



2007 ASSEMBLY BILL 118

February 22, 2007 - Introduced by Representatives MOLEPSKE, ALBERS, TOWNSEND, A. OTT, MURSAU and HAHN, cosponsored by Senators LASSA, S. FITZGERALD, OLSEN and SCHULTZ. Referred to Committee on Agriculture.

1 **AN ACT** *to amend* 66.1001 (2) (g); and *to create* 59.69 (5) (g), 60.61 (4) (g), 62.23
2 (7) (d) 5., 62.23 (7) (d) 6., 88.41 (5) and 88.95 of the statutes; **relating to:**
3 requiring local governmental units to consider relationships with drainage
4 districts in the preparation of comprehensive plans, requiring local
5 governments to provide notice to drainage districts regarding proposals that
6 affect drainage districts, and requiring sellers of real property to disclose the
7 location of property within drainage districts.

Analysis by the Legislative Reference Bureau

Under the current law commonly known as the "Smart Growth" statute, if a city, village, town, county, or regional planning commission (local governmental unit) creates a development plan or master plan (comprehensive 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; land use; and intergovernmental cooperation.

Beginning on January 1, 2010, under current law, 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,

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including zoning of shorelands or wetlands in shorelands. Also beginning on January 1, 2010, under current law, if a local governmental unit engages in any of these specified actions, the comprehensive plan must contain at least all of the required planning elements.

Current law prohibits any comprehensive plan or amendment to a comprehensive plan from taking effect unless a number of conditions are met, such as, the local governmental unit must enact an ordinance or adopt a resolution that contains all of the required elements, and the local governmental unit must hold at least one public hearing at which the proposed ordinance or resolution is discussed.

Currently, the intergovernmental cooperation element must contain a compilation of objectives, policies, goals, maps, and programs for joint planning and decision making with other jurisdictions, including school districts, for siting and building public facilities and sharing public services. Also under this element, a local governmental unit must consider the maps and plans of certain military bases with which it shares common territory.

Under this bill, the intergovernmental cooperation element adds drainage districts as a jurisdiction with which a local governmental unit must engage. The bill also requires that under this element, a local governmental unit must analyze its relationship with a drainage district.

This bill also requires that before a city, village, town, or county (political subdivision) or any zoning entity of a political subdivision may take any action that would allow development in a drainage district, or affect the amount of water that a drainage district would have to accommodate, the political subdivision or zoning entity would have to send written notice to the drainage district. The written notice must describe the proposed action, and the time and date of any public hearing at which the proposed action will be discussed. The bill also allows the drainage district board to request a delay in the hearing so that the drainage board may obtain an engineering report that analyzes the effect of the proposed action.

Under current law, with certain exceptions, owners selling residential real property must give prospective buyers a form, known as a real estate condition report, on which the owner discloses certain conditions of the real property of which the owner is aware. The bill requires an owner of property located in a drainage district to disclose in a separate written notification to a potential buyer or transferee that the land is in a drainage district and subject to assessments for maintenance of the drains. A prospective buyer may rescind the contract without penalty or loss of earnest money within two days after receiving the separate notice or if the transferor does not provide the separate notice within ten days after an offer to purchase is accepted. The bill also requires a drainage board, when issuing an assessment, to remind the person receiving the assessment of the notification requirement that is created in this bill.

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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.** 59.69 (5) (g) of the statutes is created to read:

2 59.69 (5) (g) 1. Before the board or the county zoning agency may take any
3 action under this subsection that would allow the development of any structure that
4 either would be located within the boundaries of a drainage district or would likely
5 increase the amount of water that the main drain of a drainage district would have
6 to accommodate, the board or zoning agency shall send written notice to the secretary
7 of the drainage district's board. The secretary shall include the subject matter of that
8 notice in the agenda of the drainage board's next meeting.

9 2. The notice described under subd. 1. shall describe the proposed action and
10 the time and date of any public hearing at which the proposal is on the agenda. After
11 receipt of the notice, the drainage board may request that the hearing be delayed to
12 enable the drainage board to obtain an engineering analysis to analyze the effect of
13 the proposed action on the drainage district. The drainage board may submit the
14 engineering analysis to the county board or to the county zoning agency.

15 **SECTION 2.** 60.61 (4) (g) of the statutes is created to read:

16 60.61 (4) (g) 1. Before the town board or the town zoning committee may take
17 any action under this subsection that would allow the development of any structure
18 that either would be located within the boundaries of a drainage district or would
19 likely increase the amount of water that the main drain of a drainage district would
20 have to accommodate, the board or zoning committee shall send written notice to the

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1 secretary of the drainage district’s board. The secretary shall include the subject
2 matter of that notice in the agenda of the drainage board’s next meeting.

3 2. The notice described under subd. 1. shall describe the proposed action and
4 the time and date of any public hearing at which the proposal is on the agenda. After
5 receipt of the notice, the drainage board may request that the hearing be delayed to
6 enable the drainage board to obtain an engineering analysis to analyze the effect of
7 the proposed action on the drainage district. The drainage board may submit the
8 engineering analysis to the town board or to the town zoning committee.

9 **SECTION 3.** 62.23 (7) (d) 5. of the statutes is created to read:

10 62.23 (7) (d) 5. Before the city council, plan commission, or plan committee may
11 take any action under this paragraph that would allow the development of any
12 structure that either would be located within the boundaries of a drainage district
13 or would likely increase the amount of water that the main drain of a drainage
14 district would have to accommodate, the city council, plan commission, or plan
15 committee shall send written notice to the secretary of the drainage district’s board.
16 The secretary shall include the subject matter of that notice in the agenda of the
17 drainage board’s next meeting.

18 **SECTION 4.** 62.23 (7) (d) 6. of the statutes is created to read:

19 62.23 (7) (d) 6. The notice described under subd. 5. shall describe the proposed
20 action and the time and date of any public hearing at which the proposal is on the
21 agenda. After receipt of the notice, the drainage board may request that the hearing
22 be delayed to enable the drainage board to obtain an engineering analysis to analyze
23 the effect of the proposed action on the drainage district. The drainage board may
24 submit the engineering analysis to the city council, plan commission, or plan
25 committee.

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1 **SECTION 5.** 66.1001 (2) (g) of the statutes is amended to read:

2 66.1001 (2) (g) *Intergovernmental cooperation element.* A compilation of
3 objectives, policies, goals, maps, and programs for joint planning and decision
4 making with other jurisdictions, including school districts, drainage districts, and
5 adjacent local governmental units, for siting and building public facilities and
6 sharing public services. The element shall analyze the relationship of the local
7 governmental unit to school districts, drainage districts, and adjacent local
8 governmental units, and to the region, the state and other governmental units. The
9 element shall consider, to the greatest extent possible, the maps and plans of any
10 military base or installation, with at least 200 assigned military personnel or that
11 contains at least 2,000 acres, with which the local governmental unit shares common
12 territory. The element shall incorporate any plans or agreements to which the local
13 governmental unit is a party under s. 66.0301, 66.0307 or 66.0309. The element shall
14 identify existing or potential conflicts between the local governmental unit and other
15 governmental units that are specified in this paragraph and describe processes to
16 resolve such conflicts.

17 **SECTION 6.** 88.41 (5) of the statutes is created to read:

18 88.41 (5) Whenever a drainage board sends out an assessment for costs, as
19 described in this section, the board shall include a notice reminding the person
20 assessed of the requirement under s. 88.95.

21 **SECTION 7.** 88.95 of the statutes is created to read:

22 **88.95 Notification requirement to transfer land.** (1) All persons who
23 transfer land that is located within a district shall provide written notice to the
24 prospective buyer or transferee that the land is located within a drainage district and
25 is subject to assessments under this chapter for maintenance of the drains.

