

2003 ASSEMBLY BILL 608

October 23, 2003 – Introduced by Representatives ALBERS, BERCEAU, FREESE, GRONEMUS, GUNDERSON, HINES, JENSEN, M. LEHMAN, MUSSER, PETTIS, POWERS, PLOUFF and OLSEN, cosponsored by Senators STEPP and LAZICH. Referred to Committee on Property Rights and Land Management.

1 **AN ACT to repeal** 66.1001 (3) (a) to (f), 66.1001 (3) (i), 66.1001 (3) (m) to (p),
2 66.1001 (3) (r) and 66.1001 (3) (s); **to amend** 66.1001 (2) (i), 66.1001 (3) (intro.),
3 66.1001 (4) (c) and 66.1001 (4) (d) (intro.); and **to create** 66.1001 (1) (c) and
4 66.1001 (5) of the statutes; **relating to:** making changes to the comprehensive
5 planning statute known as Smart Growth.

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.

Also under current law, a city or village, or certain towns that exercise village powers, may create a city, village, or town plan commission to engage in zoning and land use planning. If a city, village, or town creates such a commission, the commission is required to adopt a master plan for the physical development of the city, village, or town, including in some instances, in the case of a city or village, unincorporated areas outside of the city or village which are related to the city's or village's development.

Under the current law popularly known as the "Smart Growth" statute, if a local governmental unit (city, village, town, county, or regional planning commission)

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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 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.

This bill reduces the number of programs or actions with which a comprehensive plan must be consistent. Under the bill, the only actions which must be consistent with a comprehensive plan are official mapping, local subdivision regulation, and zoning ordinances, including zoning of shorelands or wetlands in shorelands.

The bill also reiterates that an RPC's comprehensive plan is only advisory in its applicability to a political subdivision (a city, village, town, or county), and a political subdivision's comprehensive plan.

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.** 66.1001 (1) (c) of the statutes is created to read:

2 66.1001 (1) (c) "Political subdivision" means a city, village, town, or county that
3 may adopt, prepare, or amend a comprehensive plan.

4 **SECTION 2.** 66.1001 (2) (i) of the statutes is amended to read:

5 66.1001 (2) (i) *Implementation element.* A compilation of programs and specific
6 actions to be completed in a stated sequence, including proposed changes to any
7 applicable zoning ordinances, official maps, ~~sign regulations, erosion and storm~~
8 ~~water control ordinances, historic preservation ordinances, site plan regulations,~~
9 ~~design review ordinances, building codes, mechanical codes, housing codes, sanitary~~
10 ~~codes or subdivision ordinances,~~ to implement the objectives, policies, plans and

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1 programs contained in pars. (a) to (h). The element shall describe how each of the
2 elements of the comprehensive plan will be integrated and made consistent with the
3 other elements of the comprehensive plan, and shall include a mechanism to
4 measure the local governmental unit's progress toward achieving all aspects of the
5 comprehensive plan. The element shall include a process for updating the
6 comprehensive plan. A comprehensive plan under this subsection shall be updated
7 no less than once every 10 years.

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

9 **66.1001 (3)** ACTIONS, PROCEDURES THAT MUST BE CONSISTENT WITH COMPREHENSIVE
10 PLANS. (intro.) Beginning on January 1, 2010, ~~any program or action of~~ if a local
11 governmental unit ~~that affects land use~~ engages in any of the following actions, those
12 actions shall be consistent with that local governmental unit's comprehensive plan,
13 ~~including all of the following:~~

14 **SECTION 4.** 66.1001 (3) (a) to (f) of the statutes are repealed.

15 **SECTION 5.** 66.1001 (3) (i) of the statutes is repealed.

16 **SECTION 6.** 66.1001 (3) (m) to (p) of the statutes are repealed.

17 **SECTION 7.** 66.1001 (3) (r) of the statutes is repealed.

18 **SECTION 8.** 66.1001 (3) (s) of the statutes is repealed.

19 **SECTION 9.** 66.1001 (4) (c) of the statutes is amended to read:

20 **66.1001 (4) (c)** No comprehensive plan that is recommended for adoption or
21 amendment under par. (b) may take effect until the ~~local governmental unit~~ political
22 subdivision enacts an ordinance or the regional planning commission adopts a
23 resolution that adopts the plan or amendment. The ~~local governmental unit~~ political
24 subdivision may not enact an ordinance or the regional planning commission may
25 not adopt a resolution under this paragraph unless the comprehensive plan contains

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1 all of the elements specified in sub. (2). An ordinance may be enacted or a resolution
2 may be adopted under this paragraph only by a majority vote of the members–elect,
3 as defined in s. 59.001 (2m), of the governing body. An ordinance that is enacted or
4 a resolution that is adopted under this paragraph, and the plan to which it relates,
5 shall be filed with at least all of the entities specified under par. (b).

6 **SECTION 10.** 66.1001 (4) (d) (intro.) of the statutes is amended to read:

7 66.1001 (4) (d) (intro.) No ~~local governmental unit~~ political subdivision may
8 enact an ordinance or no regional planning commission may adopt a resolution under
9 par. (c) unless the ~~local governmental unit~~ political subdivision or regional planning
10 commission holds at least one public hearing at which the proposed ordinance or
11 resolution is discussed. That hearing must be preceded by a class 1 notice under ch.
12 985 that is published at least 30 days before the hearing is held. The ~~local~~
13 ~~governmental unit~~ political subdivision or regional planning commission may also
14 provide notice of the hearing by any other means it considers appropriate. The class
15 1 notice shall contain at least the following information:

16 **SECTION 11.** 66.1001 (5) of the statutes is created to read:

17 66.1001 (5) APPLICABILITY OF A REGIONAL PLANNING COMMISSION'S PLAN. A
18 regional planning commission's comprehensive plan is only advisory in its
19 applicability to a political subdivision and a political subdivision's comprehensive
20 plan.

21

(END)