

2015 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB582)

Received:	1/6/2016	Received By:	eshea
For:	Adam Jarchow (608) 267-2365	Same as LRB:	
May Contact:		By/Representing:	Mitch
Subject:	Nat. Res. - nav. waters	Drafter:	eshea
		Addl. Drafters:	emueller jkreye mshovers phurley pkahler zwyatt

Extra Copies:

Submit via email:	YES
Requester's email:	Rep.Jarchow@legis.wisconsin.gov
Carbon copy (CC) to:	elisabeth.shea@legis.wisconsin.gov eric.mueller@legis.wisconsin.gov joseph.kreye@legis.wisconsin.gov marc.shovers@legis.wisconsin.gov peggy.hurley@legis.wisconsin.gov pam.kahler@legis.wisconsin.gov zachary.wyatt@legis.wisconsin.gov mitch.sands@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Property rights, shoreland zoning, and contested case hearings

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	eshea 1/14/2016	kmochal 1/15/2016	_____ _____			
/P1	eshea 1/19/2016	kmochal 1/19/2016	_____ _____	sbasford 1/15/2016		
/1			_____ _____	lparisi 1/19/2016	lparisi 1/19/2016	

FE Sent For:

<END>

66 subch 10? 1036
pl, housing, transp

Ⓢ how do they know?

Shea, Elisabeth

From: Konopacki, Larry
Sent: Wednesday, January 06, 2016 8:02 PM
To: Shea, Elisabeth
Subject: RE: Shoreland / building permit language

Or ch. 101 or 66?

Larry A. Konopacki
Wisconsin Legislative Council
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DNR delegates authority to issue BP
to locals
[but may retain]
101.64B

From: Konopacki, Larry
Sent: Wednesday, January 06, 2016 7:47 PM
To: Shea, Elisabeth <Elisabeth.Shea@legis.wisconsin.gov>
Subject: RE: Shoreland / building permit language

I think this accomplishes what they asked for. However, I might recommend putting this in chs. 60, 61, and 62 instead of ch 59, since it is a muni requirement instead of a county requirement.

Thanks,
Larry

Larry A. Konopacki
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From: Shea, Elisabeth
Sent: Wednesday, January 06, 2016 4:54 PM
To: Konopacki, Larry <Larry.Konopacki@legis.wisconsin.gov>
Subject: Shoreland / building permit language

Here is my first attempt. Does this accurately capture the intent?

[If an activity in a shoreland setback area to which sub. (1k) (a) or (b) applies requires a building permit, the authority that issues the building permit for that activity shall provide a copy of the building permit to the county.

clerk

deadline

Elisabeth H. Shea
Legislative Attorney
Wisconsin Legislative Reference Bureau

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1/6/16 328 NW Meeting with Rep. Jarchow
talk to Larry

(EHS)

* Take out vested rights issue 20.932
Section 1 + Section 4p
but keep initial app for 66.10015(1)(a)

(A) Section 10 p8
not inconsistent

* 59.692 Add - for project in shoreland zone - things changed
non conf. structures } bldg inspector shall
prop owner / builder } provide copy of UDC bldg permit
to county if they need one
- time limits already apply?

Sub 2 | P1

59.692(1k)

[simple
tax
cup] } waiting



State of Wisconsin
2015 - 2016 LEGISLATURE

LRBs0212/1
EHS&MES:klm

Instructions for 50722

**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 464**

January 4, 2016 – Offered by Senator LASEE.

1 **AN ACT** *to renumber* 706.22 (2) (a) 1., 706.22 (2) (a) 2. and 706.22 (2) (a) 3.; *to*
2 *renumber and amend* 70.32 (2) (c) 4., 706.22 (2) (b) and 706.22 (3); *to amend*
3 59.69 (4) (intro.), 59.69 (4) (j), 59.69 (5) (f), 59.692 (1k) (a) 2., 59.692 (1k) (a) 4.,
4 59.692 (1k) (b), 60.23 (33), 60.61 (2) (a) 6., 60.61 (4) (f), 62.23 (7) (am), 62.23 (7)
5 (d) 4., 66.1001 (4) (f), 66.10015 (title), 66.10015 (1) (a), 74.485 (4) (a), 236.45 (2)
6 (am) (intro.), 706.22 (title), 706.22 (2) (title) and 706.22 (2) (a) (intro.); and *to*
7 **create** 20.932, 59.692 (1h), 59.692 (1k) (a) 6., 59.692 (1p), 59.692 (7), 66.10015
8 (1) (as), 66.10015 (1) (bs), 66.10015 (3), 66.1105 (5) (bu), 70.32 (2) (c) 4. b.,
9 227.445, 700.28, 706.22 (2) (a) 2m., 706.22 (2) (a) 3m., 706.22 (2) (b) 2., 706.22
10 (3) (b) and 895.463 of the statutes; **relating to:** government actions affecting
11 rights to real property; the regulation of shoreland zoning; the substitution of

1 hearing examiners in contested cases; and the property tax treatment of
2 unoccupied property.

Analysis by the Legislative Reference Bureau

INTRODUCTION

This substitute amendment makes various changes to the regulation of property rights and shoreland zoning and allows for the substitution of hearing examiners in contested case hearings.

PROPERTY RIGHTS

PROCEDURAL PROTECTIONS

Restrictions on sale, purchase, development, or occupancy of real property

This substitute amendment does all of the following:

1. Prohibits a local governmental unit from requiring a person to take certain actions with respect to real property, or pay a related fee, before purchasing, taking title to, or occupying the property.

2. Provides that a local governmental unit may require a real property owner to take certain actions with respect to property that are not related to purchasing or occupying the property.

3. Invalidates any ordinance, resolution, or policy currently in effect that is inconsistent with the prohibitions in the substitute amendment.

4. Provides that the prohibitions in the substitute amendment, and related prohibitions under current law, do not affect the ability of a local governmental unit to enforce any state or federal requirement.

5. Specifically prohibits a county from enacting a development moratorium.

6. Prohibits a city, village, town, or county (political subdivision) from prohibiting or unreasonably restricting a real property owner from selling or transferring title to any interest in the real property.

Individual notice requirements

This substitute amendment requires a political subdivision to provide written notice to a landowner, and annual notification to residents of a political subdivision that they may request such notice, that potential action by the political subdivision may affect the allowable use of the landowner's property. The substitute amendment also requires counties and towns to provide such notice if a proposed zoning ordinance will affect the size or density requirements of a landowner's property. In addition, the substitute amendment limits a political subdivision's authority under current law to impose a fee for providing notice to charges for 1st class mailings.

VESTED RIGHTS

If a specific and identifiable land development or use requires multiple approvals from one or more state agencies, the substitute amendment requires a state agency, in making its determinations with regard to any approval for that project, to apply the law that is in effect on the date on which the applicant applies

for the first approval from any state agency for that project if the applicant identifies the full scope of the project at that time. The substitute amendment allows an applicant and a state agency to agree with respect to an approval from that state agency that the law at the time of application for the approval applies.

SHORELAND ZONING

Under current law, a county must enact a shoreland zoning ordinance for all shorelands in its unincorporated area and the ordinance must meet shoreland zoning standards established by DNR by rule. Current law defines shorelands to be the area within a certain distance from the OHWM of a navigable water. Current law requires a county to establish a shoreland setback area, which is an area within a certain distance of the OHWM in which the construction or placement of structures is limited or prohibited. Under this substitute amendment, if a professional land surveyor, in measuring a setback from an OHWM of a navigable water, relies on a map, plat, or survey that incorporates or approximates the OHWM, the setback measured is the setback with respect to a structure constructed on that property if the map, plat, or survey relied upon is prepared by a professional land surveyor and DNR has not identified the OHWM on its Internet site at the time the setback is measured.

Current law generally prohibits the enactment of a county shoreland zoning ordinance that prohibits or regulates the maintenance, repair, replacement, restoration, rebuilding, or remodeling of all or any part of a nonconforming structure if that activity does not expand the structure's footprint, and a county shoreland zoning ordinance that requires any approval or imposes any fee or mitigation requirement for, or otherwise prohibits or regulates, the vertical expansion of a nonconforming structure. This substitute amendment expands these prohibitions to a structure of which any part is legally located in the shoreland setback area by operation of a variance granted before July 13, 2015.

This substitute amendment provides that a shoreland zoning standard or ordinance may not prohibit placement of a device or system that retains runoff in a shoreland setback area.

The substitute amendment also provides that the construction or maintenance of property or equipment used for the transmission, delivery, or furnishing of natural gas, heat, light, or power and owned by a public utility or cooperative association organized for the purpose of producing or furnishing heat, light, or power to its members only is considered to satisfy shoreland zoning laws and a county's shoreland zoning ordinance if DNR has issued all required navigable water, water and sewage, and pollution discharge permits or approvals authorizing the construction or maintenance or, if no such permits or approvals are required, if the construction and maintenance is conducted in a manner that employs best management practices to infiltrate or otherwise control storm water runoff from that infrastructure.

RESOLUTION OF CHALLENGE TO ZONING RESTRICTIONS

This substitute amendment requires a court to resolve any ambiguity in a matter involving a zoning ordinance or shoreland zoning ordinance in favor of the free use of private property.

SUPERMAJORITY VOTE TO DOWN ZONE A PROPERTY

The substitute amendment allows a political subdivision to enact a down zoning ordinance only if the ordinance is approved by at least two-thirds of the members of its governing body. The substitute amendment defines a down zoning ordinance as an ordinance that affects an area of land by rezoning it to a usage that is less dense than its previous usage.

PROPERTY TAX TREATMENT OF UNDEVELOPED LAND

This substitute amendment defines, for property tax purposes, “undeveloped land” to include land that is platted and zoned for residential, commercial, or manufacturing use until such time that a permit is issued for constructing a building or other structure on the land. The substitute amendment provides that such land be assessed at its unimproved value, although the land is subject to a conversion charge if its assessment changes from agricultural to unimproved. Other undeveloped land under current law is assessed at 50 percent of its full value.

CONTESTED CASE HEARINGS

Under this substitute amendment, a person who has applied for a contract, permit, or other approval that is the subject of a contested case hearing for which the Division of Hearings and Appeals in the Department of Administration has assigned a hearing examiner may file one written request per hearing for a substitution of a new hearing examiner. If the request is timely and in proper form, the matter must be transferred to a new hearing examiner.

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

1 **SECTION 1.** 20.932 of the statutes is created to read:

2 **20.932 Multiple approvals for a single project.** (1) In this section:

3 (a) “Approval” means a license, permit, authorization, or other approval issued
4 by a state agency.

5 (b) “Project” means a specific and identifiable land development, improvement
6 activity, or use that occurs on defined parcels of land.

7 (2) Except as provided in sub. (3), if a project requires multiple approvals from
8 one or more state agencies, a state agency shall, in making its determinations with
9 regard to any approval for that project, apply the law that is in effect on the date on
10 which the person proposing the project applies for the first approval from any state

1 agency for that project if the person proposing the project identifies the full scope of
2 the project at the time of submitting the first application for an approval for the
3 project.

4 (3) An applicant and a state agency may agree with respect to an approval from
5 that state agency that the law at the time of application for the approval applies.

6 **SECTION 2.** 59.69 (4) (intro.) of the statutes is amended to read:

7 59.69 (4) EXTENT OF POWER. (intro.) For the purpose of promoting the public
8 health, safety and general welfare the board may by ordinance effective within the
9 areas within such county outside the limits of incorporated villages and cities
10 establish districts of such number, shape and area, and adopt such regulations for
11 each such district as the board considers best suited to carry out the purposes of this
12 section. The board may establish mixed-use districts that contain any combination
13 of uses, such as industrial, commercial, public, or residential uses, in a compact
14 urban form. The board may not enact a development moratorium, as defined in s.
15 66.1002 (1) (b), under this section or s. 59.03, or by acting under ch. 236, except that
16 this prohibition does not limit ^{any auth. of the board} the board's authority to impose a moratorium that is
17 not a development moratorium. ^{OR any other law} The powers granted by this section shall be
18 exercised through an ordinance which may, subject to sub. (4e), determine, establish,
19 regulate and restrict:

20 **SECTION 3.** 59.69 (4) (j) of the statutes is amended to read:

21 59.69 (4) (j) The Subject to s. 66.10015 (3), the density and distribution of
22 population.

23 **SECTION 4.** 59.69 (5) (f) of the statutes is amended to read:

24 59.69 (5) (f) The county zoning agency shall maintain a list of persons who
25 submit a written or electronic request to receive notice of any proposed ordinance or

also ok to publish on website, by mail, or a mailing that is sent to all prop. owners

1 amendment that affects the allowable use of the property owned by the person.

2 Annually, the agency shall publish a class 1 notice, under ch. 985, to inform residents

3 of the county that they may add their names to the list. The agency may also inform

4 residents of the county about adding their names to the list by posting the notice on

5 the county's Internet site. If the county zoning agency completes a draft of a proposed

6 zoning ordinance under par. (a) or if the agency receives a petition under par. (e) 2.,

7 the agency shall send a notice, which contains a copy or summary of the proposed

8 ordinance or petition, to each person on the list whose property, the allowable use or

9 size or density requirements of which, may be affected by the proposed ordinance or

10 amendment. The notice shall be by mail or in any reasonable form that is agreed to

11 by the person and the agency, including electronic mail, voice mail, ^{or} text message, or

12 inclusion in the person's property tax. The agency may charge each person on the

13 list who receives a notice by 1st class mail a fee that does not exceed the approximate

14 cost of providing the notice to the person. An ordinance or amendment that is subject

15 to this paragraph may take effect even if the agency fails to send the notice that is

16 required by this paragraph.

17 **SECTION 5.** 59.692 (1h) of the statutes is created to read:

18 **59.692 (1h)** If a professional land surveyor licensed under ch. 443, in

19 measuring a setback from an ordinary high-water mark of a navigable water as

20 required by an ordinance enacted under this section, relies on a map, plat, or survey

21 that incorporates or approximates the ordinary high-water mark in accordance with

22 s. 236.025, the setback measured is the setback with respect to a structure

23 constructed on that property if all of the following apply:

24 (a) The map, plat, or survey is prepared by a professional land surveyor,

25 licensed under ch. 443, after the effective date of this paragraph ... [LRB inserts

add this

and

1 date]. The same professional land surveyor may prepare the map, plat, or survey and
2 measure the setback.

3 (b) The department has not identified the ordinary high-water mark on its
4 Internet site as is required under s. 30.102 at the time the setback is measured.

5 **SECTION 6.** 59.692 (1k) (a) 2. of the statutes, as created by 2015 Wisconsin Act
6 55, is amended to read:

7 59.692 (1k) (a) 2. Except as provided in par. (b), requires any approval or
8 imposes any fee or mitigation requirement for, or otherwise prohibits or regulates,
9 the maintenance, repair, replacement, restoration, rebuilding, or remodeling of all
10 or any part of a nonconforming structure or a structure of which any part is legally
11 located in the shoreland setback area by operation of a variance granted before July
12 13, 2015, if the activity does not expand the footprint of the ~~noneonforming~~ structure.

13 **SECTION 7.** 59.692 (1k) (a) 4. of the statutes, as created by 2015 Wisconsin Act
14 55, is amended to read:

15 59.692 (1k) (a) 4. Requires any approval or imposes any fee or mitigation
16 requirement for, or otherwise prohibits or regulates, the vertical expansion of a
17 nonconforming structure or a structure of which any part is legally located in the
18 shoreland setback area by operation of a variance granted before July 13, 2015,
19 unless the vertical expansion would extend more than 35 feet above grade level.

20 **SECTION 8.** 59.692 (1k) (a) 6. of the statutes is created to read:

21 59.692 (1k) (a) 6. Prohibits placement in a shoreland setback area of a device
22 or system authorized under par. (a) 5.

23 **SECTION 9.** 59.692 (1k) (b) of the statutes, as created by 2015 Wisconsin Act 55,
24 is amended to read:

1 59.692 (1k) (b) A county shoreland zoning ordinance shall allow an activity
2 specified under par. (a) 2. to expand the footprint of a nonconforming structure or a
3 structure of which any part is legally located in the shoreland setback area by
4 operation of a variance granted before July 13, 2015, if the expansion is necessary
5 for the structure to comply with applicable state or federal requirements.

6 **SECTION 10.** 59.692 (1p) of the statutes is created to read:

7 59.692 (1p) The department may not promulgate a standard and a county may
8 not enact an ordinance under this section that prohibits the owner of a boathouse in
9 the shoreland setback area that has a flat roof from using the roof as a deck if the roof
10 has no side walls or screens or from having or installing a railing around that roof
11 if the railing is consistent with standards promulgated by the department of safety
12 and professional services under ch. 101.

13 **SECTION 11.** 59.692 (7) of the statutes is created to read:

14 59.692 (7) (a) In this subsection, “facility” means any property or equipment
15 of a public utility, as defined in s. 196.01 (5), or a cooperative association organized
16 under ch. 185 for the purpose of producing or furnishing heat, light, or power to its
17 members only, that is used for the transmission, delivery, or furnishing of natural
18 gas, heat, light, or power.

19 (b) The construction and maintenance of a facility is considered to satisfy the
20 requirements of this section and any county ordinance enacted under this section if
21 any of the following applies:

22 1. The department has issued all required permits or approvals authorizing the
23 construction or maintenance under ch. 30, 31, 281, or 283.

24 2. No department permit or approval under subd. 1. is required for the
25 construction or maintenance and the construction or maintenance is conducted in a

1 manner that employs best management practices to infiltrate or otherwise control
2 storm water runoff from the facility.

3 SECTION 12. 60.23 (33) of the statutes is amended to read:

4 60.23 (33) COMPREHENSIVE PLAN. Adopt or amend a master plan under s. 62.23.

5 A master plan, by itself, under this subsection may not prohibit any use specified as
6 a conditional use in a zoning ordinance enacted by the town, nor can the master plan
7 be used to void a conditional use permit that has already been issued.

8 SECTION 13. 60.61 (2) (a) 6. of the statutes is amended to read:

9 60.61 (2) (a) 6. The Subject to s. 66.10015 (3), the density and distribution of
10 population.

11 SECTION 14. 60.61 (4) (f) of the statutes is amended to read:

12 60.61 (4) (f) The town board shall maintain a list of persons who submit a
13 written or electronic request to receive notice of any proposed ordinance or
14 amendment that affects the allowable use of the property owned by the person.
15 Annually, the town board shall publish a class 1 notice, under ch. 985, to inform
16 residents of the town that they may add their names to the list. The town board may
17 also inform residents of the town about adding their names to the list by posting the
18 notice on the town's Internet site. If the town zoning committee completes a final
19 report on a proposed zoning ordinance and the town board is prepared to vote on the
20 proposed ordinance under par. (b) or if the town board is prepared to vote on a
21 proposed amendment under par. (c) 1., the town board shall send a notice, which
22 contains a copy or summary of the proposed ordinance or amendment, to each person
23 on the list whose property, the allowable use or size or density requirements of which,
24 may be affected by the proposed ordinance or amendment. The notice shall be by
25 mail or in any reasonable form that is agreed to by the person and the town board,

*Amended
66.10015
per
Carry's
Plan
also
be
w/*

Amended

1 including electronic mail, voice mail, text message, or inclusion in the person's
2 property tax bill. The town board may charge each person on the list who receives
3 a notice by 1st class mail a fee that does not exceed the approximate cost of providing
4 the notice to the person. An ordinance or amendment that is subject to this
5 paragraph may take effect even if the town board fails to send the notice that is
6 required by this paragraph.

7 **SECTION 15.** 62.23 (7) (am) of the statutes is amended to read:

8 62.23 (7) (am) *Grant of power.* For the purpose of promoting health, safety,
9 morals or the general welfare of the community, the council may regulate and restrict
10 by ordinance, subject to par. (hm), the height, number of stories and size of buildings
11 and other structures, the percentage of lot that may be occupied, the size of yards,
12 courts and other open spaces, subject to s. 66.10015 (3) the density of population, and
13 the location and use of buildings, structures and land for trade, industry, mining,
14 residence or other purposes if there is no discrimination against temporary
15 structures. This subsection and any ordinance, resolution or regulation enacted or
16 adopted under this section, shall be liberally construed in favor of the city and as
17 minimum requirements adopted for the purposes stated. This subsection may not
18 be deemed a limitation of any power granted elsewhere.

19 **SECTION 16.** 62.23 (7) (d) 4. of the statutes is amended to read:

20 62.23 (7) (d) 4. The city council shall maintain a list of persons who submit a
21 written or electronic request to receive notice of any proposed zoning action that may
22 be taken under subd. 1. a. or b. or 2. that affects the allowable use of the person's
23 property. Annually, the city council shall publish a class 1 notice, under ch. 985, to
24 inform residents of the city that they may add their names to the list. The city council
25 may also inform residents of the city about adding their names to the list by posting

1 the notice on the city's Internet site. If the plan commission, the board of public land
2 commissioners, or city plan committee of the city council completes action on any
3 tentative recommendations that are noticed under subd. 1. a., proposed changes to
4 a proposed district plan and regulations that are submitted under subd. 1. b., or
5 proposed amendments that are submitted under subd. 2., and the city council is
6 prepared to vote on the tentative recommendations, proposed changes to a proposed
7 district plan, and regulations or proposed amendments, the city council shall send
8 a notice, which contains a copy or summary of the tentative recommendations,
9 proposed changes to a proposed district plan, and regulations or proposed
10 amendments, to each person on the list whose property, the allowable use of which,
11 may be affected by the tentative recommendations or proposed changes or
12 amendments. The notice shall be by mail or in any reasonable form that is agreed
13 to by the person and the city council, including electronic mail, voice mail, text
14 message, or inclusion in the person's property tax bill. The city council may charge
15 each person on the list who receives a notice by 1st class mail a fee that does not
16 exceed the approximate cost of providing the notice to the person. An ordinance or
17 amendment that is subject to this subdivision may take effect even if the city council
18 fails to send the notice that is required by this subdivision.

19 **SECTION 17.** 66.1001 (4) (f) of the statutes is amended to read:

20 66.1001 (4) (f) A political subdivision shall maintain a list of persons who
21 submit a written or electronic request to receive notice of any proposed ordinance,
22 described under par. (c), that affects the allowable use of the property owned by the
23 person. Annually, the political subdivision shall publish a class 1 notice, under ch.
24 985, to inform residents of the political subdivision that they may add their names
25 to the list. The political subdivision may also inform residents of the political

1 subdivision about adding their names to the list by posting the notice on the political
2 subdivision's Internet site. At least 30 days before the hearing described in par. (d)
3 is held a political subdivision shall provide written notice, including a copy or
4 summary of the proposed ordinance, to all such persons whose property, the
5 allowable use of which, may be affected by the proposed ordinance. The notice shall
6 be by mail or in any reasonable form that is agreed to by the person and the political
7 subdivision, including electronic mail, voice mail, text message, or inclusion in the
8 person's property tax bill. The political subdivision may charge each person on the
9 list who receives a notice by 1st class mail a fee that does not exceed the approximate
10 cost of providing the notice to the person.

11 SECTION 18. 66.10015 (title) of the statutes is amended to read:

12 **66.10015 (title) Limitation on development regulation authority and**
13 **down zoning.**

14 SECTION 19. 66.10015 (1) (a) of the statutes is amended to read:

15 66.10015 (1) (a) "Approval" means a permit or authorization for building,
16 zoning, driveway, stormwater, or other activity related to land development a project.

17 SECTION 20. 66.10015 (1) (as) of the statutes is created to read:

18 66.10015 (1) (as) "Down zoning ordinance" means a zoning ordinance that
19 affects an area of land in one of the following ways:

20 1. By decreasing the development density of the land to be less dense than was
21 allowed under its previous usage.

22 2. By reducing the permitted uses of the land, that are specified in a zoning
23 ordinance or other land use regulation, to fewer uses than were allowed under its
24 previous usage.

25 SECTION 21. 66.10015 (1) (bs) of the statutes is created to read:

1 66.10015 (1) (bs) “Members–elect” means those members of the governing body
2 of a political subdivision, at a particular time, who have been duly elected or
3 appointed for a current regular or unexpired term and whose service has not
4 terminated by death, resignation, or removal from office.

5 **SECTION 22.** 66.10015 (3) of the statutes is created to read:

6 66.10015 (3) DOWN ZONING. A political subdivision may enact a down zoning
7 ordinance only if the ordinance is approved by at least two–thirds of the
8 members–elect, except that if the down zoning ordinance is requested, or agreed to,
9 by the person who owns the land affected by the proposed ordinance, the ordinance
10 may be enacted by a simple majority of the members–elect.

11 **SECTION 23.** 66.1105 (5) (bu) of the statutes is created to read:

12 66.1105 (5) (bu) Notwithstanding the requirements of pars. (a) and (b), in
13 determining or redetermining the tax incremental base of a district that exists on the
14 effective date of this paragraph ... [LRB inserts date], the department of revenue
15 may not include land described in s. 70.32 (2) (c) 4. b.

16 **SECTION 24.** 70.32 (2) (c) 4. of the statutes is renumbered 70.32 (2) (c) 4. (intro.)
17 and amended to read:

18 70.32 (2) (c) 4. (intro.) “Undeveloped land” means ~~beg~~ all of the following:

19 a. Bog, marsh, lowland brush, uncultivated land zoned as shoreland under s.
20 59.692 and shown as a wetland on a final map under s. 23.32, or other nonproductive
21 lands not otherwise classified under this subsection.

22 **SECTION 25.** 70.32 (2) (c) 4. b. of the statutes is created to read:

23 70.32 (2) (c) 4. b. Beginning on January 1, 2017, land that is platted and zoned
24 for residential, commercial, or manufacturing use until such time that all approvals,
25 including post–construction inspection approvals, *and occupancy permits* required before the initial use of

1 the land for a residential, commercial, or manufacturing use are issued. This subd.
2 4. b. applies only to land that was assessed as agricultural land for the 2 consecutive
3 years immediately prior to being converted to residential, commercial, or
4 manufacturing use.

5 **SECTION 26.** 74.485 (4) (a) of the statutes is amended to read:

6 74.485 (4) (a) A person who owns land that has been assessed as agricultural
7 land under s. 70.32 (2r) and who converts the land's use so that the land is not eligible
8 to be assessed as agricultural land under s. 70.32 (2r) is not subject to a conversion
9 charge under sub. (2) if the converted land may be assessed as undeveloped under
10 s. 70.32 (2) (a) 5., as agricultural forest under s. 70.32 (2) (a) 5m., as productive forest
11 land under s. 70.32 (2) (a) 6., or as other under s. 70.32 (2) (a) 7. or if the amount of
12 the conversion charge determined under sub. (2) represents less than \$25 for each
13 acre of converted land. The exception to liability for a conversion charge that is
14 described under this paragraph does not apply to land that is described under s.
15 70.32 (2) (c) 4. b.

16 **SECTION 27.** 227.445 of the statutes is created to read:

17 **227.445 Substitution of hearing examiner assigned by division of**
18 **hearings and appeals.** (1) A person who has applied for a contract, permit, or
19 other approval that is the subject of a contested case hearing for which the division
20 of hearings and appeals has assigned a hearing examiner may file a written request
21 with the hearing examiner, not later than 10 days after receipt of the notice under
22 s. 227.44 (1), for a substitution of a new hearing examiner.

23 (2) No person may file more than one request under sub. (1) for a single hearing.

24 (3) Upon receipt of a request under sub. (1), the hearing examiner shall have
25 no further jurisdiction in the matter except to determine if the request was made

1 timely and in proper form. If the request was made timely and in proper form, the
2 hearing examiner shall transfer the matter to another hearing examiner and shall
3 transmit to the new hearing examiner all materials relating to the matter.

4 (4) If the hearing examiner fails to make a determination as to allowing the
5 substitution within 7 days, the hearing examiner shall refer the matter to the
6 administrator of the division of hearings and appeals for the determination and, if
7 proper, the assignment of a substitute hearing examiner.

8 **SECTION 28.** 236.45 (2) (am) (intro.) of the statutes, as affected by 2015
9 Wisconsin Act 48, is amended to read:

10 236.45 (2) (am) (intro.) Ordinances under par. (ac) may include provisions
11 regulating divisions of land into parcels larger than 1 1/2 acres or divisions of land
12 into less than 5 parcels, and, except as provided in s. 59.69 (4) (intro.) and subject to
13 s. 66.1002, may prohibit the division of land in areas where such prohibition will
14 carry out the purposes of this section. Such ordinances shall make applicable to such
15 divisions all of the provisions of this chapter, or may provide other surveying,
16 monumenting, mapping and approving requirements for such division. The
17 governing body of the municipality, town, or county shall require that a plat of such
18 division be recorded with the register of deeds and kept in a book provided for that
19 purpose or stored electronically. “COUNTY PLAT,” “MUNICIPAL PLAT,” or “TOWN
20 PLAT” shall be printed on the map in prominent letters with the location of the land
21 by government lot, recorded private claim, quarter–quarter section, section,
22 township, range, and county noted. When so recorded, the lots included in the plat
23 shall be described by reference to “COUNTY PLAT,” “MUNICIPAL PLAT,” or
24 “TOWN PLAT,” the name of the plat and the lot and block in the plat, for all purposes,
25 including those of assessment, taxation, devise, descent, and conveyance as defined

1 in s. 706.01 (4). Such ordinance, insofar as it may apply to divisions of less than 5
2 parcels, shall not apply to:

3 **SECTION 29.** 700.28 of the statutes is created to read:

4 **700.28 Prohibiting unreasonable restrictions on alienation of**
5 **property.** (1) In this section, “political subdivision” means a city, village, town, or
6 county.

7 (2) A political subdivision may not prohibit or unreasonably restrict a real
8 property owner from alienating any interest in the real property.

9 **SECTION 30.** 706.22 (title) of the statutes, as created by 2015 Wisconsin Act 55,
10 is amended to read:

11 **706.22 (title) Prohibition on imposing time-of-sale, purchase, or**
12 **occupancy requirements.**

13 **SECTION 31.** 706.22 (2) (title) of the statutes, as created by 2015 Wisconsin Act
14 55, is amended to read:

15 **706.22 (2) (title) REQUIREMENTS TIED TO SALE, PURCHASE, OR TAKING OCCUPANCY**
16 **OF PROPERTY PROHIBITED.**

17 **SECTION 32.** 706.22 (2) (a) (intro.) of the statutes, as created by 2015 Wisconsin
18 Act 55, is amended to read:

19 **706.22 (2) (a) (intro.)** Except as provided in par. (b), no local governmental unit
20 may by ordinance, resolution, or any other means restrict do any of the following:

21 1m. Restrict the ability of an owner of real property to sell or otherwise transfer
22 title to or refinance the property by requiring the owner or an agent of the owner to
23 take certain actions with respect to the property or pay a related fee, to show
24 compliance with taking certain actions with respect to the property, or to pay a fee

1 for failing to take certain actions with respect to the property, at any of the following
2 times:

3 **SECTION 33.** 706.22 (2) (a) 1. of the statutes, as created by 2015 Wisconsin Act
4 55, is renumbered 706.22 (2) (a) 1m. a.

5 **SECTION 34.** 706.22 (2) (a) 2. of the statutes, as created by 2015 Wisconsin Act
6 55, is renumbered 706.22 (2) (a) 1m. b.

7 **SECTION 35.** 706.22 (2) (a) 2m. of the statutes is created to read:

8 706.22 (2) (a) 2m. Restrict the ability of a person to purchase or take title to real
9 property by requiring the person or an agent of the person to take certain actions with
10 respect to the property or pay a related fee, to show compliance with taking certain
11 actions with respect to the property, or to pay a fee for failing to take certain actions
12 with respect to the property, at any of the following times:

- 13 a. Before the person may complete the purchase of or take title to the property.
14 b. At the time of completing the purchase of or taking title to the property.
15 c. Within a certain period of time after completing the purchase of or taking title
16 to the property.

17 **SECTION 36.** 706.22 (2) (a) 3. of the statutes, as created by 2015 Wisconsin Act
18 55, is renumbered 706.22 (2) (a) 1m. c.

19 **SECTION 37.** 706.22 (2) (a) 3m. of the statutes is created to read:

20 706.22 (2) (a) 3m. Restrict the ability of a purchaser of or transferee of title to
21 residential real property to take occupancy of the property by requiring the
22 purchaser or transferee or an agent of the purchaser or transferee to take certain
23 actions with respect to the property or pay a related fee, to show compliance with
24 taking certain actions with respect to the property, or to pay a fee for failing to take
25 certain actions with respect to the property, at any of the following times:

- 1 a. Before the purchaser or transferee may take occupancy of the property.
- 2 b. At the time of taking occupancy of the property.
- 3 c. Within a certain period of time after taking occupancy of the property.

4 **SECTION 38.** 706.22 (2) (b) of the statutes, as created by 2015 Wisconsin Act 55,
5 is renumbered 706.22 (2) (b) (intro.) and amended to read:

6 706.22 (2) (b) (intro.) Paragraph (a) does not ~~prohibit~~ do any of the following:

7 1. Prohibit a local governmental unit from requiring a real property owner or
8 the owner's agent to take certain actions with respect to the property not in
9 connection with the purchase, sale, or refinancing of, or the transfer of title to, the
10 property.

11 **SECTION 39.** 706.22 (2) (b) 2. of the statutes is created to read:

12 706.22 (2) (b) 2. Prohibit a local governmental unit from enforcing, or otherwise
13 affect the responsibility, authority, or ability of a local governmental unit to enforce,
14 a federal or state requirement that does any of the things a local governmental unit
15 is prohibited from doing under par. (a).

16 **SECTION 40.** 706.22 (3) of the statutes, as created by 2015 Wisconsin Act 55, is
17 renumbered 706.22 (3) (a) and amended to read:

18 706.22 (3) (a) If a local governmental unit has in effect on July 14, 2015, an
19 ordinance, resolution, or policy that is inconsistent with sub. (2) (a) 1m., the
20 ordinance, resolution, or policy does not apply and may not be enforced.

21 **SECTION 41.** 706.22 (3) (b) of the statutes is created to read:

22 706.22 (3) (b) If a local governmental unit has in effect on the effective date of
23 this paragraph [LRB inserts date], an ordinance, resolution, or policy that is
24 inconsistent with sub. (2) (a) 2m. or 3m., the ordinance, resolution, or policy does not
25 apply and may not be enforced.

1 SECTION 42. 895.463 of the statutes is created to read:

2 895.463 Zoning ordinances. In any matter relating to a zoning ordinance
3 or shoreland zoning ordinance enacted or enforced by a city, village, town, or county,
4 the court shall resolve an ambiguity in the meaning of a word or phrase in a zoning
5 ordinance or shoreland zoning ordinance in favor of the free use of private property.

6 SECTION 43. Initial applicability.

7 (1) ACTIONS AFFECTING LAND USE. The treatment of sections 59.69 (5) (f), 60.61
8 (4) (f), 62.23 (7) (d) 4., and 66.1001 (4) (f) of the statutes first applies to an action taken
9 by a city, village, town, or county that affects the allowable use of land on the effective
10 date of this subsection.

11 (2) VESTED RIGHTS AND AGENCY ACTIONS. The treatment of sections 20.932 and
12 66.10015 (1) (a) of the statutes first applies to any project for which ^{the first} an application
13 for approval is ^{submitted} pending on the effective date of this subsection.

14 (3) DOWN ZONING. The treatment of sections 59.69 (4) (j), 60.61 (2) (a) 6., 62.23
15 (7) (am), and 66.10015 (title), (1) (as) and (bs), and (3) of the statutes first applies to
16 a down zoning ordinance that is enacted on the effective date of this subsection.

17 (4) 66.10015... first applies ^(END) to project ^a is submitted
on the effective date of this subsection. ^{the first} request for approval

The treatment of section

INS6-5

Individual notice – (Secs. 4, 14, 16, 17) -- I don't think this section is drafted correctly. The ability of the community to include a notice in a person's property tax bill is supposed to be a notice for how to receive individual notice, not the notice about the proposed zoning/land use change. If the notice about a proposed zoning/land use change is included in a person's property tax bill (which is sent out only in December of every year), the public hearing related to the proposed change will likely have already occurred. Accordingly, I would make the following changes to Section 4, page 6, line 5 – after "county's Internet site" add "or inclusion in a resident's property tax mailing or other mailing sent to all property owners." Also, in Section 4, page 6, line 12 – delete "inclusion in the person's property tax" and replace with "1st class mail." These same changes should be made in the other sections of the bill.

Shovers, Marc

From: Jarchow, Adam
Sent: Thursday, January 07, 2016 6:03 AM
To: Konopacki, Larry
Cc: Kovach, Robert; Shea, Elisabeth; Shovers, Marc
Subject: Re: AB 582 amendment

That's fine with me. Mark please go ahead and add that.

Kind Regards,

Adam

Sent from my iPhone

On Jan 6, 2016, at 5:58 PM, Konopacki, Larry <Larry.Konopacki@legis.wisconsin.gov> wrote:

Rep. Jarchow,

Two additional things for the AB 582 amendment: I think that to be consistent with your intent Section 25 should be revised to add the language briefly mentioned by Brad in today's meeting regarding ag use and to also reference improvements on the land, so that it starts with the following: "Beginning on January 1, 2017, land not used for agricultural purposes that is platted and zoned for residential, commercial, or manufacturing use, and improvements on that land, until such time.....

Let me know if you would like to discuss.

Larry

Larry A. Konopacki
Wisconsin Legislative Council
(608) 267-0683
larry.konopacki@legis.wisconsin.gov

1/

(Lis) Remove all vested rights issues
 Keep § 19 remove § 1

Am's; 66.1001 (B)?
 R: do this & delete bill § 12

CUP complan dsrA have to be consistent w/ CUP

§ 23 check w/ Larry & Kurt

59.692 (Lis) App owner/Builder shall provide copies of UDC
 allow permit to counties (if one is req'd to be provided now)

Malaise, Gordon

From: Sands, Mitch
Sent: Friday, January 08, 2016 9:37 AM
To: Malaise, Gordon
Subject: FW: Follow up
Attachments: 201601071629.pdf

No. Just language in email

Gordon,

First, I am so sorry I forgot to send you the e-mail I promised you yesterday. Something came up right after we talked and it never happened. So, that is attached. Call Adam with questions.

Second, please take a look at the e-mail below. Hopefully it makes sense to you. Again, call Adam with questions. His cell is: 715-977-2772.

Thanks,

Mitch

From: adam jarchow [mailto:ajarchow@gmail.com]
Sent: Thursday, January 07, 2016 5:43 PM
To: Sands, Mitch <Mitch.Sands@legis.wisconsin.gov>
Subject: Fwd: Follow up

Please craft language consistent with the highlighted language in lieu of what he had prepared and have it put in Sub 2.

1. Rules

There are several different ways in which private sector impacts are currently considered as part of the rule making process. In the economic analysis (227.137) and the review of rules affecting housing (227.115) the primary emphasis is on disclosure of impacts. In the small business analysis (227.114) the analysis is more on alternatives to minimize impacts. My suggestion here would be a simple hybrid to the economic analysis in 227.137. I would propose we create 227.137(3)(g) as follows:

(3) An economic impact analysis of a proposed rule shall contain information on the economic effect of the proposed rule on specific businesses, business sectors, public utility ratepayers, local governmental units, and the state's economy as a whole. When preparing the analysis, the agency shall solicit information and advice from businesses, associations representing businesses, local governmental units, and individuals that may be affected by the proposed rule. The agency shall prepare the economic impact analysis in coordination with local governmental units that may be affected by the proposed rule. The agency may request information that is reasonably necessary for the preparation of an economic impact analysis from other businesses, associations, local governmental units, and individuals and from other agencies. The economic impact analysis shall include all of the following: ...

would place any limitations on
(g) An analysis of the ways and extent to which the rule limits the free use of private property including a discussion of alternatives that would minimize any such impacts.

2. Agency Deference on Judicial review.

My initial suggestion was to create a short new section as follows:

227.57(11). Upon review of an agency action or decision affecting a property owner's use of the property, the court shall accord no deference to the agency's interpretation of law if the agency decision restricted the property owner's free use of the property owner's property.

action or

property owners

--
Sent from Gmail Mobile

50222

Shea, Elisabeth

From: Konopacki, Larry
Sent: Tuesday, January 12, 2016 11:48 AM
To: Shea, Elisabeth; Shovers, Marc
Cc: Jarchow, Adam; Kovach, Robert
Subject: AB 582 Sub. Am.

Hi Lis and Marc,

Rep Jarchow has requested that the additional following changes be made to substitute amendment 1 to AB 582:

1. In the hearing examiner substitution provision under s. 227.445, please amend the bill so that this provision only applies to contracts, permits, and approvals issued or denied by DNR and DATCP, instead of all agencies.
2. In the same provision, please require that the written request for substitution of the hearing examiner be filed with the administrator of the division of hearings and appeals, instead of the hearing examiner. To give effect to this change, on page 15, lines 4-7, replace "If the hearing examiner fails to make a determination as to allowing the substitution within 7 days, the hearing examiner shall refer the matter to" with "Upon receipt of a request under sub. (1)," and replace "for the determination and, if proper, the assignment of a substitute hearing examiner" with "shall transfer the matter and all materials relating to the matter to another hearing examiner." Also, remove proposed s. 227.445 (3).
3. Eliminate section 23 of the substitute amendment and create initial applicability provisions which provide something to the effect of the following:
 - a. For parcels located in a tax incremental district on the effective date of the bill, the treatment of sections 70.32 (2) (c) 4. and 74.485(4) (a) first apply the year following the termination of the tax incremental district.
 - b. For parcels not located in a tax incremental district on the effective date of the bill, the treatment of section 70.32 (2) (c) 4. and 74.485(4) (a) first apply the first day of the second year beginning after the effective date of the bill.

Larry A. Konopacki
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