

**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 2007 ASSEMBLY BILL 118**

March 10, 2008 – Offered by Representatives MOLEPSKE and ALBERS.

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

Analysis by the Legislative Reference Bureau

Under the current law commonly known as the “Smart Growth” statute, if a city, village, town, county, or regional planning commission (local governmental unit) creates a development plan or master plan (comprehensive plan) or amends an

existing comprehensive plan, the plan must contain certain planning elements. The required planning elements include the following: housing; transportation; utilities and community facilities; agricultural, natural, and cultural resources; economic development; land use; and intergovernmental cooperation.

Beginning on January 1, 2010, under current law, certain actions of a local governmental unit that affect land use must be consistent with that local governmental unit's comprehensive plan. The actions to which this requirement applies are official mapping, local subdivision regulation, and zoning ordinances, including zoning of shorelands or wetlands in shorelands. Also beginning on January 1, 2010, under current law, if a local governmental unit engages in any of these specified actions, the comprehensive plan must contain at least all of the required planning elements.

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

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

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

The substitute amendment also creates two new notice requirements. Under the first requirement, if a political subdivision (any city, village, town, or county) takes any action, or schedules a meeting for which public notice must be given, that relates to the development of land, the political subdivision must send notice to any drainage district which has jurisdiction over territory that may be affected by the action. Under the second requirement, if a drainage district takes any action which results in the hiring of an engineer to conduct a study that is related to a drain or to the district, the drain board must send written notice to any political subdivision that has jurisdiction, or extraterritorial jurisdiction, over the area which is subject to the study. Upon the completion of the engineering study, the drain board must also notify any entity which received such notice that the study is complete and information as to where the study may be reviewed.

The substitute amendment requires the Department of Agriculture, Trade and Consumer Protection (DATCP), in cooperation with the state drainage engineer, to produce in 2009, and every three years thereafter, an educational pamphlet about drainage districts. The pamphlet must be available to drainage district boards, or other persons, who request it.

The substitute amendment also requires a drainage board, in 2009 and every three years thereafter, to provide notification to all persons who own property that is located within a drainage district that they own land in such a district, and to provide annually the clerk of every taxation district in which the district is located information about the amount of the drainage board's assessments in the last year. This assessment information must be included on the property tax bill that is currently mailed out in December.

Under current law, a drainage board is required to file an annual report for each district under the board's jurisdiction with DATCP and the county zoning administrator. The report must contain a financial statement, information on bonds, and information on work done during the preceding year. Under the substitute amendment, the report must include information on each district's practices and policies and must also be sent to zoning or planning officials in each city, village, and town in which a district is located. A political subdivision that receives the report must consider it before making a zoning or planning decision that may affect the district.

Under current law, with certain exceptions, owners selling residential real property must give prospective buyers a form, known as a real estate condition report, on which the owner discloses certain conditions of the real property of which the owner is aware. The substitute amendment requires an owner to disclose on the real estate condition report whether the real property is located within a special purpose district, such as a drainage district, that has the authority to impose assessments against real property located within the district.

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

1 **SECTION 1.** 66.1001 (2) (g) of the statutes is amended to read:
2 66.1001 (2) (g) *Intergovernmental cooperation element.* A compilation of
3 objectives, policies, goals, maps, and programs for joint planning and decision
4 making with other jurisdictions, including school districts, drainage districts, and
5 adjacent local governmental units, for siting and building public facilities and
6 sharing public services. The element shall analyze the relationship of the local
7 governmental unit to school districts, drainage districts, and adjacent local
8 governmental units, and to the region, the state and other governmental units. The
9 element shall consider, to the greatest extent possible, the maps and plans of any
10 military base or installation, with at least 200 assigned military personnel or that

1 contains at least 2,000 acres, with which the local governmental unit shares common
2 territory. The element shall incorporate any plans or agreements to which the local
3 governmental unit is a party under s. 66.0301, 66.0307 or 66.0309. The element shall
4 identify existing or potential conflicts between the local governmental unit and other
5 governmental units that are specified in this paragraph and describe processes to
6 resolve such conflicts.

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

8 **66.1102 Development of land, notification. (1) DEFINITION.** In this section
9 “political subdivision” means any city, village, town, or county.

10 **(2) NOTIFICATION REQUIREMENTS.** Before a political subdivision may take any
11 action that would allow the development of a residential, commercial, or industrial
12 property that would be located within the boundaries of a drainage district or would
13 likely increase the amount of water that the main drain of a drainage district would
14 have to accommodate, the political subdivision shall send notice to the drainage
15 district.

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

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

19 74.09 **(3) (dm)** Indicate the amount of assessment issued by a drainage board,
20 based on the information provided under s. 88.212 (3). If no assessment was issued,
21 the property tax bill shall indicate that information.

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

23 88.11 **(1) (L)** In cooperation with the state drainage engineer, produce an
24 educational pamphlet in 2009, and every 3 years thereafter, that describes the
25 function of drainage districts, costs that may be assessed to persons whose property

1 is located in a drainage district, and contact information for the state drainage
2 engineer. The pamphlet shall be distributed, upon request, to drainage boards and
3 to any person who requests the pamphlet.

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

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

7 **88.28 (1) (L)** The kind of crops to which the lands will be adapted grown on the
8 land after drainage.

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

10 **88.16 Notification requirements, engineering study. (1)** If a board takes
11 any action which results in the hiring of an engineer to conduct a study that is related
12 to the operation of a drain, or the district, the board shall send, as soon as possible,
13 written notice of the action to all of the following:

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

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

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

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

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

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

2 **88.212 Required actions for the drainage board.** In addition to other
3 powers expressly granted or necessarily implied, the drainage board shall:

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

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

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

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

17 **88.24 Board to file annual report.** (intro.) On or before December 1 of each
18 year the board shall file with the department of agriculture, trade and consumer
19 protection; the town board or town zoning committee; the city council, plan
20 commission, or plan committee; and the county zoning administrator, in which
21 district territory is located, a separate report, for the preceding year ending August
22 31, on each drainage district under the board's jurisdiction. All local units of
23 government that receive the report shall consider it before making any zoning or
24 planning decisions that may affect a drainage district that is located within its
25 boundaries. The reports shall constitute part of the records of the districts reported

1 on, shall be verified by the oath of one or more of the board members, and shall
2 contain:

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

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

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

6 88.32 (3m) If the area of the proposed district exceeds 200 acres, the report
7 shall be submitted to the department of agriculture, trade and consumer protection
8 before it is filed with the court. Within 45 days after receipt of the report, the
9 department shall return it with a copy of the report prepared under s. 88.11 (3) and
10 (5) with its recommendation for approval or disapproval for the creation of the
11 district.

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

13 88.35 (7) If the area of the district exceeds 200 acres, the report shall be
14 submitted to the department of agriculture, trade and consumer protection. Within
15 45 days after its receipt, the department shall return it with a copy of the report
16 prepared under s. 88.11 (3) and (5) and the department's approval or disapproval of
17 the report prepared under sub. (6).

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

19 88.77 (2) If the undrained portion of the area proposed to be annexed to the
20 district exceeds 200 acres, the drainage board shall request the report described
21 under s. 88.11 (3) and (5) from the department of agriculture, trade and consumer
22 protection on the annexation. Within 60 days after the request, the department shall
23 prepare and return a copy of the report and its approval or disapproval, as provided
24 under s. 88.35 (7).

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

1 **709.03 (form)**

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

7 **SECTION 15. Nonstatutory provisions.**

8 (1) DRAINAGE BOARD REQUIREMENTS.

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

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

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

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

