2007 DRAFTING REQUEST

Bill

Received: **02/28/2007**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Gottlieb (608) 267-2369**

By/Representing: **Denise Solie**

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

Drafter: **pkahler**

May Contact:

Addl. Drafters: **mshovers**

Subject: **Local Gov't - misc**
Real Estate - miscellaneous

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Gottlieb@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Various impact fee and plat changes

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	pkahler 03/05/2007 mshovers 03/23/2007	jdyer 03/26/2007		_____ _____ _____ _____			Local
/P1			rschluet 03/26/2007	_____ _____	lparisi 03/26/2007		Local
/1	pkahler 03/27/2007	jdyer 04/03/2007	pgreensl 04/03/2007	_____ _____	sbasford 04/03/2007		Local

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
	mshovers 03/29/2007						
/2	mshovers 04/24/2007 pkahler 04/25/2007	jdyer 04/25/2007	nnatzke 04/25/2007		mbarman 04/25/2007		Local
/3	mshovers 05/09/2007 pkahler 05/09/2007	kfollett 05/09/2007	nnatzke 05/09/2007		lparisi 05/09/2007	sbasford 05/10/2007	

FE Sent For:

05-10-2007 ("/3")

see attached

<END>

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/1	pkahler 03/27/2007	jdyer 04/03/2007 13 lg f 5/9	pgreensl 04/03/2007 nwn 5/9	_____ _____ nwn/sh 5/9	sbasford 04/03/2007		Local

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/P1			rschluet 03/26/2007	_____ _____	lparisi 03/26/2007		Local
/1	pkahler 03/27/2007	jdyer 04/03/2007	pgreensl 04/03/2007 nwn 4/25	_____ _____ nwn/rs 4/25	sbasford 04/03/2007		

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
	mshovers 03/29/2007			_____ _____			

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/P1			rschluet 03/26/2007 4/3 P8	4/3 P8	lparisi 03/26/2007		

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Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Various impact fee and plat changes done

Instructions:

See Attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	pkahler	/P1 3/26 jld	3267 NN				

FE Sent For:

<END>

Kahler, Pam

From: Solie, Denise
Sent: Wednesday, February 28, 2007 12:37 PM
To: Kahler, Pam; Shovers, Marc
Subject: RE: LRB 1102/2

Importance: High

Attachments: impact fee drafting instructions (rev3) 2.28.07.doc

Pam and Marc,

Attached are revised drafting instructions for LRB 1102/2. Please ignore the prior version I sent.

Feel free to call me with any questions. Thanks!

impact fee drafting instructio...

- denise

From: Kahler, Pam
Sent: Friday, February 23, 2007 9:56 AM
To: Solie, Denise
Subject: RE: LRB 1102/2

Denise:

It appears that most of the changes are in ch. 66, which is Marc Shovers drafting area. Two of the changes are in ch. 236, which I draft. Marc is out until March 2.

From: Solie, Denise
Sent: Friday, February 23, 2007 8:04 AM
To: Kahler, Pam
Subject: LRB 1102/2

Pam,

What started out as a very simple LRB 1102/2 is becoming a broader bill on impact fees.

We would like a /2 that incorporates the changes in the attachment.

Please call me if you have any questions.

<< File: impact fee drafting instructions 2.22.doc >>

Denise Solie
Rep. Mark Gottlieb
608.267.2370

NEW instructions

Instructions for drafting LRB 1102/2.
Revised 2/28/07

1. **Retain the current language in LRB 1102/1.**

2. **In 236.45 (6) (b), add "parkland acquisition or improvement fee" to the list of things that must bear a rational relationship to the need.**

Suggested language:

> 236.45 (6)(b) Any land dedication, parkland acquisition or improvement fee, easement, or other public improvement required by a municipality, town, or county as a condition of approval under this chapter must bear a rational relationship to a need for the land dedication, land acquisition, easement, or other public improvement resulting from the subdivision or other division of land.

3. **In 66.0617(9), change the 7 year time limit to 10 years. The 3-year extension for extenuating circumstances remains, but add a requirement that the municipality must make a written finding that details the specific extenuating circumstances or hardship that exists.**

4. **In 66.0617(9), add language that the time limit applies to fees collected after April 10, 2006. For fees collected prior to December 31, 2002, they must be refunded if not used by December 31, 2012. For fees collected between January 1, 2003 and April 9, 2006, they must be refunded if not used within 10 years after they were collected.**

5. **Add a requirement that no matter what happens, all impact fees must be paid no later than 5 years after the development has been approved.**

Suggested language:

> Modify 66.0617 (6) (g) to say the following: Shall be payable by the developer or the property owner to the municipality in full no later than the earliest of the following dates: (a) 14 days after issuance of a building permit, (b) 14 days after issuance of an occupancy permit, or (c) 5 years after final approval has been given by the municipality for the land development in which the lot or parcel for which the fee is being paid is located. If the land development consists of multiple phases, the date of final approval is the date of final approval for the phase in which the lot or parcel is located.

6. **Require that the analysis of the effect of the impact fee on affordable housing be an analysis of the cumulative effect of all impact fees levied on the property, not just the one referred to in the current needs assessment.**

Suggested language:

Modify 66.0617 (4) (a) (3) to say the following: A detailed estimate of the capital costs of providing the new public facilities or the improvements or expansions in existing public facilities identified in subd. 2., including an estimate of the cumulative effect of all proposed and existing impact fees on the availability of affordable housing within the municipality.

7. **Add additional detail to 66.0628 that limits the rate a municipality may charge for contracted services to a rate no higher than what they pay themselves for the same service.**

Suggested language:

66.0628 (3) Any fee imposed by a political subdivision to recover the cost of engineering, legal, or other professional services that was performed by persons who are not employees of the political subdivision, and where those persons are normally in the business of providing the same services directly to the political subdivision, shall be at a rate no higher than the rate customarily paid by the political subdivision to those persons for the same service.

8. **Specify the process by which stormwater ponds built in a subdivision, which are to be publicly owned and operated, will be dedicated to the municipality.**

Suggested language:

236.29 (4) Any lands within the plat which are intended to include a permanent man made pond designed for the purpose of reducing the water quantity or quality impacts of stormwater runoff from more than one lot, and which are shown on the plat as "Dedicated to the Public for Stormwater Management Purposes" shall be accepted by the municipality after 80 percent of the lots in the subdivision have been sold, and a certification has been provided to the municipality by a person registered as a professional engineer in Wisconsin that all of the following conditions are met:

(a) The pond is functioning properly in accordance with the plans and specifications of the municipality.

(b) The plantings in the approved plans are adequate, well established, and reasonably free of invasive species.

(c) Any necessary maintenance, including removal of construction sediment, has been properly performed.

Also, to make sure that the municipality retains the right to specify how the pond will be designed and constructed, add **"stormwater treatment ponds"** to the list of improvements enumerated in s. 236.13 (2) (b).

management or

RESEARCH APPENDIX - Draft Transfer/Copy Request Form

- Atty's please complete this form and give to Mike Barman

(Request Made By: PJK) (Date: 3 / 5 / 07)

◯ ☞ Please transfer the drafting file for

2005 LRB _____ to the drafting file

for **2007 LRB** _____

Done MB

☞ The final version of the 2005 draft and the final Request Sheet will copied on yellow paper, and returned to the original 2005 drafting file. A new cover sheet will be created/included listing the new location of the drafting file's "guts".

☞ For research purposes, because the 2005 draft was incorporated into a 2007 draft, the complete drafting file will be transferred, as a separate appendix, to the new 2007 drafting file. This request form will be inserted into the "guts" of the 2007 draft. If introduced, the appendix will be scanned/added to the electronic drafting file folder.

--OR --

☒ ☞ Please copy the drafting file for

2007 LRB 1102 / 1 (include the version) and place it in the

drafting file for **2007 LRB** 2113

☞ For research purposes, because the original 2007 draft was incorporated into another 2007 draft, the original drafting file will be copied on yellow paper (darkened/auto centered/reduced to 90%) and added, as a separate appendix, to the new 2007 drafting file. This request form will be inserted into the "guts" of the new 2007 draft. If introduced the appendix will be scanned/added to the electronic drafting file folder.

☞ The original drafting file will then returned, intact, to its folder and filed. For future reference, a copy of the transfer/copy request form will also be added to the "guts" of the original draft.

Updated: 08/26/2004

State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2113/P1
MES&PJK:.....

jld

RMA

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-NOTE

SOON

gm

AN ACT ...; **relating to:** imposing fees for acquiring public park land, dedicating storm water treatment ponds to the public, changing the time relating to when impact fees must be paid and used, and regulating the costs of certain professional services provided through a political subdivision.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. A complete analysis will be provided in a later version.

Under current law, a city, village, or town (municipality) may impose an impact fee on a developer to pay for the capital costs to construct certain public facilities that are necessary to accommodate land development. Former law required that impact fees not used within a reasonable period of time to pay for the capital costs had to be refunded to the current owner of the property with respect to which the impact fee was imposed.

Act 203

The "reasonable time" provision was changed in 2005 Wisconsin Act 203 (Act 203). Under that act, which is now current law, an impact fee must be used within seven years after it is collected or the fee must be refunded to the current owner of the property with respect to which the impact fee was imposed, although a three-year extension is possible in the case of extenuating circumstances or hardship. The change from "reasonable time" to a generally seven-year limit first applied, retroactively, to impact fees that were imposed under an impact fee ordinance that was in effect on April 11, 2006, the effective date of Act 203.

This bill extends the time period during which impact fees must be used to 10 years, and maintains the three-year extension if the municipality generates detailed

ten

written findings that describe the extenuating circumstances. Also under the bill, the general 10 year time limit for using impact fees applies to fees that are collected after April 10, 2006. Fees that are collected before January 1, 2002, must be used by December 31, 2012, or they must be refunded. Fees that are collected after December 31, 2002, and before April 11, 2006, must be used within approximately 10 years after they were collected or they must be refunded.

Current law requires that an impact fee be paid by the developer or property owner to a municipality within 14 days of the issuance of a building permit, or within 14 days of the issuance of an occupancy permit. Under this bill, impact fee must be paid no later than the earliest of either approximately five years after the municipality grants final approval for the land development which gave rise to the imposition of an impact fee, or either of the dates specified in current law.

Also under the bill, if a political subdivision (a municipality or a county) purchases engineering, legal, or other professional services from another person, and the political subdivision passes along the cost of such services to a third person under a separate contract, the rate charged the third person for the services may not exceed the rate charged to the political subdivision by the service provider.

From LRB-1102

For further information see the ***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:

SECTION 1. 66.0617 (4) (a) 3. of the statutes is amended to read:

66.0617 **(4)** (a) 3. A detailed estimate of the capital costs of providing the new public facilities or the improvements or expansions in existing public facilities identified in subd. 2., including an estimate of the cumulative effect of ~~recovering these capital costs through~~ all proposed and existing impact fees on the availability of affordable housing within the municipality.

History: 1993 a. 305; 1997 a. 27; 1999 a. 150 s. 524; Stats. 1999 s. 66.0617; 2005 a. 203, 477.

SECTION 2. 66.0617 (6) (g) of the statutes is renumbered 66.0617 (6) (g) (intro.) and amended to read:

66.0617 **(6)** (g) (intro.) Shall be payable by the developer or the property owner to the municipality in full ~~within 14 days of the issuance of a building permit or within 14~~

~~days of the issuance of an occupancy permit by the municipality.~~ no later than the earliest of the following:

History: 1993 a. 305; 1997 a. 27; 1999 a. 150 s. 524; Stats. 1999 s. 66.0617; 2005 a. 203, 477.

SECTION 3. 66.0617 (6) (g) 1. of the statutes is created to read:

66.0617 **(6)** (g) 1. Within 14 days of the issuance of a building permit by the municipality.

2. Within 14 days of the issuance of an occupancy permit by the municipality.

3. The first day of the 60th month beginning after the municipality grants final approval for the land development in which the lot or parcel, for which the fee is being paid, is located. If the land development consists of multiple phases, the date of final approval is the date of final approval for the phase in which the lot or parcel is located.

SECTION 4. 66.0617 (9) of the statutes is amended to read:

66.0617 **(9)** ~~REFUND OF IMPACT FEES.~~ (a) Subject to ~~par.~~ pars. (b) and (c), and with regard to an impact fee that is collected after April 10, 2006, an ordinance enacted under this section shall specify that impact fees that are imposed and collected by a municipality but are not used within ~~7~~ 10 years after they are collected to pay the capital costs for which they were imposed shall be refunded to the current owner of the property with respect to which the impact fees were imposed, along with any interest that has accumulated, ~~in~~ as described in sub. (8). The ordinance shall specify, by type of public facility, reasonable time periods within which impact fees must be spent or refunded under this subsection, subject to the ~~7-year~~ 10-year limit in this paragraph and the extended time period specified in par. (b). In determining the length of the time periods under the ordinance, a municipality shall consider

what are appropriate planning and financing periods for the particular types of public facilities for which the impact fees are imposed.

NOTE: NOTE: The correct word is shown in brackets. Corrective legislation is pending. NOTE:

(b) The ~~7-year~~ 10-year time limit for using impact fees that is specified under par. (a) may be extended for 3 years if the ~~political subdivision~~ {municipality} adopts a resolution stating that, due to extenuating circumstances or hardship in meeting the ~~7-year~~ 10-year limit, it needs an additional 3 years to use the impact fees that were collected. The resolution shall include detailed written findings that specify the extenuating circumstances or hardship that led to the need to adopt a resolution under this paragraph.

NOTE: NOTE: The correct term is shown in brackets. Corrective legislation is pending. NOTE:

History: 1993 a. 305; 1997 a. 27; 1999 a. 150 s. 524; Stats. 1999 s. 66.0617; 2005 a. 203, 477.

SECTION 5. 66.0617 (9) (c) of the statutes is created to read:

66.0617 **(9)** (c) 1. An impact fee that was collected before January 1, 2003, must be used for the purpose for which it was imposed not later than December 31, 2012. Any such fee that is not used by that date shall be refunded to the current owner of the property with respect to which the impact fee was imposed, along with any interest that has accumulated, as described in sub. (8).

2. An impact fee that was collected after December 31, 2002, and before April 11, 2006, must be used for the purpose for which it was imposed not later than the first day of the 120th month beginning after the date on which the fee was collected. Any such fee that is not used by that date shall be refunded to the current owner of the property with respect to which the impact fee was imposed, along with any interest that has accumulated, as described in sub. (8).

SECTION 6. 66.0628 (3) of the statutes is created to read:

66.0628 **(3)** If a political subdivision enters into a contract to purchase engineering, legal, or other professional services from another person and the political subdivision passes along the cost for such professional services to another person under a separate contract between the political subdivision and that person, the rate charged that other person for the professional services may not exceed the contracted rate agreed to by the political subdivision and the person providing the professional services.

SECTION 7. 236.13 (2) (b) of the statutes is amended to read:

236.13 **(2)** (b) Any city or village may require as a condition for accepting the dedication of public streets, alleys or other ways, or for permitting private streets, alleys or other public ways to be placed on the official map, that designated facilities shall have been previously provided without cost to the municipality, but which are constructed according to municipal specifications and under municipal inspection, such as, without limitation because of enumeration, sewerage, water mains and laterals, storm water management or treatment ponds, grading and improvement of streets, alleys, sidewalks and other public ways, street lighting or other facilities designated by the governing body, or that a specified portion of such costs shall be paid in advance as provided in s. 66.0709.

History: 1977 c. 29 ss. 1384, 1654 (8) (c); 1977 c. 162; 1979 c. 221, 248; 1981 c. 289 s. 19; 1981 c. 354; 1993 a. 414; 1995 a. 27 ss. 6310, 6311, 9116 (5); 1995 a. 227; 1997 a. 27; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 30.

SECTION 8. 236.29 (4) of the statutes is created to read:

236.29 **(4)** ACCEPTANCE OF STORM WATER PONDS DEDICATED TO PUBLIC. Notwithstanding sub. (2), the dedication of any lands within a plat of a subdivision located within a municipality that are intended to include a permanent man-made pond designed for reducing the quantity or quality impacts of storm water runoff from more than one lot and that are shown on the plat as "Dedicated to the Public

for Storm Water Management Purposes" is not accepted until at least 80 percent of the lots in the subdivision have been sold and a professional engineer registered under ch. 443 has certified to the municipality that all of the following conditions are met with respect to the pond:

(a) The pond is functioning properly in accordance with the plans and specifications of the municipality.

(b) The plantings in the approved plans are adequate, well-established, and reasonably free of invasive species.

par. (a)

****NOTE: What does "in the approved plans" refer to? Is this in the plans of the subdivider for the pond, the plans and specifications of the municipality referred to in subd. 1., or some other plans? Also, since the plantings would not be *in* the plans, do you mean *required* by the plans, *allowed* by the plans, *suggested* by the plans, etc.?

(c) Any necessary maintenance, including removal of construction sediment, has been properly performed.

INS 6-10

SECTION 9. 236.45 (6) (b) of the statutes is amended to read:

236.45 **(6)** (b) Any land dedication, easement, or other public improvement <u>or fee for the acquisition or improvement of land for a public park that is</u> required by a municipality, town, or county as a condition of approval under this chapter must bear a rational relationship to a need for the land dedication, easement, or other public improvement <u>or parkland acquisition or improvement fee</u> resulting from the subdivision or other division of land.

INS 6-17

History: 1979 c. 221, 248, 355; 1981 c. 354; 1983 a. 189 s. 329 (26); 2001 a. 16; 2005 a. 477.

(END)

D-NOTE

State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1102/1
PJK:jld:rs

2007 BILL

1 AN ACT *to amend* 236.45 (6) (a) of the statutes; **relating to:** imposing fees for
2 acquiring or improving public park land.

Insert A1

Analysis by the Legislative Reference Bureau

Current law specifies whether a county, town, city, or village has the right to approve or object to a plat, which is the map of a subdivision. Plat approval is conditioned on the plat's compliance with the local ordinances and comprehensive, master, or development plan of the local governmental unit or units that have the right to approve the plat. Current law provides that, as a further condition of approval, the governing body of the town or incorporated city or village within which a subdivision lies may require the subdivider to make and install reasonably necessary public improvements or to execute a surety bond to ensure that the improvements will be made. However, current law also provides that a county, town, or incorporated city or village may not, as a condition of approval of a subdivision plat, impose any fees or other charges to fund the acquisition or improvement of real or personal property. This bill provides an exception to that prohibition for the acquisition or improvement of public park land. (end ins A)

~~For further information see the *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:

Insert 6-10

1 **SECTION 1.** 236.45 (6) (a) of the statutes is amended to read:

2 236.45 **(6)** (a) Notwithstanding subs. (1) and (2) (a) (intro.), a municipality,
3 town, or county may not, as a condition of approval under this chapter, impose any
4 fees or other charges to fund the acquisition or improvement of land, infrastructure,
5 or other real or personal property, except for the acquisition or improvement of land
6 for public parks.

(end of insert 6-10)

Insert 6-17

7 **SECTION 2. Initial applicability.**

8 (1) ~~This act~~ first applies to a certified survey map, a preliminary plat, or, if no
9 preliminary plat was submitted, a final plat that is submitted for approval on the
10 effective date of this subsection.

11 (END of insert 6-17)

NO ¶ The treatment of sections 236.13 (2) (b), 236.29 (4), and 236.45 (6) (a) and (b) of the statutes NO ¶

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2113/1dn
MES&PJK:...

date

Rather than redrafting LRB-1102, I started a new draft in preliminary form because I wanted you to review the additions before the draft became introducible.

I have modified proposed s. 236.29 (4) from the suggested language. Under s. 236.29 (2), the approval and recording of a plat constitutes acceptance of lands dedicated to the public on the plat. Since lots cannot be sold until a plat is approved and recorded, it seems to me that it doesn't really work with current law to say that a municipality must accept dedication of a storm water pond that is shown as dedicated to the public on a plat when 80 percent of the lots are sold. Therefore, I have changed this so that the dedication of a pond is not accepted until 80 percent of the lots are sold. Alternatively, you could say that the sale of 80 percent of the lots constitutes acceptance, rather than the approval and recording of the plat.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2113/P1dn
PJK:jld:rs

March 26, 2007

Rather than redrafting LRB-1102, I started a new draft in preliminary form because I wanted you to review the additions before the draft became introducible.

I have modified proposed s. 236.29 (4) from the suggested language. Under s. 236.29 (2), the approval and recording of a plat constitutes acceptance of lands dedicated to the public on the plat. Since lots cannot be sold until a plat is approved and recorded, it seems to me that it doesn't really work with current law to say that a municipality must accept dedication of a storm water pond that is shown as dedicated to the public on a plat when 80 percent of the lots are sold. Therefore, I have changed this so that the dedication of a pond is not accepted until 80 percent of the lots are sold. Alternatively, you could say that the sale of 80 percent of the lots constitutes acceptance, rather than the approval and recording of the plat.

Pamela J. Kahler
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E-mail: pam.kahler@legis.wisconsin.gov

State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2113/P1
MES&PJK:jld:rs
rm is run

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

regenerate

AN ACT ***to renumber and amend*** 66.0617 (6) (g); ***to amend*** 66.0617 (4) (a) 3., 66.0617 (9) (a) and (b), 236.13 (2) (b), 236.45 (6) (a) and 236.45 (6) (b); and ***to create*** 66.0617 (6) (g) 1., 2. and 3., 66.0617 (9) (c), 66.0628 (3) and 236.29 (4) of the statutes; **relating to:** imposing fees for acquiring public park land, dedicating storm water treatment ponds to the public, changing the time relating to when impact fees must be paid and used, and regulating the costs of certain professional services provided through a political subdivision.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. A complete analysis will be provided in a later version.

Under current law, a city, village, or town (municipality) may impose an impact fee on a developer to pay for the capital costs to construct certain public facilities that are necessary to accommodate land development. Former law required that impact fees not used within a reasonable period of time to pay for the capital costs had to be refunded to the current owner of the property with respect to which the impact fee was imposed.

The "reasonable time" provision was changed in 2005 Wisconsin Act 203 (Act 203). Under Act 203, which is now current law, an impact fee must be used within seven years after it is collected or the fee must be refunded to the current owner of

the political subdivision must pay a uniform rate for the services without regard to whether

the property with respect to which the impact fee was imposed, although a three-year extension is possible in the case of extenuating circumstances or hardship. The change from "reasonable time" to a generally seven-year limit first applied, retroactively, to impact fees that were imposed under an impact fee ordinance that was in effect on April 11, 2006, the effective date of Act 203.

This bill extends the time period during which impact fees must be used to ten years, and maintains the three-year extension if the municipality generates detailed written findings that describe the extenuating circumstances. Also under the bill, the general ten-year time limit for using impact fees applies to fees that are collected after April 10, 2006. Fees that are collected before January 1, 2003, must be used by December 31, 2012, or they must be refunded. Fees that are collected after December 31, 2002, and before April 11, 2006, must be used within approximately ten years after they were collected or they must be refunded.

Current law requires that an impact fee be paid by the developer or property owner to a municipality within 14 days of the issuance of a building permit, or within 14 days of the issuance of an occupancy permit. Under this bill, an impact fee must be paid no later than the earliest of either approximately five years after the municipality grants final approval for the land development that gave rise to the imposition of an impact fee, or either of the dates specified in current law.

Also under the bill, if a municipality or a county (political subdivision) purchases engineering, legal, or other professional services from another person, and the political subdivision passes along the cost of such services to a third person under a separate contract, the rate charged the third person for the services may not exceed the rate charged to the political subdivision by the service provider.

Current law specifies whether a county, town, city, or village has the right to approve or object to a plat, which is the map of a subdivision. Plat approval is conditioned on the plat's compliance with the local ordinances and comprehensive, master, or development plan of the local governmental unit or units that have the right to approve the plat. Current law provides that, as a further condition of approval, the governing body of the town or incorporated city or village within which a subdivision lies may require the subdivider to make and install reasonably necessary public improvements or to execute a surety bond to ensure that the improvements will be made. However, current law also provides that a county, town, or incorporated city or village may not, as a condition of approval of a subdivision plat, impose any fees or other charges to fund the acquisition or improvement of real or personal property. This bill provides an exception to that prohibition for the acquisition or improvement of public park land.

For further information see the ***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.** 66.0617 (4) (a) 3. of the statutes is amended to read:

66.0617 **(4)** (a) 3. A detailed estimate of the capital costs of providing the new public facilities or the improvements or expansions in existing public facilities identified in subd. 2., including an estimate of the cumulative effect of ~~recovering these capital costs through~~ all proposed and existing impact fees on the availability of affordable housing within the municipality.

SECTION 2. 66.0617 (6) (g) of the statutes is renumbered 66.0617 (6) (g) (intro.) and amended to read:

66.0617 **(6)** (g) (intro.) Shall be payable by the developer or the property owner to the municipality in full ~~within 14 days of the issuance of a building permit or within 14 days of the issuance of an occupancy permit by the municipality.~~ no later than the earliest of the following:

SECTION 3. 66.0617 (6) (g) 1., 2. and 3. of the statutes are created to read:

66.0617 **(6)** (g) 1. Within 14 days of the issuance of a building permit by the municipality.

2. Within 14 days of the issuance of an occupancy permit by the municipality.

3. The first day of the 60th month beginning after the municipality grants final approval for the land development in which the lot or parcel, for which the fee is being paid, is located. If the land development consists of multiple phases, the date of final approval is the date of final approval for the phase in which the lot or parcel is located.

SECTION 4. 66.0617 (9) (a) and (b) of the statutes are amended to read:

66.0617 **(9)** REFUND OF IMPACT FEES. (a) Subject to ~~par.~~ pars. (b) and (c), and with regard to an impact fee that is collected after April 10, 2006, an ordinance enacted under this section shall specify that impact fees that are imposed and collected by a municipality but are not used within ~~7~~ 10 years after they are collected to pay the

capital costs for which they were imposed shall be refunded to the current owner of the property with respect to which the impact fees were imposed, along with any interest that has accumulated, ~~in~~ as described in sub. (8). The ordinance shall specify, by type of public facility, reasonable time periods within which impact fees must be spent or refunded under this subsection, subject to the ~~7-year~~ 10-year limit in this paragraph and the extended time period specified in par. (b). In determining the length of the time periods under the ordinance, a municipality shall consider what are appropriate planning and financing periods for the particular types of public facilities for which the impact fees are imposed.

(b) The ~~7-year~~ 10-year time limit for using impact fees that is specified under par. (a) may be extended for 3 years if the ~~political subdivision~~ municipality adopts a resolution stating that, due to extenuating circumstances or hardship in meeting the ~~7-year~~ 10-year limit, it needs an additional 3 years to use the impact fees that were collected. The resolution shall include detailed written findings that specify the extenuating circumstances or hardship that led to the need to adopt a resolution under this paragraph.

SECTION 5. 66.0617 (9) (c) of the statutes is created to read:

66.0617 **(9)** (c) 1. An impact fee that was collected before January 1, 2003, must be used for the purpose for which it was imposed not later than December 31, 2012. Any such fee that is not used by that date shall be refunded to the current owner of the property with respect to which the impact fee was imposed, along with any interest that has accumulated, as described in sub. (8).

2. An impact fee that was collected after December 31, 2002, and before April 11, 2006, must be used for the purpose for which it was imposed not later than the first day of the 120th month beginning after the date on which the fee was collected.

Any such fee that is not used by that date shall be refunded to the current owner of the property with respect to which the impact fee was imposed, along with any interest that has accumulated, as described in sub. (8).

INS 5-5 MES

SECTION 6. 66.0628 (3) of the statutes is created to read:

~~66.0628 **(3)** If a political subdivision enters into a contract to purchase engineering, legal, or other professional services from another person and the political subdivision passes along the cost for such professional services to another person under a separate contract between the political subdivision and that person, the rate charged that other person for the professional services may not exceed the contracted rate agreed to by the political subdivision and the person providing the professional services.~~

SECTION 7. 236.13 (2) (b) of the statutes is amended to read:

236.13 **(2)** (b) Any city or village may require as a condition for accepting the dedication of public streets, alleys or other ways, or for permitting private streets, alleys or other public ways to be placed on the official map, that designated facilities shall have been previously provided without cost to the municipality, but which are constructed according to municipal specifications and under municipal inspection, such as, without limitation because of enumeration, sewerage, water mains and laterals, storm water management or treatment ponds, grading and improvement of streets, alleys, sidewalks and other public ways, street lighting or other facilities designated by the governing body, or that a specified portion of such costs shall be paid in advance as provided in s. 66.0709.

SECTION 8. 236.29 (4) of the statutes is created to read:

236.29 **(4)** ACCEPTANCE OF STORM WATER PONDS DEDICATED TO PUBLIC. Notwithstanding sub. (2), the dedication of any lands within a plat of a subdivision

located within a municipality that are intended to include a permanent man-made pond designed for reducing the quantity or quality impacts of storm water runoff from more than one lot and that are shown on the plat as "Dedicated to the Public for Storm Water Management Purposes" is not accepted until at least 80 percent of the lots in the subdivision have been sold and a professional engineer registered under ch. 443 has certified to the municipality that all of the following conditions are met with respect to the pond:

(a) The pond is functioning properly in accordance with the plans and specifications of the municipality.

(b) The plantings in the approved plans are adequate, well-established, and reasonably free of invasive species.

****NOTE: What does "in the approved plans" refer to? Is this in the plans of the subdivider for the pond, the plans and specifications of the municipality referred to in par. (a), or some other plans? Also, since the plantings would not be *in* the plans, do you mean *required* by the plans, *allowed* by the plans, *suggested* by the plans, etc.?

(c) Any necessary maintenance, including removal of construction sediment, has been properly performed.

SECTION 9. 236.45 (6) (a) of the statutes is amended to read:

236.45 **(6)** (a) Notwithstanding subs. (1) and (2) (a) (intro.), a municipality, town, or county may not, as a condition of approval under this chapter, impose any fees or other charges to fund the acquisition or improvement of land, infrastructure, or other real or personal property, <u>except for the acquisition or improvement of land for public parks</u>.

SECTION 10. 236.45 (6) (b) of the statutes is amended to read:

236.45 **(6)** (b) Any land dedication, easement, or other public improvement <u>or fee for the acquisition or improvement of land for a public park that is</u> required by a municipality, town, or county as a condition of approval under this chapter must

bear a rational relationship to a need for the land dedication, easement, or other public improvement <u>or parkland acquisition or improvement fee</u> resulting from the subdivision or other division of land.

SECTION 11. Initial applicability.

(1) The treatment of sections 236.13 (2) (b), 236.29 (4), and 236.45 (6) (a) and (b) of the statutes first applies to a certified survey map, a preliminary plat, or, if no preliminary plat was submitted, a final plat that is submitted for approval on the effective date of this subsection.

(END)

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

INSERT PJK-A

Under current law, if areas are designated on a plat as dedicated to the public, such as land to be used for streets, alleys, commons, or other public uses, the approval and recording of the plat constitutes acceptance of those areas for the designated purpose. The town, city, or village in which the plat is located holds the land dedicated to the public in trust for the designated purposes. This bill provides that the dedication of any lands within a plat of a subdivision located in a municipality that are intended to include a permanent man-made pond designed for reducing the quantity or quality impact of storm water runoff from more than one lot is not accepted when the plat is approved and recorded but when at least 80 percent of the lots in the subdivision have been sold and a professional engineer has certified to the muncipality that the pond is functioning properly; the plantings are adequate, well-established, and reasonably free of invasive species; and any necessary maintenace has been properly performed.

(END OF INSERT PJK-A)

INSERT 5-5 MES

66.0628 **(3)** If a political subdivision enters into a contract to purchase engineering, legal, or other professional services from another person, the political subdivision must pay a uniform rate for all services provided under the contract without regard to whether the charges are paid directly by the political subdivision or passed on to a third party ~~which~~ that reimburses the political subdivision.

Shovers, Marc

From: Solie, Denise
Sent: Thursday, April 19, 2007 10:51 AM
To: Shovers, Marc
Subject: Request for re-draft LRB 2113/1

Importance: High

Marc,

We need a /2, please, with the following changes:

1. Change "ponds" to "facilities" in Sections 7 and 8, and in the bill description and analysis.

2. Change the language on pass through costs in Section 6 (restoring the language in you originally drafted in 2113/P1) to read:

SECTION 6. 66.0628 (3) of the statutes is created to read:
66.0628 **(3)** If a political subdivision enters into a contract to purchase engineering, legal, or other professional services from another person and the political subdivision passes along the cost for such professional services to another person under a separate contract between the political subdivision and that person, the rate charged that other person for the professional services may not exceed the contracted rate agreed to by the political subdivision and the person providing the professional services.

3. Add language in Section 2 or 3 that clarifies (specifies?) that a developer and municipality can have alternative terms regarding the timing of the payment of impact fees by mutual agreement.

4. Amend Section 10 to include language regarding "proportional" to read:

SECTION 10. 236.45 (6) (b) of the statutes is amended to read:
236.45 **(6)** (b) Any land dedication, easement, or other public improvement <u>or fee for the acquisition or improvement of land for a public park that is</u> required by a municipality, town, or county as a condition of approval under this chapter must bear a rational relationship <u>and be proportional</u> to a need for the land dedication, easement, or other public improvement or parkland acquisition or improvement fee resulting from the subdivision or other division of land.

5. Change the language in Section 8 to read "Any required planting..."

6. Revise s.66.0617(6)(g), WI Stats, to drop the current "14 day" language.

If you have any questions, please feel free to email or call. THANKS!

denise
7-2370

State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2113/1
MES&PJK:jld:pg

2007 BILL

AN ACT ***to renumber and amend*** 66.0617 (6) (g); ***to amend*** 66.0617 (4) (a) 3., 66.0617 (9) (a) and (b), 236.13 (2) (b), 236.45 (6) (a) and 236.45 (6) (b); and ***to create*** 66.0617 (6) (g) 1., 2. and 3., 66.0617 (9) (c), 66.0628 (3) and 236.29 (4) of the statutes; **relating to:** imposing fees for acquiring public park land, dedicating storm water treatment ~~ponds~~ facilities to the public, changing the time relating to when impact fees must be paid and used, and regulating the costs of certain professional services provided through a political subdivision.

Analysis by the Legislative Reference Bureau

Under current law, a city, village, or town (municipality) may impose an impact fee on a developer to pay for the capital costs to construct certain public facilities that are necessary to accommodate land development. Former law required that impact fees not used within a reasonable period of time to pay for the capital costs had to be refunded to the current owner of the property with respect to which the impact fee was imposed.

The "reasonable time" provision was changed in 2005 Wisconsin Act 203 (Act 203). Under Act 203, which is now current law, an impact fee must be used within seven years after it is collected or the fee must be refunded to the current owner of the property with respect to which the impact fee was imposed, although a three-year extension is possible in the case of extenuating circumstances or

BILL NO upon the issuance of a building permit, or upon the issuance of an occupancy permit

hardship. The change from "reasonable time" to a generally seven–year limit first applied, retroactively, to impact fees that were imposed under an impact fee ordinance that was in effect on April 11, 2006, the effective date of Act 203.

This bill extends the time period during which impact fees must be used to ten years, and maintains the three–year extension if the municipality generates detailed written findings that describe the extenuating circumstances. Also under the bill, the general ten–year time limit for using impact fees applies to fees that are collected after April 10, 2006. Fees that are collected before January 1, 2003, must be used by December 31, 2012, or they must be refunded. Fees that are collected after December 31, 2002, and before April 11, 2006, must be used within approximately ten years after they were collected or they must be refunded.

Current law requires that an impact fee be paid by the developer or property owner to a municipality within 14 days of the issuance of a building permit, or within 14 days of the issuance of an occupancy permit. Under this bill, an impact fee must be paid no later than the earliest of either approximately five years after the municipality grants final approval for the land development that gave rise to the imposition of an impact fee, ~~or either of the dates specified in current law.~~

INS ANL-MES

~~Also under the bill, if a municipality or a county (political subdivision) purchases engineering, legal, or other professional services from another person, the political subdivision must pay a uniform rate for the services, without regard to whether the political subdivision pays the charges directly or passes along the cost of the services to a third person that reimburses the political subdivision.~~

Current law specifies whether a county, town, city, or village has the right to approve or object to a plat, which is the map of a subdivision. Plat approval is conditioned on the plat's compliance with the local ordinances and comprehensive, master, or development plan of the local governmental unit or units that have the right to approve the plat. Current law provides that, as a further condition of approval, the governing body of the town or incorporated city or village within which a subdivision lies may require the subdivider to make and install reasonably necessary public improvements or to execute a surety bond to ensure that the improvements will be made. However, current law also provides that a county, town, or incorporated city or village may not, as a condition of approval of a subdivision plat, impose any fees or other charges to fund the acquisition or improvement of real or personal property. This bill provides an exception to that prohibition for the acquisition or improvement of public park land and requires that any fee for the acquisition or improvement of public park land must bear a rational relationship to ~~the~~ need for it resulting from the subdivision. Insert A-2

Insert A-1

Under current law, if areas are designated on a plat as dedicated to the public, such as land to be used for streets, alleys, commons, or other public uses, the approval and recording of the plat constitutes acceptance of those areas for the designated purpose. The town, city, or village in which the plat is located holds the land dedicated to the public in trust for the designated purposes. This bill provides that the dedication of any lands within a plat of a subdivision located in a municipality that ~~is~~ intended to include a permanent man–made ~~pond~~ designed for reducing the quantity or quality impact of storm water runoff from more than one lot is not

are

facility

either at a time agreed to by the parties or

facility ✓ ✓ any required

accepted when the plat is approved and recorded but when at least 80 percent of the lots in the subdivision have been sold and a professional engineer has certified to the municipality that the ~~pond~~ is functioning properly; ~~the~~ plantings are adequate, well-established, and reasonably free of invasive species; and any necessary maintenance has been properly performed. ✓

For further information see the ***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:

SECTION 1. 66.0617 (4) (a) 3. of the statutes is amended to read:

66.0617 **(4)** (a) 3. A detailed estimate of the capital costs of providing the new public facilities or the improvements or expansions in existing public facilities identified in subd. 2., including an estimate of the cumulative effect of ~~recovering these capital costs through~~ all proposed and existing impact fees on the availability of affordable housing within the municipality.

SECTION 2. 66.0617 (6) (g) of the statutes is renumbered 66.0617 (6) (g) (intro.) and amended to read:

66.0617 **(6)** (g) (intro.) Shall be payable by the developer or the property owner to the municipality in full ~~within 14 days of the issuance of a building permit or within 14 days of the issuance of an occupancy permit by the municipality.~~ no later than the earliest of the following:

SECTION 3. 66.0617 (6) (g) 1., 2. and 3. of the statutes are created to read:

66.0617 **(6)** (g) 1. ~~Within 14 days of~~ Upon the issuance of a building permit by the municipality.

2. ~~Within 14 days of~~ Upon the issuance of an occupancy permit by the municipality.

3. The first day of the 60th month beginning after the municipality grants final approval for the land development in which the lot or parcel, for which the fee is being

NO ¶ according to terms that are agreed to by the parties or, if no agreement is reached, NO ¶ on the timing of the payment

paid, is located. If the land development consists of multiple phases, the date of final approval is the date of final approval for the phase in which the lot or parcel is located.

SECTION 4. 66.0617 (9) (a) and (b) of the statutes are amended to read:

66.0617 **(9)** ~~REFUND OF IMPACT FEES.~~ (a) Subject to ~~par.~~ pars. (b) and (c), and with regard to an impact fee that is collected after April 10, 2006, an ordinance enacted under this section shall specify that impact fees that are imposed and collected by a municipality but are not used within ~~7~~ 10 years after they are collected to pay the capital costs for which they were imposed shall be refunded to the current owner of the property with respect to which the impact fees were imposed, along with any interest that has accumulated, ~~in~~ as described in sub. (8). The ordinance shall specify, by type of public facility, reasonable time periods within which impact fees must be spent or refunded under this subsection, subject to the ~~7–year~~ 10–year limit in this paragraph and the extended time period specified in par. (b). In determining the length of the time periods under the ordinance, a municipality shall consider what are appropriate planning and financing periods for the particular types of public facilities for which the impact fees are imposed.

(b) The ~~7–year~~ 10–year time limit for using impact fees that is specified under par. (a) may be extended for 3 years if the ~~political subdivision~~ municipality adopts a resolution stating that, due to extenuating circumstances or hardship in meeting the ~~7–year~~ 10–year limit, it needs an additional 3 years to use the impact fees that were collected. The resolution shall include detailed written findings that specify the extenuating circumstances or hardship that led to the need to adopt a resolution under this paragraph.

SECTION 5. 66.0617 (9) (c) of the statutes is created to read:

66.0617 **(9)** (c) 1. An impact fee that was collected before January 1, 2003, must be used for the purpose for which it was imposed not later than December 31, 2012. Any such fee that is not used by that date shall be refunded to the current owner of the property with respect to which the impact fee was imposed, along with any interest that has accumulated, as described in sub. (8).

2. An impact fee that was collected after December 31, 2002, and before April 11, 2006, must be used for the purpose for which it was imposed not later than the first day of the 120th month beginning after the date on which the fee was collected. Any such fee that is not used by that date shall be refunded to the current owner of the property with respect to which the impact fee was imposed, along with any interest that has accumulated, as described in sub. (8).

INS 5-11

SECTION 6. 66.0628 (3) of the statutes is created to read:

66.0628 **(3)** If a political subdivision enters into a contract to purchase engineering, legal, or other professional services from another person, the political subdivision must pay a uniform rate for all services provided under the contract without regard to whether the charges are paid directly by the political subdivision or passed on to a 3rd party that reimburses the political subdivision.

SECTION 7. 236.13 (2) (b) of the statutes is amended to read:

236.13 **(2)** (b) Any city or village may require as a condition for accepting the dedication of public streets, alleys or other ways, or for permitting private streets, alleys or other public ways to be placed on the official map, that designated facilities shall have been previously provided without cost to the municipality, but which are constructed according to municipal specifications and under municipal inspection, such as, without limitation because of enumeration, sewerage, water mains and laterals, storm water management or treatment ponds, grading and improvement

facilities

of streets, alleys, sidewalks and other public ways, street lighting or other facilities designated by the governing body, or that a specified portion of such costs shall be paid in advance as provided in s. 66.0709.

SECTION 8. 236.29 (4) of the statutes is created to read:

236.29 **(4)** ACCEPTANCE OF STORM WATER ~~PONDS~~ DEDICATED TO PUBLIC. Notwithstanding sub. (2), the dedication of any lands within a plat of a subdivision located within a municipality that are intended to include a permanent man–made ~~pond~~ designed for reducing the quantity or quality impacts of storm water runoff from more than one lot and that are shown on the plat as "Dedicated to the Public for Storm Water Management Purposes" is not accepted until at least 80 percent of the lots in the subdivision have been sold and a professional engineer registered under ch. 443 has certified to the municipality that all of the following conditions are met with respect to the ~~pond~~:

(a) The ~~pond~~ is functioning properly in accordance with the plans and specifications of the municipality.

Any required

(b) ~~The~~ plantings are adequate, well–established, and reasonably free of invasive species.

(c) Any necessary maintenance, including removal of construction sediment, has been properly performed.

SECTION 9. 236.45 (6) (a) of the statutes is amended to read:

236.45 **(6)** (a) Notwithstanding subs. (1) and (2) (a) (intro.), a municipality, town, or county may not, as a condition of approval under this chapter, impose any fees or other charges to fund the acquisition or improvement of land, infrastructure, or other real or personal property, <u>except for the acquisition or improvement of land for public parks</u>.

1 **SECTION 10.** 236.45 (6) (b) of the statutes is amended to read:

2 236.45 **(6)** (b) Any land dedication, easement, or other public improvement or
3 fee for the acquisition or improvement of land for a public park that is required by
4 a municipality, town, or county as a condition of approval under this chapter must
5 bear a rational relationship to a need for the land dedication, easement, or other
6 public improvement or parkland acquisition or improvement fee resulting from the
7 subdivision or other division of land.

8 **SECTION 11. Initial applicability.**

9 (1) The treatment of sections 236.13 (2) (b), 236.29 (4), and 236.45 (6) (a) and
10 (b) of the statutes first applies to a certified survey map, a preliminary plat, or, if no
11 preliminary plat was submitted, a final plat that is submitted for approval on the
12 effective date of this subsection.

13 **(END)**

must
and be proportional to the
need ✓

the property with respect to which the impact fee was imposed, although a three–year extension is possible in the case of extenuating circumstances or hardship. The change from "reasonable time" to a generally seven–year limit first applied, retroactively, to impact fees that were imposed under an impact fee ordinance that was in effect on April 11, 2006, the effective date of Act 203.

This bill extends the time period during which impact fees must be used to ten years, and maintains the three–year extension if the municipality generates detailed written findings that describe the extenuating circumstances. Also under the bill, the general ten–year time limit for using impact fees applies to fees that are collected after April 10, 2006. Fees that are collected before January 1, 2003, must be used by December 31, 2012, or they must be refunded. Fees that are collected after December 31, 2002, and before April 11, 2006, must be used within approximately ten years after they were collected or they must be refunded.

Current law requires that an impact fee be paid by the developer or property owner to a municipality within 14 days of the issuance of a building permit, or within 14 days of the issuance of an occupancy permit. Under this bill, an impact fee must be paid no later than the earliest of either approximately five years after the municipality grants final approval for the land development that gave rise to the imposition of an impact fee, or either of the dates specified in current law.

INS ANL-MES

Also under the bill, if a municipality or a county (political subdivision) purchases engineering, legal, or other professional services from another person, and the political subdivision passes along the cost of such services to a third person under a separate contract, the rate charged the third person for the services may not exceed the rate charged to the political subdivision by the service provider.

Current law specifies whether a county, town, city, or village has the right to approve or object to a plat, which is the map of a subdivision. Plat approval is conditioned on the plat's compliance with the local ordinances and comprehensive, master, or development plan of the local governmental unit or units that have the right to approve the plat. Current law provides that, as a further condition of approval, the governing body of the town or incorporated city or village within which a subdivision lies may require the subdivider to make and install reasonably necessary public improvements or to execute a surety bond to ensure that the improvements will be made. However, current law also provides that a county, town, or incorporated city or village may not, as a condition of approval of a subdivision plat, impose any fees or other charges to fund the acquisition or improvement of real or personal property. This bill provides an exception to that prohibition for the acquisition or improvement of public park land.

For further information see the ***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.** 66.0617 (4) (a) 3. of the statutes is amended to read:

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2113/2ins
MES&PJK:jld:pg

INSERT A-1

NOT

, and provides that any land dedication, easement, or other public improvement required as a condition of approval must bear a rational relationship to a need for the land dedication, easement, or other public improvement resulting from the subdivision. However, current law prohibits a county, town, or incorporated city or village from imposing, as a condition of approval of a subdivision plat, NOT

(END OF INSERT A-1)

INSERT A-2

add comma

NOT

, and that any such fee or land dedication, easement, or other public improvement required as a condition of approval of a subdivision must be proportional to the need for it NOT

(END OF INSERT A-2)

INS 5-11

1 Any such fee that is not used by that date shall be refunded to the current owner of
2 the property with respect to which the impact fee was imposed, along with any
3 interest that has accumulated, as described in sub. (8).

4 **SECTION 6.** 66.0628 (3) of the statutes is created to read:

5 66.0628 **(3)** If a political subdivision enters into a contract to purchase
6 engineering, legal, or other professional services from another person and the
7 political subdivision passes along the cost for such professional services to another
8 person under a separate contract between the political subdivision and that person,
9 the rate charged that other person for the professional services may not exceed the
10 contracted rate agreed to by the political subdivision and the person providing the
11 professional services. (end ins 5-11)

12 **SECTION 7.** 236.13 (2) (b) of the statutes is amended to read:

13 236.13 **(2)** (b) Any city or village may require as a condition for accepting the
14 dedication of public streets, alleys or other ways, or for permitting private streets,
15 alleys or other public ways to be placed on the official map, that designated facilities
16 shall have been previously provided without cost to the municipality, but which are
17 constructed according to municipal specifications and under municipal inspection,
18 such as, without limitation because of enumeration, sewerage, water mains and
19 laterals, storm water management or treatment ponds, grading and improvement
20 of streets, alleys, sidewalks and other public ways, street lighting or other facilities
21 designated by the governing body, or that a specified portion of such costs shall be
22 paid in advance as provided in s. 66.0709.

23 **SECTION 8.** 236.29 (4) of the statutes is created to read:

24 236.29 **(4)** ACCEPTANCE OF STORM WATER PONDS DEDICATED TO PUBLIC.
25 Notwithstanding sub. (2), the dedication of any lands within a plat of a subdivision

Shovers, Marc

From: Solie, Denise
Sent: Tuesday, May 01, 2007 2:56 PM
To: Shovers, Marc
Subject: Request for re-draft LRB 2113/2

Mark,

We would like a /3, amending /2 with the following 3 changes:

1. Create 66.0617(6)(h) to read: "The municipality shall not withhold any approval or permit as a result of the developer failing to agree to an earlier date than that specified in 66.017(6)(g).
2. On page 6, in Section 8; Amend line 11 to read: "Notwithstanding sub.(2), unless an earlier date is agreed to by the municipality, the dedication of any lands within a plat of a subdivision..."
3. On page 7, at the end of Section 9, Amend to add the following: "For purposes of this section, 'improvement of land' is limited to initial grading, landscaping, utilities, sidewalks, playground equipment, and restrooms."

Please call if you have any questions. Thanks!

denise
7.2369

State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-2113/2
MES&PJK:jld:nwn

2007 BILL

1 AN ACT ***to renumber and amend*** 66.0617 (6) (g); ***to amend*** 66.0617 (4) (a) 3.,
2 66.0617 (9) (a) and (b), 236.13 (2) (b), 236.45 (6) (a) and 236.45 (6) (b); and ***to***
3 ***create*** 66.0617 (6) (g) 1., 2. and 3., 66.0617 (9) (c), 66.0628 (3) and 236.29 (4) of
4 the statutes; **relating to:** imposing fees for acquiring public park land,
5 dedicating storm water treatment facilities to the public, changing the time
6 relating to when impact fees must be paid and used, and regulating the costs
7 of certain professional services provided through a political subdivision.

Analysis by the Legislative Reference Bureau

Under current law, a city, village, or town (municipality) may impose an impact fee on a developer to pay for the capital costs to construct certain public facilities that are necessary to accommodate land development. Former law required that impact fees not used within a reasonable period of time to pay for the capital costs had to be refunded to the current owner of the property with respect to which the impact fee was imposed.

The "reasonable time" provision was changed in 2005 Wisconsin Act 203 (Act 203). Under Act 203, which is now current law, an impact fee must be used within seven years after it is collected or the fee must be refunded to the current owner of the property with respect to which the impact fee was imposed, although a three-year extension is possible in the case of extenuating circumstances or

hardship. The change from "reasonable time" to a generally seven-year limit first applied, retroactively, to impact fees that were imposed under an impact fee ordinance that was in effect on April 11, 2006, the effective date of Act 203.

This bill extends the time period during which impact fees must be used to ten years, and maintains the three-year extension if the municipality generates detailed written findings that describe the extenuating circumstances. Also under the bill, the general ten-year time limit for using impact fees applies to fees that are collected after April 10, 2006. Fees that are collected before January 1, 2003, must be used by December 31, 2012, or they must be refunded. Fees that are collected after December 31, 2002, and before April 11, 2006, must be used within approximately ten years after they were collected or they must be refunded.

Current law requires that an impact fee be paid by the developer or property owner to a municipality within 14 days of the issuance of a building permit, or within 14 days of the issuance of an occupancy permit. Under this bill, an impact fee must be paid either at a time agreed to by the parties or no later than the earliest of approximately five years after the municipality grants final approval for the land development that gave rise to the imposition of an impact fee, upon the issuance of a building permit, or upon the issuance of an occupancy permit.

Also under the bill, if a municipality or a county (political subdivision) purchases engineering, legal, or other professional services from another person, and the political subdivision passes along the cost of such services to a third person under a separate contract, the rate charged the third person for the services may not exceed the rate charged to the political subdivision by the service provider.

Current law specifies whether a county, town, city, or village has the right to approve or object to a plat, which is the map of a subdivision. Plat approval is conditioned on the plat's compliance with the local ordinances and comprehensive, master, or development plan of the local governmental unit or units that have the right to approve the plat. Current law provides that, as a further condition of approval, the governing body of the town or incorporated city or village within which a subdivision lies may require the subdivider to make and install reasonably necessary public improvements or to execute a surety bond to ensure that the improvements will be made, and provides that any land dedication, easement, or other public improvement required as a condition of approval must bear a rational relationship to a need for the land dedication, easement, or other public improvement resulting from the subdivision. However, current law prohibits a county, town, or incorporated city or village from imposing, as a condition of approval of a subdivision plat, any fees or other charges to fund the acquisition or improvement of ~~real or personal property.~~ land This bill provides an exception to that prohibition for the acquisition or improvement of public park land and requires that any fee for the acquisition or improvement of public park land must bear a rational relationship to a need for it resulting from the subdivision, and that any such fee or land dedication, easement, or other public improvement required as a condition of approval of a subdivision must be proportional to the need for it. Insert A

Under current law, if areas are designated on a plat as dedicated to the public, such as land to be used for streets, alleys, commons, or other public uses, the approval

and recording of the plat constitutes acceptance of those areas for the designated purpose. The town, city, or village in which the plat is located holds the land dedicated to the public in trust for the designated purposes. This bill provides that the dedication of any lands within a plat of a subdivision located in a municipality that are intended to include a permanent man-made facility designed for reducing the quantity or quality impact of storm water runoff from more than one lot is not accepted when the plat is approved and recorded but, unless the municipality agrees to an earlier date, when at least 80 percent of the lots in the subdivision have been sold and a professional engineer has certified to the municipality that the facility is functioning properly; any required plantings are adequate, well-established, and reasonably free of invasive species; and any necessary maintenance has been properly performed.

For further information see the ***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:

INS 3-1

SECTION ~~**1.**~~ 66.0617 (4) (a) 3. of the statutes is amended to read:

66.0617 **(4)** (a) 3. A detailed estimate of the capital costs of providing the new public facilities or the improvements or expansions in existing public facilities identified in subd. 2., including an estimate of the cumulative effect of ~~recovering these capital costs through~~ all proposed and existing impact fees on the availability of affordable housing within the municipality.

SECTION 2. 66.0617 (6) (g) of the statutes is renumbered 66.0617 (6) (g) (intro.) and amended to read:

66.0617 **(6)** (g) (intro.) Shall be payable by the developer or the property owner to the municipality in full ~~within 14 days of the issuance of a building permit or within 14 days of the issuance of an occupancy permit by the municipality.~~ according to terms that are agreed to by the parties or, if no agreement on the timing of the payment is reached, no later than the earliest of the following:

SECTION 3. 66.0617 (6) (g) 1., 2. and 3. of the statutes are created to read:

66.0617 **(6)** (g) 1. Upon the issuance of a building permit by the municipality.

2. Upon the issuance of an occupancy permit by the municipality.

3. The first day of the 60th month beginning after the municipality grants final approval for the land development in which the lot or parcel, for which the fee is being paid, is located. If the land development consists of multiple phases, the date of final approval is the date of final approval for the phase in which the lot or parcel is located.

SECTION 4. 66.0617 (9) (a) and (b) of the statutes are amended to read:

66.0617 **(9)** (a) Subject to ~~par.~~ pars. (b) and (c), and with regard to an impact fee that is collected after April 10, 2006, an ordinance enacted under this section shall specify that impact fees that are imposed and collected by a municipality but are not used within ~~7~~ 10 years after they are collected to pay the capital costs for which they were imposed shall be refunded to the current owner of the property with respect to which the impact fees were imposed, along with any interest that has accumulated, ~~in~~ as described in sub. (8). The ordinance shall specify, by type of public facility, reasonable time periods within which impact fees must be spent or refunded under this subsection, subject to the ~~7-year~~ 10-year limit in this paragraph and the extended time period specified in par. (b). In determining the length of the time periods under the ordinance, a municipality shall consider what are appropriate planning and financing periods for the particular types of public facilities for which the impact fees are imposed.

(b) The ~~7-year~~ 10-year time limit for using impact fees that is specified under par. (a) may be extended for 3 years if the ~~political subdivision~~ municipality adopts a resolution stating that, due to extenuating circumstances or hardship in meeting the ~~7-year~~ 10-year limit, it needs an additional 3 years to use the impact fees that were collected. The resolution shall include detailed written findings that specify the

extenuating circumstances or hardship that led to the need to adopt a resolution under this paragraph.

SECTION 5. 66.0617 (9) (c) of the statutes is created to read:

66.0617 **(9)** (c) 1. An impact fee that was collected before January 1, 2003, must be used for the purpose for which it was imposed not later than December 31, 2012. Any such fee that is not used by that date shall be refunded to the current owner of the property with respect to which the impact fee was imposed, along with any interest that has accumulated, as described in sub. (8).

2. An impact fee that was collected after December 31, 2002, and before April 11, 2006, must be used for the purpose for which it was imposed not later than the first day of the 120th month beginning after the date on which the fee was collected. Any such fee that is not used by that date shall be refunded to the current owner of the property with respect to which the impact fee was imposed, along with any interest that has accumulated, as described in sub. (8).

SECTION 6. 66.0628 (3) of the statutes is created to read:

66.0628 **(3)** If a political subdivision enters into a contract to purchase engineering, legal, or other professional services from another person and the political subdivision passes along the cost for such professional services to another person under a separate contract between the political subdivision and that person, the rate charged that other person for the professional services may not exceed the contracted rate agreed to by the political subdivision and the person providing the professional services.

SECTION 7. 236.13 (2) (b) of the statutes is amended to read:

236.13 **(2)** (b) Any city or village may require as a condition for accepting the dedication of public streets, alleys or other ways, or for permitting private streets,

alleys or other public ways to be placed on the official map, that designated facilities shall have been previously provided without cost to the municipality, but which are constructed according to municipal specifications and under municipal inspection, such as, without limitation because of enumeration, sewerage, water mains and laterals, storm water management or treatment facilities, grading and improvement of streets, alleys, sidewalks and other public ways, street lighting or other facilities designated by the governing body, or that a specified portion of such costs shall be paid in advance as provided in s. 66.0709.

SECTION 8. 236.29 (4) of the statutes is created to read:

236.29 **(4)** ACCEPTANCE OF STORM WATER FACILITIES DEDICATED TO PUBLIC. Notwithstanding sub. (2), the dedication of any lands within a plat of a subdivision located within a municipality that are intended to include a permanent man-made facility designed for reducing the quantity or quality impacts of storm water runoff from more than one lot and that are shown on the plat as "Dedicated to the Public for Storm Water Management Purposes" is not accepted until at least 80 percent of the lots in the subdivision have been sold and a professional engineer registered under ch. 443 has certified to the municipality that all of the following conditions are met with respect to the facility:

(a) The facility is functioning properly in accordance with the plans and specifications of the municipality.

(b) Any required plantings are adequate, well-established, and reasonably free of invasive species.

(c) Any necessary maintenance, including removal of construction sediment, has been properly performed.

SECTION 9. 236.45 (6) (a) of the statutes is amended to read:

unless an earlier date is agreed to by the municipality

1 236.45 **(6)** (a) Notwithstanding subs. (1) and (2) (a) (intro.), a municipality,
2 town, or county may not, as a condition of approval under this chapter, impose any
3 fees or other charges to fund the acquisition or improvement of land, infrastructure,
4 or other real or personal property, except for the acquisition or improvement of land
5 for public parks.

Insert 7-5

6 **SECTION 10.** 236.45 (6) (b) of the statutes is amended to read:

7 236.45 **(6)** (b) Any land dedication, easement, or other public improvement or
8 fee for the acquisition or improvement of land for a public park that is required by
9 a municipality, town, or county as a condition of approval under this chapter must
10 bear a rational relationship to a need for the land dedication, easement, or other
11 public improvement or parkland acquisition or improvement fee resulting from the
12 subdivision or other division of land and must be proportional to the need.

13 **SECTION 11. Initial applicability.**

14 (1) The treatment of sections 236.13 (2) (b), 236.29 (4), and 236.45 (6) (a) and
15 (b) of the statutes first applies to a certified survey map, a preliminary plat, or, if no
16 preliminary plat was submitted, a final plat that is submitted for approval on the
17 effective date of this subsection.

(ac),

18 **(END)**

INSERT 3-1

SECTION 1. 66.0617 (2) (d) of the statutes is created to read:

66.0617 **(2)** (d) A municipality may not withhold any approval or permit as a result of a developer or property owner failing to reach an agreement with the municipality on a date to pay an impact fee that is earlier than a day or event specified in sub. (6) (g) 1. to 3.

INSERT A

In addition, the bill defines the improvement of public park land to mean initial grading, landscaping, construction of sidewalks, and installation of utilities, playground equipment, or restroom facilities on land intended for public park purposes.

(END OF INSERT A)

INSERT 7-5

1 **SECTION 1.** 236.45 (6) (a) of the statutes is renumbered 236.45 (6) (am) and
2 amended to read:
3 236.45 **(6)** (am) Notwithstanding subs. (1) and (2) (a) (intro.), a municipality,
4 town, or county may not, as a condition of approval under this chapter, impose any
5 fees or other charges to fund the acquisition or improvement of land, infrastructure,
6 or other real or personal property, except for the acquisition or improvement of land
7 for public parks.

History: 1979 c. 221, 248, 355; 1981 c. 354; 1983 a. 189 s. 329 (26); 2001 a. 16; 2005 a. 477.

8 **SECTION 2.** 236.45 (6) (ac) of the statutes is created to read:
9 236.45 **(6)** (ac) In this subsection, "improvement of land for public parks" means
10 initial grading, landscaping, installation of utilities, construction of sidewalks,
11 installation of playground equipment, and construction or installation of restroom
12 facilities on land intended for public park purposes.

(END OF INSERT 7-5)

Basford, Sarah

From: Solie, Denise
Sent: Thursday, May 10, 2007 12:12 PM
To: LRB.Legal
Subject: Draft Review: LRB 07-2113/3 Topic: Various impact fee and plat changes

Please Jacket LRB 07-2113/3 for the ASSEMBLY.

Barman, Mike

From: Solie, Denise
Sent: Thursday, May 10, 2007 12:14 PM
To: LRB.Legal
Subject: Submitted: LRB 07-2113/3 Topic: Various impact fee and plat changes?body=

Importance: High

We need the fiscal estimate as soon as possible, please.
A committee hearing may be held on this bill on May 22nd.
Thank you, in advance, for your assistance.

Denise Solie
Chief of Staff
Rep. Mark Gottlieb
608.267.2370

State of Wisconsin
LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX -
PLEASE DO NOT REMOVE FROM DRAFTING FILE

Date Transfer Requested: 05/10/2007 (Per: MES)

☞ Appendix A

☞ The 2007 drafting file for LRB–2113/3

has been copied/added to the drafting file for

2007 LRB–2706

☞ The attached 2007 draft was incorporated into the new 2007 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2007 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

☞ This cover sheet was added to rear of the original 2007 drafting file. The drafting file was then returned, intact, to its folder and filed.