

2003 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB728)

Received: **01/20/2004**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **John Gard (608) 266-3387**

By/Representing: **Ellen**

This file may be shown to any legislator: **NO**

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Munis - zoning
Counties - zoning**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Gard@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Comprehensive planning (Smart Growth) by, and fees imposed by, local governmental units

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 01/20/2004	csicilia 01/20/2004		_____			
/1			jfrantze 01/20/2004	_____	lemery 01/20/2004	lemery 01/20/2004	
/2	mshovers	wjackson	rschluet	_____	lemery	lemery	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	01/20/2004	01/20/2004	01/20/2004 _____		01/20/2004	01/20/2004	

FE Sent For:

<END>

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/?	mshovers 01/20/2004	csicilia 01/20/2004		_____			
/1		1/2 WJ 1/20	jfrantze 01/20/2004	_____	lemery 01/20/2004	lemery 01/20/2004	

1/2 ME S 1/20/04

[Handwritten signature and date]
1/20/04

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<END>

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1/1	mshovers	1/19/04	1/20/04 03/20	J Pg 1/20			

FE Sent For:

<END>

Shovers, Marc

From: Nowak, Ellen
Sent: Tuesday, January 20, 2004 10:36 AM
To: Shovers, Marc
Subject: Sub to AB 728

Importance: High

Hi Marc:

We have some changes to AB 728 and will need a sub drafted asap. The changes are noted in the attached document. Please call if you have questions.

Thanks.



CHANGES TO AB
728.doc

CHANGES TO AB 728/LRB 3868/1

Delete lines 6-9 on p. 2 (removal of written justification of fee)

Modify Section 4 to read as follows:

66.1001(4)(e) 1. At least 30 days before the hearing described in par. (d) is held, a local governmental unit shall provide written notice to all of the following:

- a. An operator who has obtained, or made application for, a permit that is described under s. 295.12(3)(d).
- b. A person who has registered a marketable nonmetallic mineral deposit under s. 295.20.
- c. Any other property owner or leaseholder who has an interest in property pursuant to which the persons may extract nonmetallic mineral resources, if the property owner or leaseholder requests in writing that the local governmental unit provide notice of the hearing described in par. (d).

2. An ordinance or an amendment ^{of a comp. plan^(?)} that is subject to this subsection may take effect even if the local governmental unit fails to send the notice that is required by subd. 1, unless the local governmental unit intentionally decides not to send the notice.

do they mean comp. plan?

ASA to
2003 ASSEMBLY BILL 728

D, NOTE

CS
RMNR

January 7, 2004 - Introduced by Representative GARD. Referred to Committee on Job Creation.

NOW

gm

1 AN ACT to amend 66.1001 (2) (e) and 66.1001 (4) (a); and to create 66.0628 and
2 66.1001 (4) (e) of the statutes; relating to: comprehensive planning by local
3 governmental units and fees imposed by political subdivisions.

Analysis by the Legislative Reference Bureau

COMPREHENSIVE PLANNING BY LOCAL GOVERNMENTAL UNITS

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 zoning development plan or a zoning 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.

Before the plan may take effect, however, a local governmental unit must comply with a number of requirements, such as adopting written procedures that are designed to foster public participation in the preparation of the plan.

ASSEMBLY BILL 728

Substitute amendment

who request to be notified
who request to be notified (use 2x)

in general,

Under this bill, before the plan may take effect, a local governmental unit must provide written notice to all owners of property, and to leaseholders, and all persons who have an interest in property pursuant to which the persons may extract nonmetallic mineral resources in which the allowable use or intensity of use of the property is changed by the comprehensive plan and must create written procedures that describe the methods the local governmental unit will use to distribute elements of a comprehensive plan to owners of, and to other persons who have such interests in, such property.

If a local governmental unit fails to provide such notice, a plan may still take effect unless the failure to notify is intentional.

FEEES IMPOSED BY POLITICAL SUBDIVISIONS

Under current law, cities, villages, towns, and counties (political subdivisions) provide various services for which those political subdivisions may impose a fee. This bill requires that any fee imposed by a political subdivision bear a reasonable relationship to the service for which the fee is imposed and that, when a political subdivision first imposes or raises a fee, the political subdivision issue written findings that demonstrate that the fee bears a reasonable relationship to the service for which the fee is imposed.

Substitute amendment

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

1 SECTION 1. 66.0628 of the statutes is created to read:

2 66.0628 Fees imposed by a political subdivision. (1) In this section,
3 "political subdivision" means a city, village, town, or county.

4 (2) Any fee that is imposed by a political subdivision shall bear a reasonable
5 relationship to the service for which the fee is imposed.

6 ~~(3) With regard to a fee that is first imposed, or an existing fee that is increased,
7 on or after the effective date of this subsection [revisor inserts date], a political
8 subdivision shall issue written findings that demonstrate that the fee meets the
9 standard in sub. (2).~~

10 SECTION 2. 66.1001 (2) (e) of the statutes is amended to read:

11 66.1001 (2) (e) Agricultural, natural and cultural resources element. A
12 compilation of objectives, policies, goals, maps and programs for the conservation,
13 and promotion of the effective management, of natural resources such as

ASSEMBLY BILL 728

1 groundwater, forests, productive agricultural areas, environmentally sensitive
2 areas, threatened and endangered species, stream corridors, surface water,
3 floodplains, wetlands, wildlife habitat, metallic and nonmetallic mineral resources
4 consistent with zoning limitations under s. 295.20 (2), parks, open spaces, historical
5 and cultural resources, community design, recreational resources and other natural
6 resources.

7 SECTION 3. 66.1001 (4) (a) of the statutes is amended to read:

8 66.1001 (4) (a) The governing body of a local governmental unit shall adopt
9 written procedures that are designed to foster public participation, including open
10 discussion, communication programs, information services, and public meetings for
11 which advance notice has been provided, in every stage of the preparation of a
12 comprehensive plan. The written procedures shall provide for wide distribution of
13 proposed, alternative, or amended elements of a comprehensive plan and shall
14 provide an opportunity for written comments on the plan to be submitted by
15 members of the public to the governing body and for the governing body to respond
16 to such written comments. The written procedures shall describe the methods the
17 governing body of a local governmental unit will use to distribute proposed,
18 alternative, or amended elements of a comprehensive plan to owners of property, or
19 to persons who have a leasehold interest in property pursuant to which the persons
20 may extract nonmetallic mineral resources in or on property, in which the allowable
21 use or intensity of use of the property is changed by the comprehensive plan.

22 SECTION 4. 66.1001 (4) (e) of the statutes is created to read:

23 66.1001 (4) (e) At least 30 days before the hearing described in par. (d) is held,
24 a local governmental unit shall provide written notice to all owners of property, and
25 all leaseholders who have an interest in property pursuant to which the persons may

ASSEMBLY BILL 728

1 extract nonmetallic mineral resources, in which the allowable use or intensity of use,
2 of the property, is changed by the comprehensive plan, including all of the following:

3 1. An operator who has obtained, or made application for, a permit that is
4 described under s. 295.12 (3) (d).

5 2. A person who has registered a marketable nonmetallic mineral deposit
6 under s. 295.20.

7 3. Any other ^{property owner, or leaseholder who has an interest in} ~~person~~ ^{property pursuant to which the person may extract} ~~who the local governmental unit knows has a property~~
8 ~~interest in~~ nonmetallic mineral resources ~~in the jurisdiction~~, if the property owner
9 or leaseholder requests

in writing that the local governmental unit provide the property owner or leaseholder notice of the hearing described in par. (d) ✓

Handwritten scribbles and initials in a circle.

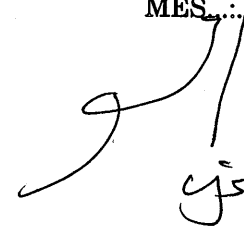
¶ CR; 66.1001 (5) ✓

¶ 66.1001 (5) ^(B) Comprehensive plan may take effect. Notwithstanding sub. (4), ^(CS) a comprehensive plan, or an amendment of a comprehensive plan, may take effect even if a local governmental unit fails to provide the notice that is required ^{under} ~~in~~ sub. (4) (c), unless the local governmental _{unit} intentionally fails to provide the notice.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0312/?dn

MES.....

Handwritten signature and initials, possibly 'js', in the top right corner.

Representative Gard:

In s. 66.1001 (4) (e) 3., I added a comma after "Any other property owner" to be consistent with the punctuation, and legal effect, of the underscored language in s. 66.1001 (4) (a). Is this OK?

I also created s. 66.1001 (5) instead of s. 66.1001 (4) (e) 2., as shown by the language you submitted, because the creation of sub. (4) (e) 2. would not work with the intro. to s. 66.1001 (4). Please review the wording in sub. (5). I changed "intentionally decides not to" which does not appear in the statutes, to "intentionally fails to" and I specifically referred to a comprehensive plan instead of the ordinance referenced in sub. (4) (c). Is this OK?

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0312/1dn
MES:cjs:jf

January 20, 2004

Representative Gard:

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I also created s. 66.1001 (5) instead of s. 66.1001 (4) (e) 2., as shown by the language you submitted, because the creation of sub. (4) (e) 2. would not work with the (intro.) to s. 66.1001 (4). Please review the wording in sub. (5). I changed "intentionally decides not to," which does not appear in the statutes, to "intentionally fails to," and I specifically referred to a comprehensive plan instead of the ordinance referenced in sub. (4) (c). Is this OK?

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us

Shovers, Marc

From: Nowak, Ellen
Sent: Tuesday, January 20, 2004 3:05 PM
To: Shovers, Marc
Subject: Change to LRB s0312

Importance: High

With regard to your first question in the drafters note: Please remove the comma that you added. Without the comma, the scope is limited in this section, which is what we want. Eliminating the comma has the effect of not applying it to all owners of property. Section 4 is intended to be narrow than Section 3. Otherwise, it is fine and please jacket the sub.

Thanks!



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBs0312/1
MES:wlj&cs:jf

RMR

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2003 ASSEMBLY BILL 728

NOW

REGEN

1 AN ACT *to amend* 66.1001 (2) (e) and 66.1001 (4) (a); and *to create* 66.0628,
2 66.1001 (4) (e) and 66.1001 (5) of the statutes; **relating to:** comprehensive
3 planning by local governmental units and fees imposed by political
4 subdivisions.

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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.

Before the plan may take effect, however, a local governmental unit must comply with a number of requirements, such as adopting written procedures that are designed to foster public participation in the preparation of the plan.

Under this substitute amendment, in general, before the plan may take effect, a local governmental unit must provide written notice to all owners of property who request to be notified ~~and to all leaseholders who request to be notified~~ and who have an interest in property pursuant to which the persons may extract nonmetallic mineral resources, and must create written procedures that describe the methods the local governmental unit will use to distribute elements of a comprehensive plan to owners of ^{property} and to other persons who have ~~an~~ ^{certain leasehold mining} interests in, such property, in which the allowable use or intensity of use of the property is changed by the comprehensive plan. If a local governmental unit fails to provide such notice, a plan may still take effect unless the failure to notify is intentional.

and leaseholders

FEES IMPOSED BY POLITICAL SUBDIVISIONS

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5 relationship to the service for which the fee is imposed.

6 SECTION 2. 66.1001 (2) (e) of the statutes is amended to read:

7 66.1001 (2) (e) *Agricultural, natural and cultural resources element.* A
8 compilation of objectives, policies, goals, maps and programs for the conservation,
9 and promotion of the effective management, of natural resources such as
10 groundwater, forests, productive agricultural areas, environmentally sensitive
11 areas, threatened and endangered species, stream corridors, surface water,

1 floodplains, wetlands, wildlife habitat, metallic and nonmetallic mineral resources
2 consistent with zoning limitations under s. 295.20 (2), parks, open spaces, historical
3 and cultural resources, community design, recreational resources and other natural
4 resources.

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9 which advance notice has been provided, in every stage of the preparation of a
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11 proposed, alternative, or amended elements of a comprehensive plan and shall
12 provide an opportunity for written comments on the plan to be submitted by
13 members of the public to the governing body and for the governing body to respond
14 to such written comments. The written procedures shall describe the methods the
15 governing body of a local governmental unit will use to distribute proposed,
16 alternative, or amended elements of a comprehensive plan to owners of property, or
17 to persons who have a leasehold interest in property pursuant to which the persons
18 may extract nonmetallic mineral resources in or on property, in which the allowable
19 use or intensity of use of the property is changed by the comprehensive plan.

20 **SECTION 4.** 66.1001 (4) (e) of the statutes is created to read:

21 66.1001 (4) (e) At least 30 days before the hearing described in par. (d) is held,
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24 described under s. 295.12 (3) (d).

1 2. A person who has registered a marketable nonmetallic mineral deposit
2 under s. 295.20.

3 3. Any other property owner or leaseholder who has an interest in property
4 pursuant to which the person may extract nonmetallic mineral resources, if the
5 property owner or leaseholder requests in writing that the local governmental unit
6 provide the property owner or leaseholder notice of the hearing described in par. (d).

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

8 66.1001 (5) COMPREHENSIVE PLAN MAY TAKE EFFECT. Notwithstanding sub. (4),
9 a comprehensive plan, or an amendment of a comprehensive plan, may take effect
10 even if a local governmental unit fails to provide the notice that is required under
11 sub. (4) (e), unless the local governmental unit intentionally fails to provide the
12 notice.

13

(END)