

2007 Assembly Bill 118

Date of enactment: **March 20, 2008**

Date of publication\*: **April 3, 2008**

# 2007 WISCONSIN ACT 121

AN ACT *to repeal* 88.11 (5) (intro.); *to renumber and amend* 88.11 (5) (a) to (d); *to amend* 66.1001 (2) (g), 88.24 (intro.), 88.32 (3m), 88.35 (7) and 88.77 (2); and *to create* 66.1102, 74.09 (3) (dm), 88.11 (1) (L), 88.16, 88.212, 88.24 (4) and 709.03 (form) C. 24m. of the statutes; **relating to**: requiring local governmental units to consider relationships with drainage districts in the preparation of comprehensive plans, changing the responsibility for producing certain reports about drainage districts, requiring local governments and drainage districts to provide notice to each other regarding proposals that affect drainage districts, and requiring a real estate condition report to disclose whether the property is located in a special purpose district.

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

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

66.1001 (2) (g) *Intergovernmental cooperation element.* A compilation of objectives, policies, goals, maps, and programs for joint planning and decision making with other jurisdictions, including school districts, drainage districts, and adjacent local governmental units, for siting and building public facilities and sharing public services. The element shall analyze the relationship of the local governmental unit to school districts, drainage districts, and adjacent local governmental units, and to the region, the state and other governmental units. The element shall consider, to the greatest extent possible, the maps and plans of any military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, with which the local governmental unit shares common territory. The element shall incorporate any plans or agreements to which the local governmental unit is a party under s. 66.0301, 66.0307 or

66.0309. The element shall identify existing or potential conflicts between the local governmental unit and other governmental units that are specified in this paragraph and describe processes to resolve such conflicts.

**SECTION 2.** 66.1102 of the statutes is created to read:

**66.1102 Development of land, notification. (1)** DEFINITION. In this section “political subdivision” means any city, village, town, or county.

(2) NOTIFICATION REQUIREMENTS. Before a political subdivision may take action that would allow the development of a residential, commercial, or industrial property that would likely increase the amount of water that the main drain of a drainage district would have to accommodate, the political subdivision shall send notice to the drainage district.

(3) FAILURE TO NOTIFY. A political subdivision’s failure to notify under sub. (2) does not invalidate any decision made or action taken by the political subdivision.

**SECTION 3.** 74.09 (3) (dm) of the statutes is created to read:

74.09 (3) (dm) Indicate the amount of assessment issued by a drainage board, based on the information pro-

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\* Section 991.11, WISCONSIN STATUTES 2005–06 : Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

vided under s. 88.212 (3). If no assessment was issued, the property tax bill shall indicate that information.

**SECTION 4.** 88.11 (1) (L) of the statutes is created to read:

88.11 (1) (L) In cooperation with the state drainage engineer, produce an educational pamphlet in 2009, and every 3 years thereafter, that describes the function of drainage districts, costs that may be assessed to persons whose property is located in a drainage district, and contact information for the state drainage engineer. The pamphlet shall be distributed, upon request, to drainage boards and to any person who requests the pamphlet.

**SECTION 5.** 88.11 (5) (intro.) of the statutes is repealed.

**SECTION 6.** 88.11 (5) (a) to (d) of the statutes are renumbered 88.28 (1) (i) to (L) and 88.28 (1) (L), as renumbered, is amended to read:

88.28 (1) (L) The kind of crops to which the lands will be adapted grown on the land after drainage.

**SECTION 7.** 88.16 of the statutes is created to read:

**88.16 Notification requirements, engineering study.** (1) If a board takes any action which results in the hiring of an engineer to conduct a study that is related to the operation of a drain, or the district, the board shall send, as soon as possible, written notice of the action to all of the following:

(a) The governing body of the city, village, or town that has jurisdiction over the area which is subject to the engineering study.

(b) The governing body of the county that has jurisdiction over the area which is subject to the engineering study.

(c) The governing body of any city or village that has extraterritorial jurisdiction over the area which is subject to the engineering study.

(2) As soon as possible after the engineering study is completed, the board shall send written notice to the governing bodies which received notice under sub. (1) informing them of the study's completion and providing them information as to where the study may be reviewed.

(3) A board's failure to notify under sub. (1) does not invalidate any decision made or action taken by the board.

**SECTION 8.** 88.212 of the statutes is created to read:

**88.212 Required actions for the drainage board.** In addition to other powers expressly granted or necessarily implied, the drainage board shall:

(1) Beginning in 2009, and every 3 years thereafter, provide written notice to every person who owns land that is located within the drainage district that such land is in the district. The notice shall also include contact information for every member of the drainage board.

(2) Annually, provide contact information for every member of the drainage board to the state drainage engineer and to the clerk of every city, village, town, and county in which the drainage district is located.

(3) Not later than November 1 of each year, provide the clerk of each taxation district in which the drainage district is located a list of every assessment issued by the drainage board from November 1 of the previous year to October 31 of the current year. The information shall specify the assessment amount for every parcel in the district.

**SECTION 9.** 88.24 (intro.) of the statutes is amended to read:

**88.24 Board to file annual report.** (intro.) On or before December 1 of each year the board shall file with the department of agriculture, trade and consumer protection; the town board or town zoning committee; the city council, plan commission, or plan committee; and the county zoning administrator, in which district territory is located, a separate report, for the preceding year ending August 31, on each drainage district under the board's jurisdiction. All local units of government that receive the report shall consider it before making any zoning or planning decisions that may affect a drainage district that is located within its boundaries. The reports shall constitute part of the records of the districts reported on, shall be verified by the oath of one or more of the board members, and shall contain:

**SECTION 10.** 88.24 (4) of the statutes is created to read:

88.24 (4) A statement of the district's practices and policies.

**SECTION 11.** 88.32 (3m) of the statutes is amended to read:

88.32 (3m) If the area of the proposed district exceeds 200 acres, the report shall be submitted to the department of agriculture, trade and consumer protection before it is filed with the court. Within 45 days after receipt of the report, the department shall return it with a copy of the report prepared under s. 88.11 (3) ~~and (5)~~ with its recommendation for approval or disapproval for the creation of the district.

**SECTION 12.** 88.35 (7) of the statutes is amended to read:

88.35 (7) If the area of the district exceeds 200 acres, the report shall be submitted to the department of agriculture, trade and consumer protection. Within 45 days after its receipt, the department shall return it with a copy of the report prepared under s. 88.11 (3) ~~and (5)~~ and the department's approval or disapproval of the report prepared under sub. (6).

**SECTION 13.** 88.77 (2) of the statutes is amended to read:

88.77 (2) If the undrained portion of the area proposed to be annexed to the district exceeds 200 acres, the drainage board shall request the report described under s. 88.11 (3) ~~and (5)~~ from the department of agriculture, trade and consumer protection on the annexation. Within 60 days after the request, the department shall prepare

and return a copy of the report and its approval or disapproval, as provided under s. 88.35 (7).

**SECTION 14.** 709.03 (form) C. 24m. of the statutes is created to read:  
**709.03** (form)

C. 24m. I am aware that the property is located within a special purpose district, such as a drainage district, that has the authority to impose assessments against the real property located within the district. ....

**SECTION 15. Nonstatutory provisions.**

(1) DRAINAGE BOARD REQUIREMENTS.

(a) Not later than the first day of the 3rd month beginning after the effective date of this subsection, a drainage board that is in existence on the effective date of this subsection, shall meet to develop a plan to notify in writing every person who owns land that is located within the drainage district that such land is in the district.

(b) Not later than the first day of the 2nd month beginning after the meeting under paragraph (a) is held, the drainage board shall send to every person who owns land that is located in the drainage district all of the following:

1. Written notification that the person owns land in the drainage district.
2. Contact information for every member of the drainage board.
3. Contact information for the state drainage engineer.
4. General information about drainage districts.

(2) REAL ESTATE CONDITION REPORT. Notwithstanding section 709.035 of the statutes, the creation of section 709.03 (form) C. 24m. of the statutes does not require a property owner who has furnished to a prospective buyer of the property an original or amended real estate condition report before the effective date of this subsection to submit an amended real estate condition report with respect to the information required by section 709.03 (form) C. 24m. of the statutes, as created by this act.

**SECTION 16. Initial applicability.**

(1) The treatment of sections 66.1102 and 88.16 of the statutes first apply to a development action, or an action resulting in the hiring of an engineer, that occurs on the effective date of this subsection.

(2) The treatment of section 66.1001 (2) (g) of the statutes first applies to a city, village, town, county, or regional planning commission that begins the process of creating or amending a comprehensive plan on the effective date of this subsection.

(3) The treatment of sections 74.09 (3) (dm), 88.212 (3), and 88.24 (intro.) and (4) of the statutes first applies to the year beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31 the treatment of sections 74.09 (3) (dm), 88.212 (3), and 88.24 (intro.) and (4) of the statutes first applies to the year beginning on January 1 of the year following the year in which this subsection takes effect.

(4) The treatment of section 709.03 (form) C. 24m. of the statutes first applies to original real estate condition reports that are furnished on the effective date of this subsection.

**SECTION 17. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) REAL ESTATE CONDITION REPORT. The treatment of section 709.03 (form) C. 24m. of the statutes and SECTIONS 15 (2) and 16 (4) of this act take effect on the first day of the 7th month beginning after publication.