



## 2005 ASSEMBLY BILL 760

October 17, 2005 – Introduced by Representatives ALBERS, MUSSER, AINSWORTH and HAHN. Referred to Committee on Property Rights and Land Management.

1     **AN ACT** *to repeal* 236.10 (1) (b) 1. to 3.; *to renumber and amend* 59.69 (3) (b)  
2             and 236.10 (1) (b) (intro.); *to amend* 59.69 (1), 59.69 (2) (a) 1., 59.69 (2) (e), 59.69  
3             (3) (a), 59.69 (3) (e), 59.69 (5) (c), 59.69 (5) (d), 60.62 (3), 62.23 (7) (d) 1. b., 62.23  
4             (7a) (intro.), 62.23 (7a) (a), 66.1001 (3) (intro.), 66.1001 (4) (a) and 236.13 (4);  
5             and *to create* 59.69 (3) (b) 1. to 4., 59.69 (3m), 59.694 (15), 60.23 (33), 60.23 (34),  
6             60.62 (5), 60.62 (6), 62.23 (7a) (h) and (i), 66.1001 (3m), 66.1001 (4) (f) and  
7             66.1001 (7) of the statutes; **relating to:** changes to the comprehensive planning  
8             statutes and authorizing towns to withdraw from county zoning.

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### ***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.

Under this bill, the county board may only designate a single committee of the board to act in all matters pertaining to county planning and zoning. Except in

**ASSEMBLY BILL 760**

counties which contain a city with a population of more than 500,000 (currently only Milwaukee County), the bill requires that the county zoning agency consist of a majority of county board supervisors who represent districts in which the majority of the residents of such districts reside in unincorporated, or town, territory.

Under the current law commonly known as the “Smart Growth” statute, if a local governmental unit (city, village, town, county, or regional planning commission) 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 include the following: housing; transportation; utilities and community facilities; agricultural, natural, and cultural resources; economic development; and land use.

Beginning on January 1, 2010, current law requires that certain actions of a local governmental unit that affect land use must be consistent with that local governmental unit’s comprehensive plan. The actions to which this requirement applies are official mapping, local subdivision regulation, and zoning ordinances, including zoning of shorelands or wetlands in shorelands. Also beginning on January 1, 2010, current law requires that 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. This bill makes a number of changes to the comprehensive planning statute.

Under the bill, the comprehensive planning statute applies only to a local governmental unit that has a population of more than 1,500 people, and requires a local governmental unit to issue written findings that indicate how the actions it undertakes are consistent with its own comprehensive plan. If a circuit court case challenges the validity of a comprehensive plan, including whether an allowable action is consistent with a local governmental unit’s comprehensive plan, the bill requires a court to conclude that the plan is valid. The bill also requires a court to presume that the action is valid if the local governmental unit issues written findings that describe their reasons for its action. And the bill also requires a court to conclude that the action is consistent with the plan unless there is no rational basis for the action in any aspect of any of the elements of the comprehensive plan. Such actions must be commenced within 120 days of the action being adopted by the local governmental unit or it is barred. In addition, only property owners have standing to file an action.

The bill also requires a local governmental unit, at the initial stage of the preparation of a comprehensive plan, to invite and consider written comments from property owners on their proposed or contemplated uses for their property over the next ten years.

If a local governmental unit engages in any planning activity under its comprehensive plan, the bill requires it to attempt to determine which territory from an adjacent local governmental unit, which abuts territory in the local governmental unit that is taking action, may be affected and to so notify that other local governmental unit and consider any comments or plans submitted for review by the affected local governmental unit to the local governmental unit that is taking action.

**ASSEMBLY BILL 760**

Under current law, if a town board has been granted the authority to exercise village powers, the town board may adopt zoning ordinances under the zoning statutes that apply to cities and villages, subject to a number of conditions. If the county in which the town is located has enacted a county zoning ordinance, town zoning ordinances may not take effect until such ordinances are approved either by a town meeting or by a referendum vote of the electors of the town and are approved by the county board.

In addition, in counties having a zoning ordinance, no town zoning ordinance, or amendment of a zoning ordinance, may be adopted by the town unless approved by the county board. Under the bill, this provision does not apply to a master plan adopted or amended by a town that exercises village powers.

Also under this bill, a town board that is authorized to exercise village powers may enact an ordinance withdrawing from coverage of a county zoning ordinance and a county development plan. The ordinance may not take effect unless the town clerk notifies the county clerk of the proposed ordinance and the town enacts, and sends copies to the county clerk, a town zoning ordinance, a comprehensive plan, and an official map. If a town does withdraw from county zoning, however, it is still subject to a county shorelands zoning ordinance. In addition, a town must provide the same level of enforcement of its zoning ordinance that the county formerly provided. County board approval of a town zoning ordinance is not required if the town has withdrawn from county zoning.

Currently, the county development plan may be adopted, and amended, by the county board and may be endorsed by the governing bodies of the incorporated jurisdictions (cities and villages) included in the plan. Under the bill, the plan may be adopted by a majority of the members-elect of the county board, but the plan may be so amended only if the proposed amendment is endorsed by the governing bodies of the unincorporated and incorporated jurisdictions included in the plan.

Current law authorizes a county board to repeal an existing county zoning ordinance and reenact a comprehensive revision by a single ordinance. Under this bill, a county is required, approximately every ten years, to repeal an existing county zoning ordinance and reenact a comprehensive revision by a single ordinance.

Current law requires that the county development plan include the master plan and official map of a city or village in the county, and that a city or village master plan and official map control in the city's or village's extraterritorial zoning jurisdiction over a county development plan that affects that same area. A city's or village's extraterritorial zoning jurisdiction consists of unincorporated areas (town or county territory) within three miles of the corporate limits of a first, second, or third class city or within one and a half miles of a fourth class city or a village. Under the bill, a town and a city or village may agree that the city or village may exercise extraterritorial zoning jurisdiction over the entire town. This bill also limits a city's and village's extraterritorial zoning jurisdiction to those towns that have not enacted a master plan and to town territory that is not covered by a cooperative boundary agreement to which the town and the city or village are parties.

Also under the bill, if a territory has received final plat approval from a town or county and if after that approval the territory comes within the extraterritorial

**ASSEMBLY BILL 760**

zoning jurisdiction of a city or village, no city or village zoning ordinances may apply to the territory if the application of the ordinances would preclude the developer from developing his or her land in accordance with the final plat approval for five years after the territory received town or county final plat approval. Current law also allows a town to adopt an official map under certain situations if the town is located in a county that has not enacted a county zoning ordinance.

This bill authorizes a town that may exercise village powers to adopt an official map at any time. The bill requires that a county development plan include both the official map of any town in the county that has adopted a comprehensive plan and the comprehensive plan. Also under the bill, a city's or village's master plan and official map control in the city's or village's extraterritorial zoning jurisdiction only if an official town map is not part of the county development plan.

This bill authorizes the creation of a joint planning body (JPB) to approve or reject an applicant's request for a zoning permit or other zoning approval in areas that are subject to both town and county zoning ordinances and not subject to a cooperative boundary agreement. A JPB is convened upon the request of such an applicant. The JPB consists of three members appointed by the county and three members appointed by the town. After issuing its written decision to approve or reject the applicant's request, the JPB is disbanded. An approval of the request constitutes final approval of the county and the town.

The bill also requires, to the greatest extent possible, that at least one member of a county board of adjustment attend each meeting in the county of a town plan commission, and requires the plan commission to provide board of adjustment members with as much advance notice of its meetings as possible.

Under current law if two or more governing bodies or agencies have the authority to approve or object to a plat and the requirements of the bodies or agencies conflict, the plat must comply with the most restrictive requirement. This bill qualifies this provision by allowing a county to object to a town plat only if the plat is subject to a county plan or a boundary agreement to which the county is a party.

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

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

- 1           **SECTION 1.** 59.69 (1) of the statutes is amended to read:
- 2           59.69 (1) **PURPOSE.** It is the purpose of this section to promote the public health,
- 3 safety, convenience, and general welfare; to encourage planned and orderly land use
- 4 development; to protect property values, individual property rights, and the property
- 5 tax base; to permit the careful planning and efficient maintenance of highway

**ASSEMBLY BILL 760**

1 systems; to ensure adequate highway, utility, health, educational, and recreational  
2 facilities; to recognize the needs of agriculture, forestry, industry, and business in  
3 future growth; to encourage uses of land and other natural resources which are in  
4 accordance with their character and adaptability; to provide adequate light and air,  
5 including access to sunlight for solar collectors and to wind for wind energy systems;  
6 to encourage the protection of groundwater resources; to preserve wetlands; to  
7 conserve soil, water, and forest resources; to protect the beauty and amenities of  
8 landscape and man-made developments; to provide healthy surroundings for family  
9 life; and to promote the efficient and economical use of public funds. To accomplish  
10 this purpose, the board may plan for the physical development and zoning of territory  
11 within the county as set forth in this section and shall incorporate therein the master  
12 plan adopted under s. 62.23 (2) or (3) and, the official map of any city or village in the  
13 county adopted under s. 62.23 (6), and the official map, adopted under s. 60.23 (33),  
14 of any town in the county that has adopted a comprehensive plan, as defined in s.  
15 66.1001 (1) (a) 2.

16 **SECTION 2.** 59.69 (2) (a) 1. of the statutes is amended to read:

17 59.69 (2) (a) 1. Except as provided under subd. 2., the board may ~~create a~~  
18 ~~planning and zoning committee as a county board agency or may create a planning~~  
19 ~~and zoning commission consisting wholly or partially of persons who are not~~  
20 ~~members of the board, designated the county zoning agency. In lieu of creating a~~  
21 ~~committee or commission for this purpose, the board may designate a previously~~  
22 ~~established single committee or commission as the county zoning agency, which shall~~  
23 ~~be the sole committee authorized to act in all matters pertaining to county planning~~  
24 ~~and zoning. Except in counties which contain a city with a population of more than~~  
25 ~~500,000, the county zoning agency shall consist of a majority of county board~~

**ASSEMBLY BILL 760**

1 supervisors, each of whose districts contain individuals a majority of whom reside  
2 in unincorporated territory.

3 **SECTION 3.** 59.69 (2) (e) of the statutes, as affected by 2005 Wisconsin Act 26,  
4 is amended to read:

5 59.69 (2) (e) Wherever a public hearing is specified under this section, the  
6 hearing shall be conducted by the county zoning agency in the county courthouse or  
7 in such other appropriate place as may be selected by the county zoning agency. The  
8 county zoning agency shall give notice of the public hearing by publication in the  
9 county as a class 2 notice under ch. 985, and shall consider any comments made, or  
10 submitted by, the commanding officer, or the officer's designee, of a military base or  
11 installation, with at least 200 assigned military personnel or that contains at least  
12 2,000 acres, that is located in or near the county. If the county zoning agency or the  
13 board plans to hold a public hearing on a proposal to amend a county development  
14 plan and a zoning ordinance, it may provide notice of both proposals in the same class  
15 2 notice under ch. 985.

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

17 59.69 (3) (a) The Subject to s. 60.23 (34), the county zoning agency may direct  
18 the preparation of a county development plan or parts of the plan for the physical  
19 development of the unincorporated territory within the county and shall have  
20 jurisdiction over areas within incorporated jurisdictions whose governing bodies by  
21 resolution agree to having their areas included in the county's development plan.  
22 The plan may be adopted in whole or in part and may be amended by a majority vote  
23 of the members-elect of the board and if the proposed amendment is endorsed by the  
24 governing bodies of the unincorporated and incorporated jurisdictions included in  
25 the plan. The county development plan, in whole or in part, in its original form or

**ASSEMBLY BILL 760**

1 as amended, is hereafter referred to as the development plan. Beginning on  
2 January 1, 2010, if the county engages in any program or action described in s.  
3 66.1001 (3), the development plan shall contain at least all of the elements specified  
4 in s. 66.1001 (2).

5 **SECTION 5.** 59.69 (3) (b) of the statutes is renumbered 59.69 (3) (b) (intro.) and  
6 amended to read:

7 59.69 (3) (b) (intro.) The development plan shall include ~~the master plan, if any,~~  
8 ~~of any city or village, that was adopted under s. 62.23 (2) or (3) and the official map,~~  
9 ~~if any, of such city or village, that was adopted under s. 62.23 (6) in the county,~~  
10 ~~without change, without change, all of the following:~~

11 **SECTION 6.** 59.69 (3) (b) 1. to 4. of the statutes are created to read:

12 59.69 (3) (b) 1. The master plan, if any, of any city or village, that was adopted  
13 under s. 62.23 (2) or (3).

14 2. The official map, if any, of a city or village described under subd. 1., that was  
15 adopted under s. 62.23 (6) in the county.

16 3. The official map, as adopted under s. 60.23 (33), of any town in the county  
17 that has adopted a comprehensive plan, as defined in s. 66.1001 (1) (a) 2.

18 4. The comprehensive plan of a town described under subd. 3., that was adopted  
19 under s. 62.23 (2) or (3).

20 **SECTION 7.** 59.69 (3) (e) of the statutes is amended to read:

21 59.69 (3) (e) A master plan adopted by a city or village under s. 62.23 (2) and  
22 (3) and an official map that is established by a city or village under s. 62.23 (6) shall  
23 control in unincorporated territory in a county affected thereby, whether or not such  
24 action occurs before the adoption of a development plan, except that if the county

**ASSEMBLY BILL 760**

1 development plan includes an official town map as described under par. (b) the town  
2 map shall control in its territory.

3 **SECTION 8.** 59.69 (3m) of the statutes is created to read:

4 **59.69 (3m) JOINT PLANNING BODY.** (a) In this subsection:

5 1. “Applicant” means a person who applies for a permit or approval from a  
6 county to comply with a zoning ordinance adopted under this section or a permit or  
7 approval from a town to comply with a zoning ordinance adopted under s. 60.62, or  
8 both.

9 2. “Overlapping jurisdiction” means territory that is subject to a county  
10 ordinance adopted under this section and a town ordinance adopted under s. 60.62.

11 (b) 1. Except as provided in subd. 2., if any territory in the county is subject to  
12 overlapping jurisdiction, any applicant who is subject to such overlapping  
13 jurisdiction may request the creation of a joint planning body, as described in par. (c),  
14 to ensure that the applicant receives a timely decision on the applicant’s request for  
15 the necessary permit or approval from both the county and the town.

16 2. If the overlapping jurisdiction is subject to a boundary agreement under s.  
17 66.0307, the terms of the boundary agreement shall control as to whether the  
18 applicant’s permit or other approval request may be granted. To the extent that the  
19 boundary agreement does not cover the applicant’s permit or other approval request,  
20 the applicant may request the creation of the joint planning body under subd. 1.

21 (c) 1. A joint planning body shall be created upon the request of an applicant  
22 under par. (b) 1. The joint planning body shall have 3 members selected by the county  
23 and 3 members selected by the town. The county board and town board shall  
24 determine how the members are selected, but the members shall be selected not later  
25 than 30 days after the applicant requests that a joint planning body be created.



**ASSEMBLY BILL 760**

1           2. The joint planning body shall hold a public hearing on the applicant's request  
2 as soon as possible after all 6 members are selected and shall have the power to  
3 approve or reject the applicant's permit request or other approval sought by the  
4 applicant. A vote of a majority of a quorum of the members of the joint planning body  
5 is required to issue a permit or grant an approval requested by the applicant, and  
6 such action by the body shall be considered to be final approval from the county and  
7 the town. To constitute a quorum, at least 4 members of the joint planning body must  
8 be present at the meeting at which the body votes on the applicant's request.

9           3. As soon as possible after voting on the applicant's request, the joint planning  
10 body shall issue a written decision that explains its reason for approving or rejecting  
11 the applicant's request.

12           4. After issuing its written decision, the joint planning body is disbanded. If  
13 another applicant requests the creation of a joint planning body, the county and town  
14 may select the same members or different members to serve on the body.

15           **SECTION 9.** 59.69 (5) (c) of the statutes is amended to read:

16           59.69 (5) (c) A county ordinance enacted under this section shall not be effective  
17 in any town until it has been approved by the town board. If the town board approves  
18 an ordinance enacted by the county board, under this section, a certified copy of the  
19 approving resolution attached to one of the copies of such ordinance submitted to the  
20 town board shall promptly be filed with the county clerk by the town clerk. The  
21 ordinance shall become effective in the town as of the date of the filing, which filing  
22 shall be recorded by the county clerk in the clerk's office, reported to the town board  
23 and the county board, and printed in the proceedings of the county board. The  
24 ordinance shall supersede any prior town ordinance in conflict therewith or which

**ASSEMBLY BILL 760**

1 is concerned with zoning, except as provided by s. 60.62. A town board may withdraw  
2 from coverage of a county zoning ordinance as provided under s. 60.23 (34).

3 **SECTION 10.** 59.69 (5) (d) of the statutes is amended to read:

4 59.69 (5) (d) The board ~~may~~ shall by a single ordinance, not later than the 1st  
5 day of the 120th month beginning after the effective date of the most recently enacted  
6 comprehensive revision, repeal an existing county zoning ordinance and reenact a  
7 comprehensive revision thereto in accordance with this section. “Comprehensive  
8 revision”, in this paragraph, means a complete rewriting of an existing zoning  
9 ordinance which changes numerous zoning provisions and alters or adds zoning  
10 districts. The comprehensive revision may provide that the existing ordinance shall  
11 remain in effect in a town for a period of up to one year or until the comprehensive  
12 revision is approved by the town board, whichever period is shorter. If the town board  
13 fails to approve the comprehensive revision within a year neither the existing  
14 ordinance nor the comprehensive revision shall be in force in that town. Any repeal  
15 and reenactment prior to November 12, 1965, which would be valid under this  
16 paragraph is hereby validated.

17 **SECTION 11.** 59.694 (15) of the statutes is created to read:

18 59.694 (15) ATTENDANCE AT TOWN MEETINGS. To the greatest extent possible, at  
19 least one member of the board of adjustment shall attend each meeting in the county  
20 of a town plan commission that has been created under s. 62.23 (1). The town plan  
21 commission shall provide members of the board of adjustment with as much advance  
22 notice of its meetings as possible.

23 **SECTION 12.** 60.23 (33) of the statutes is created to read:

24 60.23 (33) OFFICIAL TOWN MAP. Adopt an official map. A town board that is  
25 authorized to exercise village powers under s. 60.10 (2) (c) may adopt an official map

**ASSEMBLY BILL 760**

1 under this subsection only by acting under s. 62.23 (6), and the town board and town  
2 officers have the same authority and responsibilities as a common council and city  
3 officers acting under that s. 62.23 (6).

4 **SECTION 13.** 60.23 (34) of the statutes is created to read:

5 60.23 (34) TOWN WITHDRAWAL FROM COUNTY ZONING. (a) Subject to pars. (b), (c),  
6 and (d), and if authorized to exercise village powers under s. 60.10 (2) (c), enact an  
7 ordinance withdrawing the town from coverage of a county zoning ordinance that  
8 had previously been approved under s. 59.69 (5) (c) and from coverage by a county  
9 development plan that has been enacted under s. 59.69 (3) (a).

10 (b) Subject to par. (c), an ordinance enacted under par. (a) may not take effect  
11 until all of the following occur:

12 1. Not later than 60 days before enacting an ordinance under par. (a), the town  
13 clerk notifies the county clerk, in writing, of the town's intent to enact an ordinance  
14 under par. (a).

15 2. The town enacts a zoning ordinance under s. 60.62, a comprehensive plan  
16 under s. 66.1001, and an official map under s. 62.23 (6), and the town clerk sends  
17 certified copies of such documents to the county clerk.

18 (c) A zoning ordinance enacted under s. 60.62, a comprehensive plan enacted  
19 under s. 66.1001, and an official map established under s. 62.23 (6), that are enacted  
20 in conjunction with an ordinance enacted under par. (a), shall all take effect on the  
21 first day of the 3rd month beginning after certified copies of the documents are sent  
22 to the county clerk under par. (b) 2.

23 (d) A town that acts under par. (a) is still subject to a county shorelands zoning  
24 ordinance enacted under s. 59.692.

25 **SECTION 14.** 60.62 (3) of the statutes is amended to read:

**ASSEMBLY BILL 760**

1           60.62 (3) In counties having a county zoning ordinance, no zoning ordinance  
2 or amendment of a zoning ordinance may be adopted under this section unless  
3 approved by the county board, except that this subsection does not apply to a master  
4 plan that is adopted or amended under s. 62.23 (2) or (3) by a town that exercises  
5 village powers under s. 61.23 (3).

6           **SECTION 15.** 60.62 (5) of the statutes is created to read:

7           60.62 (5) (a) Not later than 60 days before a town board that wishes to withdraw  
8 from county zoning and the county development plan may enact an ordinance under  
9 s. 60.23 (34), the town board shall enact a zoning ordinance under this section, an  
10 official map under s. 62.23 (6), and a comprehensive plan under s. 66.1001.

11           **SECTION 16.** 60.62 (6) of the statutes is created to read:

12           60.62 (6) (a) A town that has enacted a zoning ordinance and comprehensive  
13 plan as described under sub. (5) shall provide at least as many hours of town  
14 employee staff time enforcing the ordinance as the county provided to enforce the  
15 county zoning ordinance in the town when the town was subject to the county zoning  
16 ordinance, based on the formula described under par. (b) and subject to par. (c).

17           (b) 1. The town shall determine the total number of hours of spent by the county,  
18 on average, on a weekly basis, spent by county employees on enforcement of the  
19 county zoning ordinance.

20           2. The town shall divide the amount determined under subd. 1. by the  
21 population of the county.

22           3. The town shall multiply the amount determined under subd. 2. by the  
23 population of the town to determine the average weekly number of hours of  
24 enforcement that town employees must spend enforcing the town zoning ordinance.

**ASSEMBLY BILL 760**

1 (c) The number of hours of enforcement of the town zoning ordinance that a  
2 town must provide, as described under par. (a), may not include the number of hours  
3 spent by a county enforcing a shorelands zoning ordinance enacted under s. 59.692.

4 **SECTION 17.** 62.23 (7) (d) 1. b. of the statutes, as affected by 2005 Wisconsin Act  
5 26, is amended to read:

6 62.23 (7) (d) 1. b. The council may make changes in the tentative  
7 recommendations after first submitting the proposed changes to the plan  
8 commission, board of public land commissioners or plan committee for  
9 recommendation and report and after publishing a class 2 notice, under ch. 985, of  
10 the proposed changes and hearings thereon as well as the notice to the clerk of any  
11 contiguous municipality and to the commanding officer, or the officer's designee, of  
12 any military base or installation, with at least 200 assigned military personnel or  
13 that contains at least 2,000 acres, that is located in or near the city, as required in  
14 subd. 1. a. Hearings on the proposed changes may be held by, at the council's option,  
15 the council, the plan commission, the board of public land commissioners or the plan  
16 committee. The entity holding the hearing shall consider any comments made, or  
17 submitted, by the commanding officer, or the officer's designee, of a military base or  
18 installation, with at least 200 assigned military personnel or that contains at least  
19 2,000 acres, that is located in or near the city. The class 2 notice required under this  
20 subdivision may also include any required notice for a hearing to be held by the plan  
21 commission or the common council on a proposal to amend the city's master plan.

22 **SECTION 18.** 62.23 (7a) (intro.) of the statutes is amended to read:

23 62.23 (7a) EXTRATERRITORIAL ZONING. (intro.) The Subject to pars. (h) and (i),  
24 the governing body of any city which has created a city plan commission under sub.  
25 (1) and has adopted a zoning ordinance under sub. (7) may exercise extraterritorial

**ASSEMBLY BILL 760**

1 zoning power, as set forth in this subsection, in any town that has not enacted a  
2 master plan under s. 62.23 (2) or (3). Insofar as applicable sub. (7) (a), (b), (c), (ea),  
3 (h) and (i) shall apply to extraterritorial zoning ordinances enacted under this  
4 subsection. This subsection shall also apply to the governing body of any village.

5 **SECTION 19.** 62.23 (7a) (a) of the statutes is amended to read:

6 62.23 (7a) (a) Extraterritorial zoning jurisdiction means the unincorporated  
7 area within 3 miles of the corporate limits of a first, second or third class city, or 1  
8 1/2 miles of a fourth class city or a village. If a town and a city or village enter into  
9 a written agreement authorizing a city or village to do so, the city or village may  
10 exercise extraterritorial zoning jurisdiction over the entire town. Wherever  
11 extraterritorial zoning jurisdictions overlap, the provisions of s. 66.0105 shall apply  
12 and any subsequent alteration of the corporate limits of the city by annexation,  
13 detachment or consolidation proceedings shall not affect the dividing line as initially  
14 determined under s. 66.0105. The governing body of the city shall specify by  
15 resolution the description of the area to be zoned within its extraterritorial zoning  
16 jurisdiction sufficiently accurate to determine its location and such area shall be  
17 contiguous to the city. The boundary line of such area shall follow government lot  
18 or survey section or fractional section lines or public roads, but need not extend to  
19 the limits of the extraterritorial zoning jurisdiction. Within 15 days of the adoption  
20 of the resolution the governing body shall declare its intention to prepare a  
21 comprehensive zoning ordinance for all or part of its extraterritorial zoning  
22 jurisdiction by the publication of the resolution in a newspaper having general  
23 circulation in the area proposed to be zoned, as a class 1 notice, under ch. 985. The  
24 city clerk shall mail a certified copy of the resolution and a scale map reasonably  
25 showing the boundaries of the extraterritorial jurisdiction to the clerk of the county

**ASSEMBLY BILL 760**

1 in which the extraterritorial jurisdiction area is located and to the town clerk of each  
2 town, any part of which is included in such area.

3 **SECTION 20.** 62.23 (7a) (h) and (i) of the statutes are created to read:

4 62.23 (7a) (h) If any territory that is not subject to extraterritorial zoning  
5 jurisdiction receives final plat approval from a town or county and if after receiving  
6 that approval the territory comes within the extraterritorial zoning jurisdiction of  
7 a city or village, no city or village extraterritorial zoning ordinance enacted under  
8 this subsection may apply to that territory sooner than the first day of the 60th  
9 month beginning after the day on which the territory received final town or county  
10 plat approval if the application of the ordinance would preclude the developer who  
11 owns the territory from developing the territory in accordance with the final plat  
12 approval the developer received from the town or county before the territory was  
13 within the city's or village's extraterritorial zoning jurisdiction.

14 (i) A city or village may not exercise extraterritorial zoning power over any  
15 town territory that is covered by a cooperative plan under s. 66.0307 to which the  
16 town and city or village are parties.

17 **SECTION 21.** 66.1001 (3) (intro.) of the statutes is amended to read:

18 66.1001 (3) ACTIONS, PROCEDURES THAT MUST BE CONSISTENT WITH COMPREHENSIVE  
19 PLANS. (intro.) Beginning on January 1, 2010, if a local governmental unit has a  
20 population of more than 1,500 persons and engages in any of the following actions,  
21 those actions shall be consistent with that local governmental unit's comprehensive  
22 plan, and the local governmental unit shall issue written findings that indicate how  
23 the actions are consistent with its own comprehensive plan:

24 **SECTION 22.** 66.1001 (3m) of the statutes is created to read:

**ASSEMBLY BILL 760**

## 1           66.1001 (3m) ACTIONS CHALLENGING CONSISTENCY WITH COMPREHENSIVE PLANS.

2           If a case is filed in circuit court that challenges the validity of a comprehensive plan,  
3           including whether an action described under sub. (3) is consistent with the  
4           comprehensive plan of the local governmental body that is taking the action, a court  
5           shall presume that the plan is valid. The court shall presume that the action  
6           described under sub. (3) is valid if the local governmental unit has issued written  
7           findings that describe the reasons for the action it has taken. The court shall  
8           conclude that the action is consistent with the comprehensive plan unless there is  
9           no rational basis for the action in any aspect of any of the elements of the  
10          comprehensive plan. A case in circuit court shall be commenced within 120 days  
11          after the action described under sub. (3) is adopted or enacted by the local  
12          governmental unit or be barred. Only property owners have standing to file a case  
13          under this subsection. The circuit court may not permit the local governmental unit  
14          to introduce any information that is not contained in the written findings it has  
15          issued.

16           **SECTION 23.** 66.1001 (4) (a) of the statutes is amended to read:

17           66.1001 (4) (a) The governing body of a local governmental unit shall adopt  
18          written procedures that are designed to foster public participation, including open  
19          discussion, communication programs, information services, the solicitation and  
20          submission of written comments as described under par. (f), and public meetings for  
21          which advance notice has been provided, in every stage of the preparation of a  
22          comprehensive plan. The written procedures shall provide for wide distribution of  
23          proposed, alternative, or amended elements of a comprehensive plan and shall  
24          provide an opportunity for written comments on the plan to be submitted by  
25          members of the public to the governing body and for the governing body to respond



**ASSEMBLY BILL 760**

1 to such written comments. The written procedures shall describe the methods the  
2 governing body of a local governmental unit will use to distribute proposed,  
3 alternative, or amended elements of a comprehensive plan to owners of property, or  
4 to persons who have a leasehold interest in property pursuant to which the persons  
5 may extract nonmetallic mineral resources in or on property, in which the allowable  
6 use or intensity of use of the property is changed by the comprehensive plan.

7 **SECTION 24.** 66.1001 (4) (f) of the statutes is created to read:

8 66.1001 (4) (f) At the initial stage of the preparation of a comprehensive plan,  
9 a local governmental unit shall invite written comments from property owners on the  
10 property owners' proposed or contemplated uses for their property over the next 10  
11 years. A property owner may submit such written comments not later than the 60th  
12 day beginning after the local governmental unit solicits the comments. The plan  
13 commission or other body of a local governmental unit that is authorized to prepare  
14 a comprehensive plan shall consider all written comments that are submitted under  
15 this paragraph.

16 **SECTION 25.** 66.1001 (7) of the statutes is created to read:

17 66.1001 (7) INTERGOVERNMENTAL COOPERATION. (a) In adopting or amending a  
18 comprehensive plan, or in engaging in other planning activities specified in sub (3),  
19 a local governmental unit shall attempt to determine which adjacent local  
20 governmental units may be affected by an action that affects land in the other local  
21 governmental unit that abuts territory in the local governmental unit that is taking  
22 the action.

23 (b) The clerk of the local governmental unit that is taking the action shall notify  
24 the clerk of any other governmental unit to which a determination described under  
25 par. (a) applies.

**ASSEMBLY BILL 760**

1 (c) A local governmental unit which receives a notification described under par.  
2 (b) may submit written comments on the proposed action of the other local  
3 governmental unit, or their own development plan, and the local governmental unit  
4 which sent the notification shall consider the comments or development plan  
5 submitted under this paragraph if the comments or plan are submitted within a  
6 reasonable time after having received the notification.

7 **SECTION 26.** 236.10 (1) (b) (intro.) of the statutes is renumbered 236.10 (1) (b)  
8 and amended to read:

9 236.10 (1) (b) If within the extraterritorial plat approval jurisdiction of a  
10 municipality, a joint committee consisting of 3 town members and 3 citizen members  
11 of the municipality, if it has adopted a subdivision ordinance or an official map under  
12 s. 62.23. The 3 citizen members of the municipality shall be appointed by the mayor.  
13 The 3 town members shall be appointed by the town board for 3-year terms, shall  
14 be residents of the town, and shall be persons experienced in plat review.

15 **SECTION 27.** 236.10 (1) (b) 1. to 3. of the statutes are repealed.

16 **SECTION 28.** 236.13 (4) of the statutes is amended to read:

17 236.13 (4) Where more than one governing body or other agency has authority  
18 to approve or to object to a plat and the requirements of such bodies or agencies are  
19 conflicting, the plat shall comply with the most restrictive requirements, except that  
20 a county may object to a town plat only if the plat is subject to a county plan under  
21 s. 59.69 or a boundary agreement under s. 66.0307 to which the county is a party.

22 (END)