported by the Department of Regulation and Licensing and requires no specific action by the state or the Department. The legislation merely allows the Department to enter into such agreements with specific states should both states desire to do so.

We believe this legislation responds to the realities of today's real estate marketplace while at the same time retaining consumer protection as the primary focus of our real estate license regulations. We strongly urge your support.



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## Memorandum

**DATE:** January 26, 2004  
**TO:** Members, Senate Committee on Job Creation  
**FROM:** Pat Osborne  
**RE:** Support for Senate Bill 375

The Aggregate Producers of Wisconsin (APW) is a statewide trade association comprised of 150 member companies engaged in the production of aggregate material in Wisconsin and associate member companies that provide goods and services to the industry.

APW supports SB 375 and requests your favorable consideration in passing this bill.

### SUPPORT SB 375 – Comprehensive Planning by Local Governments

Current law requires a local unit of government to adopt written procedures to foster public participation in every stage of the preparation of a comprehensive plan. [Ref. s. 66.1001 (4) (a)] It also requires that at least one public hearing be held on the adoption or amendment of the comprehensive plan, which must be preceded by a class 1 notice that is published at least 30 days before the hearing is held. [Ref. S 66.1001 (4) (d)]

It is critical that local governments adequately address the need and availability of aggregate resources in developing their plans. Wisconsin has a rich supply of quality stone and natural aggregate which is vital to our local and state economies. Most aggregates are used as raw material for construction. For example, over 90% of asphalt is aggregate and roughly 80% of concrete, a key component of homes and commercial buildings, is aggregate. Local sources of aggregate are particularly valuable given the cost-prohibitive nature of hauling heavy materials over long distances. To ensure that future generations have an adequate supply of this fundamental raw material, the planning process needs to consider future access to valuable deposits. Current law recognizes that aggregate resources should be considered in the planning process and specifically identifies “nonmetallic mineral resources” as an area that should be addressed in the natural resources element of the comprehensive plan. However, the law should be strengthened to make sure that individuals with property interest in aggregate resources have adequate notice of local planning activities. (Such individuals may or may not reside in the local area conducting comprehensive planning).

SB 375 would strengthen current law by ensuring that local governments consider how to distribute elements of a comprehensive plan to affected property owners and by expanding the hearing notice requirements to include written notice to property owners and leaseholders who have an interest in nonmetallic mineral resources.

Thank you for your consideration.





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PHONE: 608.663.7188  
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## MEMORANDUM

TO: Honorable Members of the Senate Committee on Job Creation

FROM: Craig Thompson, Legislative Director *CT*

DATE: January 27, 2004

SUBJECT: Opposition to Senate Bill 375

The Wisconsin Counties Association (WCA) opposes Senate Bill 375 (SB 375), which relates to comprehensive planning by local governmental units and fees imposed by political subdivisions.

WCA feels that the provision of SB 375 that relates to comprehensive planning is good public policy. Although most counties throughout the state already have a rigorous notification process, WCA recognizes this bill as an attempt to improve the public notification process to landowners affected by planning and zoning actions. However, SB 375 does not allow a means for counties to recoup the costs associated with this process. Therefore, WCA views this portion of SB 375 as an unfunded mandate.

The second concern WCA has regarding the comprehensive planning portion of SB 375 is the lack of clarity in the definition of who should be notified of such actions. In particular, the "who have an interest in property pursuant..." language may be very difficult for county planning and zoning departments to determine and may be open to interpretation. Therefore, the lack of a clear definition may not allow for a uniform process throughout the state and may ultimately be determined by a court.

WCA also opposes the portion of the legislation that requires that any fee imposed by a political subdivision bear a reasonable relationship to the service for which the fee is imposed and that, when a political subdivision first imposes or raises a fee, the political subdivision issue written findings that demonstrate that the fee bears a reasonable relationship to the service for which the fee is imposed. This language is redundant in that the courts have issued rulings that fees must be reasonably related to the purpose for which they are imposed. Additionally, the issuance of a written finding places another mandate on local units of government.

Page 2  
WCA Letter  
January 27, 2004

WCA would remove its opposition to SB 375 if the bill is amended in the following ways. First, if the provision that relates to comprehensive planning is amended to clearly state that only the people that request to be notified are required to be notified. Such a clarification will greatly reduce the cost of complying with this requirement. Second, if the provision that relates to fees is amended to not require counties to issue written findings documentation.

Thank you for considering our comments. Please do not hesitate to contact me at the WCA office if you have any questions.