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2003 ASSEMBLY BILL 750

January 14, 2004 – Introduced by Representatives Albers, Musser, Ainsworth and J. Wood, cosponsored by Senators Schultz and A. Lasee. Referred to Committee on Property Rights and Land Management.

AN ACT to amend 66.1001 (3) (intro.); and to create 66.1001 (5) of the statutes;
relating to: exempting from the Smart Growth law town disapproval of certain county zoning actions.

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 the current law popularly 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, under Smart Growth, any program or action of a local governmental unit that affects land use must be consistent with that local governmental unit's comprehensive plan. The actions to which this requirement applies include zoning ordinances, municipal incorporation procedures, annexation

ASSEMBLY BILL 750

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procedures, agricultural preservation plans, and impact fee ordinances. Also beginning on January 1, 2010, under Smart Growth, if a local governmental unit engages in any program or action that affects land use, the comprehensive plan must contain at least all of the required planning elements.

Current law also authorizes a county board to amend its zoning ordinances by following a number of statutory procedures. Under certain circumstances, however, if the town board of a town that would be affected by the proposed amendment disapproves of a proposed ordinance change or if a majority of the towns that would be affected by the proposed amendment disapprove of a proposed ordinance change, the proposed amendment to the county ordinance may not take effect.

Under this bill, a town that has not enacted a comprehensive plan may disapprove of a proposed amendment of a county zoning ordinance.

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

Section 1. 66.1001 (3) (intro.) of the statutes is amended to read:

66.1001 (3) Actions, procedures that must be consistent with comprehensive Plans. (intro.) Beginning Except as provided in sub. (5), beginning on January 1, 2010, any program or action of a local governmental unit that affects land use shall be consistent with that local governmental unit's comprehensive plan, including all of the following:

Section 2. 66.1001 (5) of the statutes is created to read:

66.1001 **(5)** Exceptions. A town that has not enacted a comprehensive plan may, under s. 59.69 (5) (e), disapprove of a proposed amendment of a county zoning ordinance.

11 (END)