



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBs03362
MES:jld&bx:rs

UPJK
FAR

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2007 ASSEMBLY BILL 118

ECS

Bill Int ✓
SA ✓
today, in
possession

Reg-Cat

1 AN ACT to amend 66.1001 (2) (g) and 88.24 (intro.); and to create 66.1102, 74.09
2 (3) (dm), 88.11 (1) (L), 88.16, 88.212, 88.24 (4), 88.41 (5) and 88.95 of the
3 statutes; relating to: requiring local governmental units to consider
4 relationships with drainage districts in the preparation of comprehensive plans
5 and requiring local governments and drainage districts to provide notice to
6 each other regarding proposals that affect drainage districts.

INS 1-5 ✓

INS 1-6 ✓

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 written 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.

In addition, the substitute amendment requires an owner of property located in a drainage district, regardless of whether the property is residential, to disclose in a separate written notification to a potential buyer or transferee that the land is in a drainage district and subject to assessments for maintenance of the drains. A prospective buyer may rescind the contract without penalty or loss of earnest money within three days after receiving the separate notice, unless the prospective buyer knew the property was in a drainage district when he or she made the offer to purchase. The substitute amendment requires a drainage board, when issuing an assessment, to remind the person receiving the assessment of the notification requirement that is created in this substitute amendment. The substitute amendment also requires that the most recent property tax bill be attached to the separate required notice if the property is located in a drainage district.

Sub 3-A

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
11 contains at least 2,000 acres, with which the local governmental unit shares common
12 territory. The element shall incorporate any plans or agreements to which the local

1 governmental unit is a party under s. 66.0301, 66.0307 or 66.0309. The element shall
2 identify existing or potential conflicts between the local governmental unit and other
3 governmental units that are specified in this paragraph and describe processes to
4 resolve such conflicts.

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

6 **66.1102 Development of land, notification. (1) DEFINITIONS.** In this
7 section:

8 (a) "Development action" means any of the following:

9 1. The publication or dissemination of any public notice under s. 19.84, by a
10 political subdivision, of a meeting at which discussion of the development of land
11 within the political subdivision or within the extraterritorial zoning jurisdiction of
12 a city or village, may occur.

13 2. Any action taken by a political subdivision that is related to the development
14 of land within the political subdivision or within the extraterritorial zoning
15 jurisdiction of a city or village.

16 (b) "Political subdivision" means any city, village, town, or county.

17 **(2) NOTIFICATION REQUIREMENTS.** As soon as possible after taking any
18 development action, a political subdivision shall send written notice of the
19 development action to any drainage district which has jurisdiction over territory that
20 may be affected by the development action.

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

22 74.09 (3) (dm) Indicate the amount of assessment issued by a drainage board,
23 based on the information provided under s. 88.212 (3). If no assessment was issued,
24 the property tax bill shall indicate that information.

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

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

7 **SECTION 5.** 88.16 of the statutes is created to read:

8 **88.16 Notification requirements, engineering study.** (1) If a board takes
9 any action which results in the hiring of an engineer to conduct a study that is related
10 to the operation of a drain, or the district, the board shall send, as soon as possible,
11 written notice of the action to all of the following:

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

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

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

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

22 **SECTION 6.** 88.212 of the statutes is created to read:

23 **88.212 Required actions for the drainage board.** In addition to other
24 powers expressly granted or necessarily implied, the drainage board shall:

INS
5-6

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

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

8 (3) Not later than December 1 of each year, provide the clerk of each taxation
9 district in which the drainage district is located a list of every assessment issued by
10 the drainage board from December 1 of the previous year to November 30 of the
11 current year. The information shall specify the assessment amount for every parcel
12 in the district.

13 **SECTION 7.** 88.24 (intro.) of the statutes is amended to read:

14 **88.24 Board to file annual report.** (intro.) On or before December 1 of each
15 year the board shall file with the department of agriculture, trade and consumer
16 protection; the town board or town zoning committee; the city council, plan
17 commission, or plan committee; and the county zoning administrator, in which
18 district territory is located, a separate report, for the preceding year ending August
19 31, on each drainage district under the board's jurisdiction. All local units of
20 government that receive the report shall consider it before making any zoning or
21 planning decisions that may affect a drainage district that is located within its
22 boundaries. The reports shall constitute part of the records of the districts reported
23 on, shall be verified by the oath of one or more of the board members, and shall
24 contain:

25 **SECTION 8.** 88.24 (4) of the statutes is created to read:

JNS
7-1

1 88.24 (4) A statement of the district's practices and policies.

2 ~~SECTION 9. 88.41 (5) of the statutes is created to read:~~

3 ~~88.41 (5) Whenever a drainage board sends out an assessment for costs, as~~
4 ~~described in this section, the board shall include a notice reminding the person~~
5 ~~assessed of the requirement under s. 88.95.~~

6 ~~SECTION 10. 88.95 of the statutes is created to read:~~

7 ~~**88.95 Notification requirement for transfer land. (1)** An owner of real~~
8 ~~property that is located within a district who intends to transfer the real property~~
9 ~~shall, not later than 10 days after acceptance of a contract of sale or option contract,~~
10 ~~provide written notice to the prospective buyer or transferee that the land is located~~
11 ~~within a drainage district and is subject to assessments under this chapter for~~
12 ~~maintenance of the drains. A copy of the most recent property tax bill for the real~~
13 ~~property shall be attached to the notice.~~

14 ~~(2) (a) Except as provided in par. (b), a prospective buyer or transferee who~~
15 ~~receives a notice under sub. (1) may timely rescind in writing the contract of sale or~~
16 ~~option contract by reason of the real property's location in a drainage district, without~~
17 ~~any liability on his or her part. The prospective buyer or transferee is entitled to the~~
18 ~~return of any deposits or option fees paid in the transaction.~~

19 ~~(b) A prospective buyer or transferee may not rescind a contract of sale or option~~
20 ~~contract under par. (a) if he or she was aware, or had written notice, that the real~~
21 ~~property is located in a drainage district at the time the contract of sale or option~~
22 ~~contract was submitted to the owner or the owner's agent.~~

23 ~~(3) Rescissions under sub. (2) (a) are timely if they are delivered to the owner~~
24 ~~or the owner's agent within 3 business days after the prospective buyer or transferee~~
25 ~~receives a notice under sub. (1).~~

1 (4) An owner under this section shall act in good faith to inform a prospective
 2 buyer or transferee that the real property is located within a drainage district and
 3 shall perform each act, and make each disclosure, required by this section in good
 4 faith with honesty in fact.

5 **SECTION 11. Nonstatutory provisions.**

6 (1) DRAINAGE BOARD REQUIREMENTS.

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

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

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

18 **SECTION 12. Initial applicability.**

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

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

INS
8-4

Insert 8-17

create autoref X

create autoref Y

1 ~~(3) The treatment of section 88.41 (5) of the statutes first applies to an~~
2 ~~assessment that is sent out on the effective date of this subsection.~~

3 ~~(4) The treatment of section 88.95 of the statutes first applies to an accepted~~
4 ~~contract of sale or option contract that is received by a property owner on the effective~~
5 ~~date of this subsection.~~

6 [#] (5) The treatment of sections 74.09 (3) (dm), 88.212 (3), and 88.24 (intro.) and
7 (4) of the statutes first applies to the year beginning on January 1 of the year in which
8 this subsection takes effect, except that if this subsection takes effect after July 31
9 the treatment of sections 74.09 (3) (dm), 88.212 (3), and 88.24 (intro.) and (4) of the
10 statutes first applies to the year beginning on January 1 of the year following the
11 year in which this subsection takes effect.

12 (END)

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9-11

**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0336/2ins
PJK:.....

INSERT 3-A

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.

(END OF INSERT 3-A)

**ASSEMBLY AMENDMENT ,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2007 ASSEMBLY BILL 118**

LPS: change bill section from hard numbers to auto numbers

fix component

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At the locations indicated, amend the substitute amendment as follows:

INS 1-5

1. Page 1, line 5: after "plans" insert "*and*", changing the responsibility for producing certain reports about drainage districts."

2. Page 6, line 24: after that line insert:

~~SECTION 7g.~~ **SECTION #g.** 88.11 (5) (intro.) of the statutes is repealed.

~~SECTION 7f.~~ **SECTION #f.** 88.11 (5) (a) to (d) of the statutes are renumbered ~~88.11 (3) (e)~~ *88.28(1)(i) to (L)* and ~~88.28(1)(L)~~ *88.28(1)(L)*, as renumbered, is amended to read:

3. Page 8, line 4: after that line insert:

~~SECTION 10g.~~ **SECTION #g.** 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

INS 5-6

88.28(1)(i) to (L)
INS A

*INS 7-1
p. 10/2*



INS
7-1 p. 2062

1 department shall return it with a copy of the report prepared under s. 88.11 (3) and
2 (5) with its recommendation for approval or disapproval for the creation of the
3 district.

4 ✓ SECTION ~~10r.~~ 88.35 (7) of the statutes is amended to read:

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

10 ✓ 4. Page 8, line 8: after that line insert:

11 SECTION ~~11m.~~ 88.77 (2) of the statutes is amended to read:

12 88.77 (2) If the undrained portion of the area proposed to be annexed to the
13 district exceeds 200 acres, the drainage board shall request the report described
14 under s. 88.11 (3) and (5) from the department of agriculture, trade and consumer
15 protection on the annexation. Within 60 days after the request, the department shall
16 prepare and return a copy of the report and its approval or disapproval, as provided
17 under s. 88.35 (7)."

18

(END)
of ins 7-1

✓

Section # 88.11 (5) (d) of the statutes is amended to read:

③
28(1)(L)
④

INSA

grown on the land

88.11 (5) (d) The kind of crops to which the lands will be adapted after drainage.

History: 1989 a. 31 ss. 2200d, 2200k; 1991 a. 309; 1993 a. 456; 2001 a. 103.



**ASSEMBLY AMENDMENT ,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2007 ASSEMBLY BILL 118**

*LPS: change
bill section numbers
from hard numbers
to tracked
auto numbers*

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1, line 5: delete "and" and substitute "*in*".

3 **2.** Page 1, line 7: after "districts" insert ", and requiring a real estate condition
4 report to disclose whether the property is located in a special purpose district" ✓

*INS
1-6*

5 **3.** Page 8, line 5: delete the material beginning with that line and ending with
6 page 9, line 7, and substitute:

7 **SECTION ~~12~~[#]m. 709.03 (form) C. 24m. of the statutes is created to read:**
8 **709.03 (form)** ✓

*INS
8-4
P.1 of 2*

INS 8-4 p. 2 of 2

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AND
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A

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

Insert 8-17

4. Page 9, line 20: after that line insert:

(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.

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from
p. 8
of
bill

5. Page 10, line 4: delete lines 4 to 8.

6. Page 10, line 14: after that line insert:

INS
9-11

(6) 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.

use
autoref X
from
p. 8 of
bill

SECTION 15m. 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 13 (2) and 14 (6) of this act take effect on the first day of the 7th month beginning after publication.

(END) of
ins 9-11

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Shovers, Marc

From: Konopacki, Larry
Sent: Thursday, March 06, 2008 2:13 PM
To: McKinny, Chris; Griffiths, Terri; Shovers, Marc
Subject: AB 118 changes

Hi Marc, per my voicemail message, this morning I met with Terri in Rep. Albers' office, Chris from Rep. Molepske's office and Patrick from the Wisconsin Builder's Association regarding AB 118. They determined that a few additional changes should be made to LRBs0336/1, as follows:

1. Add a provision stating that failure of a political subdivision or a drainage district board to comply with the notification requirements under ss 66.1102 or 88.16 would not invalidate any decision made or action taken by the political subdivision or drainage district board.
2. Eliminate s. 66.1102 (1) (a)
3. Revise s. 66.1102 (2) so that the notice requirement tracks what is in Substitute Amendment 1 with respect to what notice must be given to drainage districts. Suggestion: "(2) Before a political subdivision may take any action that would allow the development of a residential, commercial, or industrial property that would be located within the boundaries of a drainage district or 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."
4. Lastly, they would like you to roll the simple amendments recommended by the Assembly Ag Committee into the draft, to the extent they are still applicable to LRBs0336/1 as modified by the above changes.

Thanks Marc, and please let me know if you have any questions about items 1-3 above, and please let Chris know if you have any questions about the simple amendments recommended by Assembly Ag.

Larry

Larry Konopacki
Wisconsin Legislative Council
608-267-0683
larry.konopacki@legis.wisconsin.gov

*per Terri, keep
"special purpose
district" - as
- not now*

Shovers, Marc

From: Konopacki, Larry
Sent: Friday, March 07, 2008 11:38 AM
To: Shovers, Marc
Subject: RE: AB 118 changes

I would interpret her response to mean that she wants you to include the changes you made between /1 and /2 in the final draft (or to answer your question, work off the /2).

From: Shovers, Marc
Sent: Friday, March 07, 2008 10:53 AM
To: Konopacki, Larry
Subject: RE: AB 118 changes

I don't understand Terri's response. Is there an answer to your question in her response? I need to know whether I'm supposed to take the /2 and make the changes outlined in your Thursday memo, to the extent possible, or if I'm supposed to use the /1 as the base document. Thanks.

Marc

From: Konopacki, Larry
Sent: Friday, March 07, 2008 10:30 AM
To: Shovers, Marc
Subject: FW: AB 118 changes

From: Griffiths, Terri
Sent: Friday, March 07, 2008 9:11 AM
To: Konopacki, Larry
Subject: RE: AB 118 changes

Larry, I think we just incorporated Rep. Molepske's amendment for the realtors and Rep. Albers amendment on the engineering study so we should keep that.

From: Konopacki, Larry
Sent: Thursday, March 06, 2008 4:21 PM
To: Konopacki, Larry; Griffiths, Terri; Shovers, Marc
Subject: RE: AB 118 changes

Hi Terri,

I have reviewed the /2 to LRB s0336. Do you want the changes that were made between the /1 and the /2 to be incorporated into the draft that we discussed drafting instructions for this morning?

Larry

From: Konopacki, Larry
Sent: Thursday, March 06, 2008 2:13 PM
To: McKinny, Chris; Griffiths, Terri; Shovers, Marc

Subject: AB 118 changes

Hi Marc, per my voicemail message, this morning I met with Terri in Rep. Albers' office, Chris from Rep. Molepske's office and Patrick from the Wisconsin Builder's Association regarding AB 118. They determined that a few additional changes should be made to LRBs0336/1, as follows:

1. Add a provision stating that failure of a political subdivision or a drainage district board to comply with the notification requirements under ss 66.1102 or 88.16 would not invalidate any decision made or action taken by the political subdivision or drainage district board.
2. Eliminate s. 66.1102 (1) (a)
3. Revise s. 66.1102 (2) so that the notice requirement tracks what is in Substitute Amendment 1 with respect to what notice must be given to drainage districts. Suggestion: "(2) Before a political subdivision may take any action that would allow the development of a residential, commercial, or industrial property that would be located within the boundaries of a drainage district or 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."
4. Lastly, they would like you to roll the simple amendments recommended by the Assembly Ag Committee into the draft, to the extent they are still applicable to LRBs0336/1 as modified by the above changes.

Thanks Marc, and please let me know if you have any questions about items 1-3 above, and please let Chris know if you have any questions about the simple amendments recommended by Assembly Ag.

Larry

Larry Konopacki
Wisconsin Legislative Council
608-267-0683
larry.konopacki@legis.wisconsin.gov

**ASSEMBLY AMENDMENT 2,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2007 ASSEMBLY BILL 118**

January 10, 2008 - Offered by COMMITTEE ON AGRICULTURE.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 7, line 10: on lines 10 and 12, delete "December" and substitute
3 "November".

4 **2.** Page 7, line 12: delete "November 30" and substitute "October 31".

5 (END)

**ASSEMBLY AMENDMENT 3,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2007 ASSEMBLY BILL 118**

*Not needed --
the bill is amended by
this amendment have
been removed from
the sub.*

January 10, 2008 – Offered by COMMITTEE ON AGRICULTURE.

- 1 At the locations indicated, amend the substitute amendment as follows:
- 2 **1.** Page 3, line 2: delete “any”.
- 3 **2.** Page 3, line 4: delete “either would be located within the”.
- 4 **3.** Page 3, line 5: delete “boundaries of a drainage district or”.
- 5 **4.** Page 4, line 10: delete “any”.
- 6 **5.** Page 4, line 11: delete “either would be located within the”.
- 7 **6.** Page 4, line 12: delete “boundaries of a drainage district or”.
- 8 **7.** Page 5, line 5: delete “any”.
- 9 **8.** Page 5, line 6: delete “either would be located within”.
- 10 **9.** Page 5, line 7: delete “the boundaries of a drainage district or”.

11

(END)

**ASSEMBLY AMENDMENT 1,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2007 ASSEMBLY BILL 118**

*not needed -
keep language
that is now
in sub.*

January 10, 2008 - Offered by COMMITTEE ON AGRICULTURE.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1, line 5: delete "and" and substitute ",".

3 **2.** Page 1, line 7: after "districts" insert ", and requiring real estate condition
4 reports to disclose the location of the property in a drainage district".

5 **3.** Page 8, line 5: delete the material beginning with that line and ending with
6 page 9, line 7, and substitute:

7 "SECTION 12m. 709.03 (form) C. 28. of the statutes is created to read:

8 **709.03 (form)**

9 C. 28. I am aware that the property is located within
10 a drainage district."

11 **4.** Page 9, line 20: after that line insert:



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBs0336/2
MES&PJK:jld/bx/cs:pg

3e
stays
RMR

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2007 ASSEMBLY BILL 118
Inserts

SAV

Wanted:
today

regen. cat.

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 written 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) DEFINITIONS. In this
9 section,

10 (a) "Development action" means any of the following:

11 1. The publication or dissemination of any public notice under s. 19.84, by a
12 political subdivision, of a meeting at which discussion of the development of land
13 within the political subdivision or within the extraterritorial zoning jurisdiction of
14 a city or village, may occur.

15 2. Any action taken by a political subdivision that is related to the development
16 of land within the political subdivision or within the extraterritorial zoning
17 jurisdiction of a city or village.

18 (b) "Political subdivision" means any city, village, town, or county.

19 (2) NOTIFICATION REQUIREMENTS. As soon as possible after taking any
20 development action, a political subdivision shall send written notice of the
21 development action to any drainage district which has jurisdiction over territory that
22 may be affected by the development action.

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

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#(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
subdivisions

1 74.09 (3) (dm) Indicate the amount of assessment issued by a drainage board,
2 based on the information provided under s. 88.212 (3). If no assessment was issued,
3 the property tax bill shall indicate that information.

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

5 88.11 (1) (L) In cooperation with the state drainage engineer, produce an
6 educational pamphlet in 2009, and every 3 years thereafter, that describes the
7 function of drainage districts, costs that may be assessed to persons whose property
8 is located in a drainage district, and contact information for the state drainage
9 engineer. The pamphlet shall be distributed, upon request, to drainage boards and
10 to any person who requests the pamphlet.

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

12 SECTION 6. 88.11 (5) (a) to (d) of the statutes are renumbered 88.28 (1) (i) to (L)

13 and 88.28 (1) (L), as renumbered, is amended to read:

14 88.28 (1) (L) The kind of crops to which the lands will be adapted grown on the
15 land after drainage.

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

17 **88.16 Notification requirements, engineering study.** (1) If a board takes
18 any action which results in the hiring of an engineer to conduct a study that is related
19 to the operation of a drain, or the district, the board shall send, as soon as possible,
20 written notice of the action to all of the following:

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

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

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

3 (2) As soon as possible after the engineering study is completed, the board shall
4 send written notice to the governing bodies which received notice under sub. (1)
5 informing them of the study's completion and providing them information as to
6 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.

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

8 **88.212 Required actions for the drainage board.** In addition to other
9 powers expressly granted or necessarily implied, the drainage board shall:

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

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

17 (3) Not later than ~~December~~^{9 November} 1 of each year, provide the clerk of each taxation
18 district in which the drainage district is located a list of every assessment issued by
19 the drainage board from ~~December~~^{9 November} 1 of the previous year to ~~November~~^{October 31} 30 of the
20 current year. The information shall specify the assessment amount for every parcel
21 in the district.

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

23 **88.24 Board to file annual report.** (intro.) On or before December 1 of each
24 year the board shall file with the department of agriculture, trade and consumer
25 protection; the town board or town zoning committee; the city council, plan

1 88.77 (2) If the undrained portion of the area proposed to be annexed to the
 2 district exceeds 200 acres, the drainage board shall request the report described
 3 under s. 88.11 (3) and (5) from the department of agriculture, trade and consumer
 4 protection on the annexation. Within 60 days after the request, the department shall
 5 prepare and return a copy of the report and its approval or disapproval, as provided
 6 under s. 88.35 (7).

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

8 **709.03 (form)**

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

14 **SECTION 15. Nonstatutory provisions.**

15 (1) DRAINAGE BOARD REQUIREMENTS.

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

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

- 23 1. Written notification that the person owns land in the drainage district.
- 24 2. Contact information for every member of the drainage board.
- 25 3. Contact information for the state drainage engineer.

1 4. General information about drainage districts.

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

8 **SECTION 16. Initial applicability.**

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

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

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

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

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

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

4 (END)

1 engineering analysis to the town board or to the town zoning committee and may
2 object to the proposed action.

3 SECTION 3. 62.23 (7) (d) 5. of the statutes is created to read:

4 62.23 (7) (d) 5. Before ^{a political subdivision} ~~the city council, plan commission, or plan committee~~ may

5 take any action ~~under this paragraph~~ that would allow the development of a
6 residential, commercial, or industrial property that ~~either~~ would be located within
7 the boundaries of a drainage district or would likely increase the amount of water
8 that the main drain of a drainage district would have to accommodate, the ~~city~~

9 ~~council, plan commission, or plan committee~~ ^{political subdivision} shall send ~~written~~ notice to the

10 ~~secretary of the~~ drainage district's ~~board~~. The secretary shall include the subject
11 matter of that notice in the agenda of the drainage board's next meeting, which shall
12 be held within 10 business days of the date on which the meeting notice is sent out.

13 SECTION 4. 62.23 (7) (d) 6. of the statutes is created to read:

14 62.23 (7) (d) 6. The notice described under subd. 5. shall describe the proposed
15 action and the time and date of any public hearing at which the proposal is on the
16 agenda. Within 10 business days after receipt of the notice, the drainage board shall
17 notify the city council, plan commission, or plan committee, in writing, that it has no
18 objection to the proposed action or that it requests that the hearing be delayed for
19 90 business days to enable the drainage board to obtain an engineering analysis to
20 analyze the effect of the proposed action on the drainage district. The drainage board
21 may submit the engineering analysis to the city council, plan commission, or plan
22 committee and may object to the proposed action.

23 SECTION 5. 66.1001 (2) (g) of the statutes is amended to read:

24 66.1001 (2) (g) *Intergovernmental cooperation element.* A compilation of
25 objectives, policies, goals, maps, and programs for joint planning and decision

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end of inserts