



1997 ASSEMBLY BILL 930

March 19, 1998 - Introduced by Representatives BOCK, BALDWIN, BAUMGART, BLACK, GRONEMUS, J. LEHMAN, TURNER and R. YOUNG, cosponsored by Senators RISSER and BURKE. Referred to Joint committee on Finance.

1 **AN ACT** *to repeal* 16.966 (5); *to amend* 15.01 (4), 15.01 (4) and 16.023 (3); and
2 *to create* 16.023 (1) (n), 16.023 (1m), 16.966 (5), 20.505 (1) (z), 25.40 (2) (b) 20e.,
3 59.69 (3m), 60.61 (3s) and 62.23 (5m) of the statutes; **relating to:** land use
4 planning grants for local governments and nonprofit organizations, requiring
5 local units of government to adopt a land use plan, granting rule-making
6 authority and making an appropriation.

Analysis by the Legislative Reference Bureau

Under this bill, a city, village, town, or county (political subdivision), a regional planning commission (RPC) or a nonprofit organization may apply for a land use planning grant to the department of administration (DOA). A grant to a political subdivision or RPC is to be used to reimburse the political subdivision or RPC for the costs it incurs in developing a comprehensive land use plan or to fund a land use planning project that is described in the application. A grant to a nonprofit organization is to be used to reimburse the organization for the costs it incurs in developing a comprehensive land use plan, which shall be provided to a political subdivision or RPC that is identified in its application.

The bill appropriates \$3,100,000 from the transportation fund for the purpose of making the land use planning grants.

The bill defines a "comprehensive land use plan" as a plan that contains or addresses a number of specified elements, including the following:

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1. A vision statement that expresses a community identity.
2. Transportation, land use, housing and historic preservation issues.
3. Economic development and energy issues.
4. Intergovernmental coordination and cooperation issues.
5. Environmental quality protection issues, including air quality, water quality and wildlife habitat quality.
6. Infrastructure issues.
7. Open spaces issues.

A political subdivision's, RPC's or nonprofit organization's application to DOA is required to certify a number of elements, including certification that the applicant will develop a comprehensive land use plan, that the plan will substantially meet a number of land use planning goals that are created in the bill and that the applicant will deliver a comprehensive land use plan to the Wisconsin land council not later than one year after receiving provisional or final certification from DOA that DOA believes, based on the application, that the applicant has a reasonable likelihood of successfully developing a comprehensive land use plan and that the plan will substantially meet a number of land use planning goals. The land use planning goals, which are created in the bill, include the following:

1. The promotion of the redevelopment of existing lands.
2. The encouragement of neighborhood designs that support a range of transportation and lifestyle choices.
3. The protection of natural resources and productive areas, such as farms.
4. Seeking of a range of housing choices.

If DOA provisionally certifies a political subdivision or a RPC, DOA must set aside money for the grant. If DOA certifies a nonprofit organization, DOA must award the grant to the applicant. DOA is then required to forward the applications of applicants who are awarded provisional certification or grants to the Wisconsin land use council for the council's review.

The council is required to review the applications and to notify DOA of one of the following determinations:

1. The applicant's land use plan substantially meets all of the land use planning goals that are created in the bill. In such a case, the applicant is an "eligible applicant".
2. The council does not receive the applicant's land use plan.
3. The council does receive the plan, but the plan is inadequate, fails to meet the required goals or was not presented to the appropriate political subdivision or RPC.

In the case of an eligible applicant, DOA is required to release the land use planning grant to the applicant. If the council notifies DOA that a plan received from a nonprofit organization is inadequate, fails to meet the required goals or was not presented to the appropriate political subdivision or RPC, DOA must demand repayment of the grant from the nonprofit organization and the organization must repay to DOA the amount of the grant that was awarded.

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Under the bill, DOA is required to promulgate rules to further define a comprehensive land use plan, to further develop appropriate land use goals and to further develop grant application criteria for nonprofit organizations.

The bill also requires a political subdivision to adopt a comprehensive land use plan, as defined in the bill, not later than January 1, 2005. The grant program created in the bill sunsets on September 1, 2003. Under current law, the land use council does not exist after August 31, 2003.

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.** 15.01 (4) of the statutes is amended to read:

2 15.01 (4) "Council" means a part-time body appointed to function on a
3 continuing basis for the study, and recommendation of solutions and policy
4 alternatives, of the problems arising in a specified functional area of state
5 government, except the Wisconsin land council has the powers and duties specified
6 in s. 16.023, the Milwaukee river revitalization council has the powers and duties
7 specified in s. 23.18, the council on physical disabilities has the powers and duties
8 specified in s. 46.29 (1) and (2), the state council on alcohol and other drug abuse has
9 the powers and duties specified in s. 14.24 and, before January 1, 2001, the council
10 on health care fraud and abuse has the powers and duties specified in s. 146.36.

11 **SECTION 2.** 15.01 (4) of the statutes, as affected by 1997 Wisconsin Act (this
12 act), is amended to read:

13 15.01 (4) "Council" means a part-time body appointed to function on a
14 continuing basis for the study, and recommendation of solutions and policy
15 alternatives, of the problems arising in a specified functional area of state
16 government, except the Wisconsin land council has the powers and duties specified
17 in s. 16.023, the Milwaukee river revitalization council has the powers and duties

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1 specified in s. 23.18, the council on physical disabilities has the powers and duties
2 specified in s. 46.29 (1) and (2), the state council on alcohol and other drug abuse has
3 the powers and duties specified in s. 14.24 and, before January 1, 2001, the council
4 on health care fraud and abuse has the powers and duties specified in s. 146.36.

5 **SECTION 3.** 16.023 (1) (n) of the statutes is created to read:

6 16.023 (1) (n) Certify eligible applicants and review the applications of
7 nonprofit applicants under sub. (1m) (b) who apply for land use planning grants
8 under s. 16.966 (5), using the criteria under sub. (1m) (a).

9 **SECTION 4.** 16.023 (1m) of the statutes is created to read:

10 16.023 (1m) (a) After receiving an applicant's application for a land use
11 planning grant from the department under s. 16.966 (5) (c) and after receiving the
12 applicant's comprehensive land use plan, the council shall review the application
13 and the plan to determine whether the applicant's land use plan substantially meets
14 all of the following land use planning goals, to the extent that such goals are
15 applicable:

- 16 1. Promotion of the redevelopment of existing urban lands.
- 17 2. Encouragement of neighborhood designs that support a range of
18 transportation and lifestyle choices.
- 19 3. Discouragement of land uses that impose disproportionately high public
20 service costs or that diminish the value of adjacent lands.
- 21 4. Protection of natural areas, including wetlands, wildlife habitats, lakes and
22 woodlands, and groundwater resources.
- 23 5. Protection of productive areas, including farmland and forests.
- 24 6. Preservation of cultural, historic and archaeological sites.

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1 7. Staging of growth to match public service and infrastructure capacities with
2 projected demand.

3 8. Encouragement of coordination and cooperation among nearby units of
4 government.

5 9. Building of community identity by maintaining physical separation between
6 urban areas, revitalizing main streets and enforcing design standards.

7 10. Linking of open spaces and cultural, recreational, historic and other
8 resources in corridors.

9 11. Seeking of a range of housing choices, including affordable housing and a
10 range of densities, throughout each community.

11 (b) If the council determines under s. 16.966 (5) (d) 1. that an applicant's land
12 use plan substantially meets all of the land use planning goals under par. (a), the
13 applicant is an eligible applicant and the council shall certify its determination to the
14 department. If the council does not receive the land use plan as described in s. 16.966
15 (5) (d) 2., the council shall notify the department. If the council does receive the plan
16 as described in s. 16.966 (5) (d) 2. and the plan is inadequate, fails to meet the goals
17 under par. (a) or was not presented to the appropriate city, village, town, county or
18 regional planning commission, the council shall certify its determination to the
19 department.

20 **SECTION 5.** 16.023 (3) of the statutes, as created by 1997 Wisconsin Act 27, is
21 amended to read:

22 16.023 (3) Subsections (1), (1m) and (2) do not apply after August 31, 2003.

23 **SECTION 6.** 16.966 (5) of the statutes is created to read:

24 16.966 (5) (a) In this subsection:

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1 1. “Comprehensive land use plan” means the land use plan of a nonprofit
2 organization, a political subdivision or a regional planning commission that contains
3 or addresses at least all of the following elements:

4 a. A vision statement that expresses a community identity.

5 b. Transportation issues.

6 c. Land use issues.

7 d. Housing issues.

8 e. Community facilities and infrastructure issues.

9 f. Economic development issues.

10 g. Intergovernmental coordination and cooperation issues.

11 h. Historic preservation.

12 i. Urban design issues.

13 j. Protection of land resources, including farmland, forests and wetlands.

14 k. Environmental quality protection issues, including air quality, water quality
15 and wildlife habitat quality.

16 L. Energy issues.

17 m. Land market analysis, including supply, demand and prices.

18 n. Open spaces issues.

19 o. A method to determine whether progress is being made in addressing the
20 elements of the plan.

21 p. Capital improvement programs.

22 q. The role of community groups in land use planning.

23 r. Issues related to the timing of development.

24 s. Issues related to the preparation of official maps.

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1 2. "Nonprofit organization" means an organization described in section 501 (c)
2 (3) of the Internal Revenue Code that is incorporated in this state and that is exempt
3 from federal income tax under section 501 (a) of the Internal Revenue Code.

4 3. "Political subdivision" means a city, village, town or county.

5 (b) 1. A political subdivision, a regional planning commission or a nonprofit
6 organization may apply for a land use planning grant under this subsection on an
7 application prepared by the department. A grant that is awarded under par. (d) to
8 a political subdivision or a regional planning commission shall be used to reimburse
9 the political subdivision or regional planning commission for the costs it incurs in
10 developing its comprehensive land use plan or to fund a land use planning project
11 that is described in the application and that is consistent with the applicant's
12 comprehensive land use plan or both. A grant that is awarded under par. (c) to a
13 nonprofit organization shall be used by the the nonprofit organization for the costs
14 it incurs in developing a comprehensive land use plan.

15 2. In its application, a political subdivision shall certify all of the following:

16 a. That it will develop a comprehensive land use plan.

17 b. That its comprehensive land use plan will substantially meet the land use
18 planning goals under s. 16.023 (1m) (a).

19 c. That it will deliver a comprehensive land use plan, and the proposed
20 ordinances described under subd. 2. d., to the Wisconsin land council under s. 16.023
21 not later than one year after receiving provisional certification from the department
22 under par. (c).

23 d. That it will enact any ordinances that are necessary to implement the
24 comprehensive land use plan and amend any ordinances that conflict with the plan.

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1 e. That it will contribute, from its own funds, an amount equal to at least 25%
2 of the grant amount to fund the costs for which the grant is awarded.

3 f. The amount of the grant that it is requesting.

4 3. In its application, a regional planning commission shall certify all of the
5 following:

6 a. That it will develop a comprehensive land use plan.

7 b. That its comprehensive land use plan will substantially meet the land use
8 planning goals under s. 16.023 (1m) (a).

9 c. That it will deliver a comprehensive land use plan to the Wisconsin land
10 council under s. 16.023 not later than one year after receiving provisional
11 certification from the department under par. (c).

12 d. That it will contribute, from its own funds, an amount equal to at least 25%
13 of the grant amount to fund the costs for which the grant is awarded.

14 e. The amount of the grant that it is requesting.

15 4. In its application, a nonprofit organization shall certify all of the following:

16 a. That it will develop a comprehensive land use plan.

17 b. That its comprehensive land use plan will substantially meet the land use
18 planning goals under s. 16.023 (1m) (a).

19 c. That it will deliver a comprehensive land use plan to the Wisconsin land use
20 council under s. 16.023 not later than one year after receiving certification from the
21 department under par. (c).

22 d. The amount of the grant that it is requesting.

23 e. That it will present its comprehensive land use plan to a political subdivision
24 or a regional planning commission that it has identified in its application.

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1 (c) An applicant shall submit its application to the department for a land use
2 planning grant to be made in any year not later than July 1 of the preceding year.
3 If the department believes, based on the application, that the applicant has a
4 reasonable likelihood of successfully developing a comprehensive land use plan and
5 that the applicant's comprehensive land use plan will substantially meet the land
6 use planning goals under s. 16.023 (1m) (a), the department shall grant provisional
7 certification to the applicant and set aside money for the grant if the applicant is a
8 political subdivision or a regional planning commission, or grant certification and
9 award the grant to the applicant from the appropriation under s. 20.505 (1) (z) if the
10 applicant is a nonprofit organization. The applications of certified applicants or
11 applicants who receive grants under this paragraph shall be sent to the Wisconsin
12 land council under s. 16.023. The department shall award grants that equal
13 approximately 5% of the amount of the appropriation under s. 20.505 (1) (z), each
14 year, to nonprofit organizations.

15 (d) 1. If, after receiving the comprehensive land use plan and, in the case of a
16 political subdivision, ordinances described under par. (b) 2. a. and d. or 3. a. within
17 the time period specified under par. (b) 2. c. or 3. c., the Wisconsin land council
18 certifies to the department under s. 16.023 (1m) (b) that the applicant's
19 comprehensive land use plan meets the goals under s. 16.023 (1m) (a), the
20 department shall release the land use planning grant to the applicant from the
21 appropriation under s. 20.505 (1) (z).

22 2. If the Wisconsin land council does not receive the comprehensive land use
23 plan described under par. (b) 4. a. within the time period specified under par. (b) 4.
24 c., or if the council does receive the plan within the specified period and the council
25 certifies to the department that the nonprofit organization's comprehensive land use

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1 plan is inadequate, does not meet the goals under s. 16.023 (1m) (a) or was not
2 presented to the political subdivision or regional planning commission that it
3 identified in its application, the department shall, following notification or
4 certification from the council under s. 16.023 (1m) (b), demand repayment of the
5 grant awarded to the nonprofit organization under par. (c) and the nonprofit
6 organization shall repay to the department the amount of the grant that it was
7 awarded.

8 (e) A political subdivision or regional planning commission that receives a
9 comprehensive land use plan that is prepared by a nonprofit organization, as
10 described under par. (b) 4. e., shall review the plan and shall accept it, modify it
11 consistent with the requirements of a comprehensive land use plan and consistent
12 with land use planning goals under s. 16.023 (1m) (a) and accept it as modified or
13 reject it.

14 (f) The department shall promulgate rules to further define a comprehensive
15 land use plan, to further develop appropriate land use goals and to further develop
16 grant application criteria for nonprofit organizations consistent with this
17 subsection.

18 **SECTION 7.** 16.966 (5) of the statutes, as created by 1997 Wisconsin Act (this
19 act), is repealed.

20 **SECTION 8.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
21 the following amounts for the purposes indicated:

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1		1997-98	1998-99
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2 **20.505 Administration, department of**

3 (1) SUPERVISION AND MANAGEMENT; LAND INFORMATION
4 BOARD

5	(z) Land use planning grants	SEG	C	1,400,000	1,700,000
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6 **SECTION 9.** 20.505 (1) (z) of the statutes is created to read:

7 20.505 (1) (z) *Land use planning grants.* From the transportation fund, as a
8 continuing appropriation, the amounts in the schedule for awarding grants under s.
9 16.966 (5) (c) and (d). No moneys may be encumbered under this paragraph after
10 August 31, 2003.

11 **SECTION 10.** 25.40 (2) (b) 20e. of the statutes is created to read:

12 25.40 (2) (b) 20e. Section 20.505 (1) (z).

13 **SECTION 11.** 59.69 (3m) of the statutes is created to read:

14 59.69 (3m) COMPREHENSIVE LAND USE PLAN. (a) The county zoning agency shall
15 adopt a comprehensive land use plan, as defined in s. 16.966 (5), 2001 stats., not later
16 than January 1, 2004.

17 (b) The board shall adopt a comprehensive land use plan, as defined in s. 16.966
18 (5), 2001 stats., not later than January 1, 2005, and may adopt in whole or in part,
19 or may amend, the plan adopted by the county zoning agency under par. (a).

20 **SECTION 12.** 60.61 (3s) of the statutes is created to read:

21 60.61 (3s) COMPREHENSIVE LAND USE PLAN. The town board shall adopt a
22 comprehensive land use plan, as defined in s. 16.966 (5), 2001 stats., not later than
23 January 1, 2005.

24 **SECTION 13.** 62.23 (5m) of the statutes is created to read:

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1 62.23 (5m) COMPREHENSIVE LAND USE PLAN. (a) The city plan commission shall
2 adopt a comprehensive land use plan, as defined in s. 16.966 (5), 2001 stats., not later
3 than January 1, 2004.

4 (b) The council shall adopt a comprehensive land use plan, as defined in s.
5 16.966 (5), 2001 stats., not later than January 1, 2005, and may adopt in whole or
6 in part, or may amend, the plan adopted by the city plan commission under par. (a).

7 **SECTION 14. Nonstatutory provisions.**

8 (1) The department of administration shall submit proposed rules under
9 section 16.966 (5) (f) of the statutes, as created by this act, to the legislative council
10 staff for review under section 227.15 (1) of the statutes no later than the first day of
11 the 6th month beginning after the effective date of this subsection.

12 (2) Using the procedure under section 227.24 of the statutes, the department
13 of administration may promulgate rules under section 16.966 (5) (f) of the statutes,
14 as created by this act, for the period before the effective date of the rules submitted
15 under subsection (1), but not to exceed the period authorized under section 227.24
16 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a) and (2) (b) of the
17 statutes, the department need not provide evidence of the necessity of preservation
18 of the public peace, health, safety or welfare in promulgating rules under this
19 subsection.

20 **SECTION 15. Effective dates.** This act takes effect on the day after publication,
21 except as follows:

22 (1) The treatment of section 15.01 (4) (by SECTION 2) of the statutes and the
23 repeal of section 16.966 (5) of the statutes take effect on September 1, 2003.

24

(END)