

**2009 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB271)**

Received: **07/08/2009**

Received By: **tkuczens**

Wanted: **As time permits**

Identical to LRB:

For: **Fred Clark (608) 266-7746**

By/Representing: **himself**

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

Drafter: **tkuczens**

May Contact:

Addl. Drafters:

Subject: **Occupational Reg. - prof lic**

Extra Copies: **CTS**

Submit via email: **YES**

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

Carbon copy (CC:) to: **tracy.kuczenski@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Professional land surveyors

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tkuczens 07/28/2009	csicilia 07/31/2009		_____			
/P1	tkuczens 09/03/2009	csicilia 09/14/2009	phenry 07/31/2009	_____	sbasford 07/31/2009		
/P2	tkuczens 09/28/2009	csicilia 09/30/2009	mduchek 09/14/2009	_____	mbarman 09/14/2009		State
/1	tkuczens	csicilia	jfrantze	_____	sbasford	sbasford	

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/2	tkuczens 10/16/2009		rschluet 10/05/2009 _____		mbarman 10/05/2009	mbarman 10/05/2009	
/3	mglass 10/16/2009	csicilia 10/19/2009	mduchek 10/19/2009 _____		cduerst 10/19/2009	cduerst 10/19/2009	

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			10/05/2009	_____	10/05/2009	10/05/2009	

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10/19

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*9/30/09*

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May Contact:

Addl. Drafters: *MGB*

Subject: **Occupational Reg. - prof lic**

Extra Copies: *LRB*

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*pb/ml 9/30/09*

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Addl. Drafters:

Subject: Occupational Reg. - prof lic

Extra Copies: CTS

Submit via email: YES

Requester's email: Rep.Clark@legis.wisconsin.gov

Carbon copy (CC:) to: tracy.kuczenski@legis.wisconsin.gov

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/P1			phenry 07/31/2009	<del>9</del> <del>14</del>	sbasford 07/31/2009		

FE Sent For:

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09  
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MB <END>

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1/?	tkuczens	Pl cjs 7/30 09	7/31 Ph	7/31 JF + MD			

FE Sent For:

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**Kuczenski, Tracy**

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**From:** Clark, Fred  
**Sent:** Monday, June 29, 2009 6:50 AM  
**To:** Kuczenski, Tracy  
**Subject:** RE: SB 194 Changes V. 2

Tracy:

Please see my notes below. Lets try to connect after you get in this afternoon - say 3PM? You can reach me at 608-697-2226.

Fred

---

**From:** Kuczenski, Tracy  
**Sent:** Fri 6/26/2009 10:57 AM  
**To:** Clark, Fred  
**Subject:** RE: SB 194 Changes V. 2

Representative Clark -

Thank you for these instructions.

Do you want me to prepare a simple amendment or a substitute amendment to AB 271?

I presume there are enough changes here to warrant a substitute amendment - but please advise if you have a different opinion.

I have a couple of questions at this point. I suspect there will be more to follow, but thought it would be better to get these questions to you as soon as possible.

Regarding item 2., because s. 443.01 (6s) (a) 4., as it exists in the draft, goes out to the subdivision paragraph, and because of drafting conventions, I will need to restructure this particular subdivision in order to accomplish the level of detail you request. I will need to do one of the following:

1. Either create a new definition for map, which will move the material from subdivision paragraphs 443.01 (6s) (a) 4. a. - 4. d. into a new definition, and the new material you request under item 2., below, will then be incorporated into the subdivision paragraphs 4. a. - 4. e.
2. Or separate out the new limitations you request in item 2., below, in a separate provision, similar to the provision located on p. 22, lines 23-25 of the draft (which would provide that no license is required for the preparation of maps unless the maps are to be recorded or are for any of the purposes you describe).

Do you have a preference? Lets go with option #2.

And on this point of "establishing boundaries", did you also want to modify the provisions of s. 443.01 (6s) (a) 3.? Cannot find that provision.

I also have several questions regarding item 5., the exemption from licensure for persons who prepare maps or legal descriptions of property for purposes of enrolling land in an "enrollment or regulatory program."

6/30/2009

1. Is there a way to describe what you mean by "enrollment or regulatory programs"? I realize that you have included three specific programs (CREP, MFL and the Wetland Reserve program), but are there others that you want to include, such as the Grasslands Reserve Program or Biomass Crop Assistance Program (or others that I am not aware of)? Do the programs always have a tax component? A land protection component? Do they require that certain action be taken or not taken with respect to the land covered by the program? Are there other characteristics of the programs that should be included in a catch-all description of these programs so that maps and descriptions of property enrolled in programs that are inadvertently left out of the list, or that are created after the effective date of the legislation would be covered?

We need a we to define these in a way that will cover future programs not just current ones. Some criteria to consider: Transfer of limited property rights - but not fee title; federal, state or local government programs that include tax reduction or deferral, tax credit, or other economic benefit in return for limited property rights, and/or some type of management commitment.

2. In your description of item 5., am I correct that if a person is recording maps for a public or private conservation easement that person would need to be licensed under the bill? No - if they are recording maps for purposes above they would not need to be licensed. There is some discussion about whether a map serves as the primary means of communication the location of the interests - or whether it is a depiction that supports a legal description. We'll need to discuss this with Quinn and Bill.

Talk later today - or Tuesday AM works as well. - Thanks

Okay, that's all for now. It was a pleasure meeting you yesterday, and thanks again for providing me with these instructions.

Tracy

*Tracy K. Kuczenski*  
*Legislative Attorney*  
*Wisconsin Legislative Reference Bureau*  
*(608) 266-9867*  
[Tracy.Kuczenski@legis.wisconsin.gov](mailto:Tracy.Kuczenski@legis.wisconsin.gov)

---

**From:** Clark, Fred  
**Sent:** Thursday, June 25, 2009 3:34 PM  
**To:** Kuczenski, Tracy  
**Subject:** RE: SB 194 Changes V. 2

Tracey – please see additional direction below.

Below are changes to SB 194 / AB 271 I would like to make from our discussion today.

1). Add language specifically excluding the practice of GIS / Land Information System professionals from Professional Land Surveyors licensure requirement, and add language directing Dept. of Reg. and Licensing to define the practice of GIS by rule.

2). Amend 443.01 (6s)(a) 4 to make clear that:

preparing maps for the purposes of creating (not depicting or reproducing)

6/30/2009

boundaries of interests in real property requires licensure only if those maps are recorded with register of deeds, OR if they are for the purpose of preparing wills, adverse possession claims, lot line agreements, prescriptive easements, or information a prospective buyer or seller would rely on in the transfer of real property.

- 3). Remove 443.01 (6s)(a) 6, and direct the agency to develop rule regarding testing requirement for surveyors
- 4). Amend 443.01(6s)(a) 8 to specify consultation for fee.
- 5). Any of the practices specified in (6s)(a) 1-8 are exempt from licensure requirements when performed by a federal, state or local unit of government for purposes of recording maps or descriptions for enrollment in regulatory or enrollment programs such as MFL, CREP, Wetland Reserve, or for purposes of describing public or private conservation easements.
- 6). Require DNR, DATCP, or other applicable agencies to promulgate rules establishing standards of practice for activities exempted above.
- 7). Employees of the state performing activities described in (6s)(a) 1-8, but who are not exempted as above, will require licensure subject to the provisions currently in the bill.

We are meeting again at 2:30 on Tuesday to review other concerns about filing of public or private easements, and licensure exemption for state employees.

Please call me to discuss this at your convenience. My cell is 697-2226.

Fred Clark  
42nd Assembly District Representative

Room 418 North  
State Capitol  
P.O. Box 8952  
Madison, WI 53708  
(608) 266-7746

WLSL  
June 25, 2009

*Distributed at  
Stakeholder meeting  
(TKK copy)*

**AB-271 SB-194  
Issue List**

**GIS/WLIA and the DNR/DATCP AMENDMENT**

1. Language enumerating certain Geographic Information System activities within the “practice of professional land surveying” could be interpreted to require surveyor licensing by GIS program staff. (See proposed practice definition in s. 443.01(6s)(a)6., (on page 3).
2. Clarify the specific types of “official maps” and plats that must be prepared by a professional land surveyor. S. 443.01(6s)(a)5.

**PROPOSED DNR/DATCP AMENDMENTS**

3. Amend s. 59.43(8) to allow the recording and filing of maps and related survey documents that do not bear the signature and seal of a professional land surveyor as public land records if these are prepared by employees of licensed surveyors or employees of the state and federal governments.
4. Amend the definitions of “cartographic surveying” , “construction surveying” and “geodetic surveying” so these apply only to documents recorded or filed as county land records. (See
5. Amend proposed s. 443.135 so that the professional land survey practice provisions exclude “cartographic surveying” , “construction surveying” and “geodetic surveying” only if these activities do not produce maps or documents that are recorded or filed as county records.
6. Amend the definition of the practice of professional land surveying so that it applies only where “the product” of the regulated activity “is recorded or filed” with county land records. S. 443.01(6s)(a)6.
7. Amend proposed S. 443.01(6s)(b) to expressly exclude the following from the definition of the practice of professional land surveying:
  - a. Any activity defined as the practice where the activity is performed by any local, state or federal employee pursuant to a regulation, regulatory program or enrollment program (including the Managed Forest Law) that is “clearly not intended to determine a property boundary”, and
  - b. Any activity defined as the practice where “the product” of the regulated activity is not recorded or filed with county land records.

WLSL  
June 25, 2009

Provide examples of such "regulatory and enrollment programs" to include listed DNR and DATCP programs under which agencies acquire perpetual easement interests whose boundaries are established by maps or surveys.

8. Repeal the proposed 2018 sunset on the limited exemption of state employees from professional land survey practice licensure.

## Kuczenski, Tracy

**From:** Williams, Quinn L - DNR [Quinn.Williams@Wisconsin.gov]  
**Sent:** Wednesday, June 24, 2009 4:40 PM  
**To:** Rep.Clark; Sen.Risser; Cieslewicz, Dianne; WOConnor@wheelerlaw.com; fthousand@charter.net; Kuczenski, Tracy; pkammer@ekgmail.com  
**Cc:** Morrison, Lisa A - DATCP; Steffel, Sherry M - DATCP; Haag, Douglas J - DNR; Nielsen, Carol K - DNR; Pike, Janel - DNR; Steffel, Sherry M - DATCP; Loeffelholz, Brian C - DATCP; Heinen, Paul H - DNR; Moll, Keeley A - DATCP; Williams, Quinn L - DNR; Schauder, Kimberly - DOT; Pulford, Curtis - DOA  
**Subject:** FW: Documents for Tomorrow's meeting

**Attachments:** Plain Language 6-24-09.pdf; SB 194 (6 24 09) (5) (4).pdf; FW: CREP and Farmland Preservation Agreements Related to SB 198/AB 271; Stakeholder\_Meet\_Summ\_062409 (2).pdf; Easements\_01012003.pdf

Hello everyone,

Here is the material provided by DATCP and DNR.



Plain Language 6-24-09.pdf (15...



SB 194 (6 24 09) (5) (4).pdf (...



FW: CREP and Farmland Preserva.. Summ\_062409 (...



Stakeholder\_Meet\_Summ\_062409 (...

*→ proposed amended language*

DNR Easements

Since 1/1/2003 (Gov. Doyle's took office) the Department has:

- Acquired just over 93,000 acres and
- Averaged 65 - 85 easements transactions per year
- Approximately 25% of the easements were solely for ingress/egress access (15 to 20) with an approximate acreage of less than 50 acres.

*→ This is the 6/24/09 email from Lisa Morrison (DATCP) re: cost estimates.*



*→ not copied (a table)*

Easements\_01012003.pdf (784 KB...

Sincerely,

 *Quinn L. Williams*

Staff Attorney

Bureau of Legal Services

Wisconsin Department of Natural Resources

(t) phone: (608) 266-1318

(f) fax: (608) 266-6983

(e) e-mail: quinn.williams@wisconsin.gov

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## Kuczenski, Tracy

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**From:** Morrison, Lisa A - DATCP  
**Sent:** Wednesday, June 24, 2009 9:54 AM  
**To:** Williams, Quinn L - DNR; Steffel, Sherry M - DATCP  
**Cc:** Pike, Janel - DNR; Moll, Keeley A - DATCP  
**Subject:** FW: CREP and Farmland Preservation Agreements Related to SB 198/AB 271

Cost estimates from DATCP...

Lisa

-----Original Message-----

**From:** Foye, Keith W - DATCP  
**Sent:** Wednesday, June 24, 2009 8:41 AM  
**To:** Loeffelholz, Brian C - DATCP  
**Cc:** Morrison, Lisa A - DATCP  
**Subject:** CREP and Farmland Preservation Agreements Related to SB 198/AB 271

### CREP Easements

There are a few instances, based on our database, where the department has paid for surveying as part of the cost to obtain a CREP easement. To date we have about 400 CREP easements covering about 6,000 acres. We have 6 easements that were surveyed with registered surveyors. Here is the information:

CREP Agreement #	County	Acres	Cost to Survey
1019	Eau Claire	7.9	\$ 897
1486	Eau Claire	13.1	\$ 1,345
1542	Eau Claire	4.3	\$ 1,435
1634	Eau Claire	1.8	\$ 703
1731	Eau Claire	6.1	\$ 1,485
1060	Iowa*	1.8	\$ 1,410
Total		35.0	\$ 7,275

\* Potential case of adverse possession

With this small sample size, the average cost is about \$200 per acre. If all 6,000 acres were surveyed, the estimated cost would be \$1,200,000. To date, the department has spent a total of about \$6.2 million to obtain the CREP easements. Surveying all the easements would have increased the cost by about 19%.

### Farmland Preservation Agreements

The department currently has about 5,200 farmland preservation agreements (10 year to 25 year agreements) covering about 700,000 acres, or averaging about 135 acres per agreement. For all of these existing agreements, the department took a legal description from the recorded deed and retyped that description on the recorded farmland preservation agreement. We have no experience paying to have these legal descriptions developed by a surveyor.

The new changes to the farmland preservation program as part of implementing the working lands initiative as proposed in the 2009-2011 biennial budget bill would authorize new agricultural enterprise areas. Landowners within these agricultural enterprise areas would be eligible to sign new 15-year farmland preservation agreements. Both the previous agreements and the new farmland preservation agreements are recorded with the register of deeds office. Both the old and new agreements include a legal description taken from the property deed that is also recorded in the register of deeds office.

The budget bill authorizes, after a pilot program, the authority to designate a total of one million acres under agricultural enterprise areas. If one third of these areas result in farmland preservation agreements (330,000 acres) and the average agreement is 135

acres, that would result in about 2,500 farmland preservation agreements. If the law results in needing to have every farmland preservation agreement having to have the legal description prepared by a registered surveyor, there could be significant cost to the program (department) or to the landowner to enroll land into the program. The overall benefit to these landowners would be between \$2.50 per acre (if the land is also under farmland preservation zoning) to \$5.00 per acre (If the land is not under zoning) per year over 15 years. Thus the total tax credits per year (assuming the average credit is \$4.00 per acre per year) would be about \$1.3 million. If the cost is about 20% of the first year's credit, that would cost a total of about \$260,000 to enroll the 330,000 acres. That assumes that each landowner is only paying about \$100 to hire a surveyor to write the legal description that is already included on a recorded document. If the average cost is higher, the cost to the program (department) or landowner would be even higher.

Keith Foye, Chief  
Land Management Section  
WI DATCP  
(608) 224-4603

## Summary of Stakeholder Meetings – SB194/AB271 Language

**5/7/09 - State Agency Geographic Information Coordination (SAGIC) Team:** SB194 language discussed, and, as applicable, state agency reps forwarded the bill and draft state agency concerns for review within their agencies:

Board of Commissioners of Public Lands (BCPL)  
Administration (DOA)  
Agriculture, Trade & Consumer Protection (DATCP)  
Military Affairs (DMA)

Natural Resources (DNR)  
Revenue (DOR)  
Transportation (DOT)

**5/19/09 - President's Council Meeting:** State Cartographer's Office requested SB194 be added to the agenda. Participants from the following organizations and agencies were involved:

WI Register of Deeds Association (WRDA)  
WI Real Property Listers Association (WRPLA)  
WI Land Title Association (WLTA)  
WI Society of Land Surveyors (WSLS)  
Ag, Trade & Consumer Protection (DATCP)

WI Land Information Officer Network (LION)  
WI County Surveyors Association (WCSA)  
State Cartographer's Office (SCO)  
Transportation (DOT)  
WI Land Information Association (WLIA)

**5/26/2009 - WLIA Sponsored Follow-up Meeting:** Continuation of President's Council discussions involving participants from the following organizations and agencies:

Polk County  
Lincoln County  
Kenosha County  
WI Real Property Listers Association (WRPLA)  
WI Society of Land Surveyors (WSLS)  
WI Land Information Association (WLIA)  
Ag, Trade & Consumer Protection (DATCP)

WI County Surveyors Association (WCSA)  
State Cartographer's Office (SCO)  
Transportation (DOT)  
Natural Resources (DNR)  
Revenue (DOR)  
WI Land Information Officer Network (LION)

**6/2/2009 – State Agency Meeting:** Representatives from various programs in state agencies:

Administration (DOA)  
Natural Resources (DNR)  
Ag, Trade & Consumer Protection (DATCP)

Military Affairs (DMA)  
Transportation (DOT)  
Revenue (DOR)

**6/5/2009 and 6/18/2009 – WLIA Board Meetings:** Discussion of possible WLIA actions.

**6/19/2009 – State Agency Draft Distributed:** State agencies distributed draft language changes to all individual and organizational stakeholders who participated in previous discussions. Draft incorporated ideas from various stakeholder meetings, and was intended to provide a single version from which stakeholders could generate discussion and comments.

**6/23/2009 – State Agency Meeting:** Program staff provided final comments on draft amendments and helped develop "plain language" description of issues. Agencies involved included:

Administration (DOA)  
Natural Resources (DNR)  
Ag, Trade & Consumer Protection (DATCP)

Military Affairs (DMA)  
Transportation (DOT)  
Revenue (DOR)

**6/24/2009 – WLIA Board and Legislative Committee Meeting:** Discussion of state agency draft amendments and follow WSLs suggestions (to GIS language) to determine possible WLIA actions.

## **“Plain Language” purpose of the Agency revised SB 194/ AB 271 Language**

### **1) Clearly exempt geographic information system (GIS) and similar personnel from the definition of the practice of professional land surveying.**

GIS should be clearly exempted from the definition of the “practice of professional land surveying” where legal descriptions, maps and other documents are NOT created for the purpose of establishing legal property boundaries that are filed and recorded with the register of deeds or county land surveyor.

By establishing the production of maps, documents and other data that are not filed and recorded at the register of deeds or county surveyor as the determining factor for the definition of the “practice of professional land surveying,” we can avoid getting into any discussion related to defining what constitutes GIS, cartographic surveying, construction surveying, geodetic surveying, etc.

### **2) Clearly exempt the creation of maps, data, and other documents created for enrollment and regulatory programs, and those easements created pursuant to an authorizing regulation, from the definition of the practice of professional land surveying.**

Enrollment and regulatory programs, and those easements created pursuant to an authorizing regulation, such as the Managed Forest Law program, Conservation Reserve Enhancement Program, conservation easements and others, create and record maps, data and other documents at the register of deeds for planning, management, general information purposes, and defining interests in property less than fee simple, which are clearly not intended to determine legal property boundaries between adjoining land owners.

We believe that the language provided, or language substantially similar, would clarify this exemption.

The questions are:

Would the public gain reasonable benefit or return on investment for the cost of acquiring easement and property rights boundaries to the degree of accuracy required by proposed SB 194/AB 271 language? State agencies and local units of government are in the best position to make this determination by deciding whether or not to use a professional surveyor, based on the goals and management standards of the programs, as established by regulation.

Would the increased cost of acquiring easement and property rights boundaries to the degree of accuracy required proposed SB 194/AB 271 language create a disincentive for landowners to participate in conservation and recreational programs that benefit the public. In some cases, the monetary incentive for participating in such a program would

be significantly less than the cost of surveying an easement/property right boundary for the program. If participants are required to pay for surveying costs, they would be less likely to participate in the program. If the program is required to pay for increased surveying costs, less money is available for direct incentives to participants.

**Proposed amended language to SB 194/AB 271**  
**6/24/09**

**59.43 (8) REQUIRED SIGNATURE AND SEAL ON SURVEY DOCUMENT FOR FILING OR RECORDING.** It is unlawful for the register of deeds of any county or any proper public authority to file or record a map, plat, survey or other document within the definition of the practice of professional land surveying under s. 443.01(6s), which does not have impressed thereon, and affixed thereto, the personal signature and seal of a ~~registered~~ professional land surveyor under whose responsible charge the map, plat, survey or other document was prepared. This subsection does not apply to any deed, contract or other recordable document prepared by an attorney, or to a transportation project plat that conforms to s. 84.095 and that is prepared by a state agency, or to a map, plat, survey or other document prepared by any of the exempt persons listed under s. 443.14.

**443.01 Definitions.** In this chapter, unless the context provides otherwise:

(1) “Architect” means a person who is legally qualified to practice architecture.

(1g) “Cartographic surveying” means collecting topographic, hydrographic, aerial, anthropologic, forensic, architectural or mining data that depicts areas and physical features on, below, or above the surface of the earth and compiling maps where that data is recorded or filed with the register of deeds or county surveyor.

(1r) “Construction surveying” means surveying or mapping in support of infrastructure design, improvements related to private and public boundary lines, construction layout or historic preservation, and establishing any postconstruction documentation related to such surveying or mapping, where information produced is recorded or filed with the register of deeds or county surveyor.

(2) “Engineer-in-training” means a person who is a graduate in an engineering curriculum of 4 years or more from a school or college approved by the examining board as of satisfactory standing, or a person who has had 4 years or more of experience in engineering work of a character satisfactory to the examining board; and who, in addition, has successfully passed the examination in the fundamental engineering subjects prior to the completion of the requisite years in engineering work, as provided in s. 443.05, and who has been granted a certificate of record by the examining board stating that the person has successfully passed this portion of the professional examinations.

(3) “Examining board” means the examining board of architects, landscape architects, professional engineers, designers and professional land surveyors.

(3b) “Geodetic surveying” means surveying to determine the size and shape of the earth or the precise positions of points on the surface of the earth, where that data is recorded or filed with the register of deeds or county surveyor.

(3g) “Landscape architect” means a person who practices landscape architecture.

(3r) "Landscape architecture" means the performance of a professional service involving conceptual land planning and conceptual design for integrated land development based on the analysis of environmental characteristics, operational requirements, land use or commensurate land values. "Landscape architecture" includes the investigation, selection or allocation of land or water resources for appropriate uses; the formulation of graphic or written criteria for a land planning or land construction program; the preparation, review or analysis of a master plan for land use or development; the production of a graphic land area, grading, drainage, irrigation, planting or land construction plan; and the planning of a road, bridge or other structure with respect to the aesthetic requirements of the area on which it will be constructed.

~~(4) "Land surveying" means any service comprising the determination of the location of land boundaries and land boundary corners; the preparation of maps showing the shape and area of tracts of land and their subdivisions into smaller tracts; the preparation of maps showing the layout of roads, streets and rights-of-way of same to give access to smaller tracts; and the preparation of official plats, or maps, of land in this state.~~

(5) "Practice of architecture" includes any professional service, such as consultation, investigation, evaluation, planning, architectural and structural design, or responsible supervision of construction, in connection with the construction of any private or public buildings, structures, projects, or the equipment thereof, or addition to or alterations thereof, in which the public welfare or the safeguarding of life, health or property is concerned or involved.

(6) "Practice of professional engineering" includes any professional service requiring the application of engineering principles and data, in which the public welfare or the safeguarding of life, health or property is concerned and involved, such as consultation, investigation, evaluation, planning, design, or responsible supervision of construction, alteration, or operation, in connection with any public or private utilities, structures, projects, bridges, plants and buildings, machines, equipment, processes and works. A person offers to practice professional engineering if the person by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself or herself to be a professional engineer; or who through the use of some other title implies that he or she is a professional engineer; or who holds himself or herself out as able to practice professional engineering.

(6s) (a) (intro.) Except as provided in par. (b), "Land practice of professional land surveying" means any service comprising the determination of the location of the following practices where the product is recorded or filed with the register of deed or county surveyor:

1. Measuring and analyzing a tract of land to determine its legal description.

2. Designing or coordinating designs for the purpose of platting or subdividing land into smaller tracts.

3. Establishing, restoring or perpetuating private or public land boundaries and land boundary corners; the preparation of

4. Preparing maps showing the for the purpose of establishing the boundaries of interests in real property that depict any of the following:

a. The shape and area of tracts of land and their subdivisions into smaller tracts; or the subdivision or consolidation of tracts of land. the preparation of maps showing the

b. The layout and rights-of-way of roads; or streets and rights-of-way of same to give access to smaller tracts; and the preparation of.

c. Air or property rights.

d. Public or private easements.

5. Preparing assessors' ~~or~~ plats under s. 70.27 or official plats under chapter 236, or official maps under s. 62.23(6), of land in this state.

6. Applying knowledge or experience about the practice of professional land surveying to assist in the development, use, or management of geographic or land information systems that collect, organize, or disseminate data regarding land ownership or land resources; in connection with any of the practices specified in subs. 1. to 5.

7. Performing cartographic, construction, or geodetic surveying in connection with any of the practices specified in subs. 1. to 5.

8. Providing consultation services related to any of the practices specified in this subsection.

(6s)(b) "Practice of professional land surveying" does not include the:

1. The establishment of an ordinary high water mark.

2. Any of the practices specified in subs. (6s)(a) 1. to 8. when performed by or for a federal, state or local unit of government pursuant to a regulation, regulatory program, or enrollment program, governed by statute, administrative code, ordinance or resolution which is clearly not intended to determine a property boundary. These programs produce maps which are recorded at the register of deeds and depict locational references for planning, management and general information. These programs depict interests in property less than fee simple that do not establish property boundaries between adjoining landowners. Examples of such programs include, but are not limited to, the managed forest law program and forest crop law enrollment programs under chapter 77, the federal conservation reserve enhancement enrollment program, and conservation easements under s. 700.40 or s. 92.07, easements over state forest lands under s. 28.02(5), land acquired under the stream bank protection program under s. 23.094, easements under s. 24.40, and renewable energy resource easements under s. 700.40.

3. Any of the practices specified in 1. through 8. that create maps, documents, or other data not recorded or filed at the register of deeds or county surveyor.



(7) "Professional engineer" means a person who by reason of his or her knowledge of mathematics, the physical sciences and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in engineering practice as defined in sub. (6).

(7m) "Professional land surveyor" means a person who, by reason of his or her knowledge of law, mathematics, physical sciences, and measurement techniques, acquired by education and practical experience, is granted a license or permit to engage in the practice of professional land surveying under this chapter.

**443.135 Cartographic, construction, and geodetic surveying; preparation of maps.** Nothing in this chapter shall be construed to prohibit a person who has not been granted a license or permit to practice professional land surveying under this chapter from doing any of the following:

(1) Performing cartographic, construction, or geodetic surveying unless the performance of cartographic, construction, or geodetic surveying also involves a practice specified in s. 443.01 (6s) (a) 1. to 5 where the product is not recorded or filed with the register of deeds or county surveyor.

(2) Preparing maps for purposes other than those specified in s. 443.01 (6s) not recorded or filed with the register of deeds or county surveyor.

**443.14 (8)** The following persons doing surveying work are exempt from the provisions of this chapter:

(a) An employee of a professional land surveyor registered licensed in this state or authorized to practice under a permit, while working doing surveying work under the supervision of the employer. Such exempt employee shall not be in responsible charge of the practice of professional land surveying.

(b) Officers and employees of the federal government while engaged in land surveying for the federal government.

(c) Employees of this state while engaged in land surveying for the state. This paragraph does not apply after July 1, 2018.

**Kuczenski, Tracy**

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**From:** Clark, Fred  
**Sent:** Friday, July 17, 2009 2:17 PM  
**To:** Kuczenski, Tracy  
**Subject:** FW: Ab-271 Memo  
**Attachments:** wpo.memo.07.15.2009.doc

Hi Tracy:

Attached is a memo from Bill and WSLS with suggested amendments. I have reviewed these with Bill, made some changes and approve including them in the re-draft. Are you available to review where we are with this Monday afternoon?

Thanks and have a good weekend.

Fred

7/21/09 T. conf. w/ Rep Clark

- exempt persons who are depicting boundaries for purposes other than purposes w/in definition of land surveying

- no need to create exception for DNR at this time

We creating more narrow, focused definition of practice of land surveying

- TRK - talk to Becky Trudowell - will this draft impede new FPP in budget.

6  
 PACE?  
 \*\*\*\* added.

7/20/2009



Section 3. Amend proposed s. 443.01(6s)(a) 4 to read as follows:

4. Preparing maps for the purpose of establishing the boundaries of interests in property that depict the boundaries of any interest in property under sub. 3.

**Sections 4 and 5 are intended to provide an exemption for certified DATCP employees to establish boundaries for certain easement programs in accordance with standards adopted by the agency by rule.**

Section 4. Grant rulemaking power to DATCP to establish a program of training and certification for agency employees to conduct the activities described in amended s. 443.01(6s)(a) 3 and 4 and to establish accuracy standards for such activities.

Section 5. Create s. 443.14(15) to exempt from surveyor licensing requirements employees of DATCP who have been certified under ¶ 4 to prepare establish boundaries under proposed ss. 443.06(6s)(a) 3 and 4 of easements that are acquired by DATCP under the CREP program under Chapter 93.

**Section 6 is intended to clarify that maps prepared in connection with regulatory programs and the Managed Forest Law program are not subject to surveyor licensure requirements.**

Section 6. Amend proposed s.443.135 to exempt maps created in connection with state or local regulatory programs and maps that generally depict the boundary of an interest in property that is established by a legal description or that are subject to an order under s. 77.82(8).

**Section 7 is intended to specify that only statutory “official maps” and statutory surveys do require licensure as a professional land surveyor.**

Section 7. Amend proposed s. 443.06(6s)(a)5 to reference maps that require signature and seal of a surveyor under the statutes, including Chapters 62 (official maps), 70 (assessor's plats), 157 (cemetery plats), 236 (subdivisions and certified survey maps), 703 (condominiums) and 707 (time-share ownership).

**Sections 8 and 9 are intended to clarify that GIS activities conducted for purposes that do not include the establishing of boundaries are not subject to surveyor licensure**

Section 8. Delete proposed s. 443.06(6s)6 (relating to GIS).

Section 9. Amend s. 16.967 (or another appropriate statute) to require that products created or hosted by land information systems maintained by the state and local units of government include the following disclaimer: "This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries."

**Section 10 is intended to clarify that the exemption from surveyor trespass liability extends to surveyor assistants.**

Section 10. Amend 895.477 to include employees working under the direct supervision of a Professional Land Surveyor.

## Kuczenski, Tracy

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**From:** Clark, Fred  
**Sent:** Wednesday, July 22, 2009 9:36 PM  
**To:** Kuczenski, Tracy  
**Subject:** RE: AB-271 "Survey Modernization" feedback

Hi Tracy:

I am trusting that, being immersed in this for as long as you have, that you understand the intricacies much better than I - so please go ahead as you ave suggested. I think you know what we are after.

Not a problem on the timing - lets get it right.

Thanks for all your work and call any time.

Fred

## Fred Clark 42nd Assembly District Representative

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**From:** Kuczenski, Tracy  
**Sent:** Wed 7/22/2009 4:33 PM  
**To:** Clark, Fred  
**Subject:** RE: AB-271 "Survey Modernization" feedback

Hi Fred:

Actually, I have been struggling with the "or maps" piece (and what it means to require the "seal and signature of a professional land surveyor") all day (literally!). It is not clear whether "official" under current law (and in proposed s. 443.01 (6s) 5.) modifies both plats and maps, or just plats. I had just come down on the side of official modifying "maps" (based in part on Atty. O'Connor's memo) when your email arrived (!) and had changed the language of that proposed section to more specifically identify official maps prepared of the state, including by towns, villages, and cities.

However, I was still left with some confusion about who authorizes the preparation of official maps of the state or official maps of certain themes or prepared by state agencies (such as of forest lands or park lands or agricultural lands) and whether those maps would need to be prepared by a professional land surveyor.

Is it okay if I leave this change intact for now (rather than eliminating the words "or maps"), along with a lengthy drafter's

7/23/2009

note (that, now, explicitly references the authorities of the state cartographer)?

The other suggestion, below, seems fine.

Sorry this draft is sooo slow-going! It has been much more complicated and time-involved than I anticipated last week...

Tracy

*Tracy K. Kuczenski*  
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**From:** Clark, Fred  
**Sent:** Wednesday, July 22, 2009 3:52 PM  
**To:** Kuczenski, Tracy  
**Subject:** AB-271 "Survey Modernization" feedback

Hi Tracy:

See Jim Lacy's note below. Can you incorporate his first two suggestions? Please let me know if that is a problem or creates one.

Thanks

Fred

**Fred Clark**  
**42nd Assembly District Representative**

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**From:** Clark, Fred  
**Sent:** Wed 7/22/2009 3:49 PM  
**To:** Jim Lacy  
**Subject:** RE: In response to your request on AB-271 "Survey Modernization" feedback

Hi Jim:

Thanks for your detailed comments. I have asked our drafting attorney to re-work the bill, and re-order the sections for easier reading, so they will now appear in the sequence they will as statute. We are also much more tightly defining the practice of surveying, which I hope will provide comfort to people who have been concerned about excessive scope.

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With regard to GIS / LIS practice, we have offered to specifically exempt those activities, however i understand the lack of an agreed definition from the profession may be a problem.

Finally, I like your two first suggestions for 443.01(g) and 443.01 (6s)(5), and will ask Tracy to make those changes.

Thanks Jim and stay in touch. I'll share a review draft with you before we go back out with this.

Fred

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**From:** Jim Lacy [mailto:lacy@wisc.edu]  
**Sent:** Wed 7/22/2009 12:59 PM  
**To:** Rep.Clark  
**Cc:** Topp, Jessica  
**Subject:** In response to your request on AB-271 "Survey Modernization" feedback

Fred-

Sorry for all the phone tag. Since we're having trouble connecting, I thought I would send you some feedback via email. This message grew longer than I intended, but I want to be complete.

First, as you may already understand, folks in the Wisconsin mapping/GIS community perceive AB-271 as a threat to their livelihood. Specifically, if passed as worded, they worry a surveying license would be required for them to perform certain aspects of their jobs. Clearly, however, the land surveying community does not want to "take over" GIS/mapping, they simply want to improve the definition of what they do. The issue at hand is the wording of the bill versus the original intent.

That said, I offer you the following five ideas:

- 443.01(g). I suggest removing "and compiling maps" from the definition of cartographic surveying. The wording is ambiguous, and broadens the definition to effectively say "Cartographic surveying means.... compiling maps." This statement is the source of much angst for the mapping/GIS folks.
- 443.01(6s)5. Suggest removing "or maps" in the phrase "preparing assessors' or official plats, or maps, of land in this state." Again, ambiguous statement.
- 443.01(6s)(a)6. I understand this statement is being considered as an administrative rule. I agree with that approach; seems more appropriate given the intent of the surveying community.
- I understand the bill drafters are looking to specifically define GIS, and then exempt activities associated with the very broad field of mapping/GIS. This is a slippery slope that will cause more confusion. Instead, I recommend sticking with the original intent which is to more clearly define the duties of land surveying. Although I don't agree with defining and then exempting GIS in AB-271, you should be aware that LIS (nearly synonymous with GIS) is already defined in 16.967(1)(b) and (c).
- The bill as a whole contains circular references, such as 443.135(1), which I feel has directly led to confusion and misunderstanding.

7/23/2009



I highly recommend the drafters take a second look at how the bill is worded and presented.

I am aware that you've had discussions with the Wisconsin Land Information Association leadership in recent weeks. In the spirit of full disclosure, I should mention that I am a WLIA member, but my thoughts above do not represent WLIA.

Finally, I am neutral on the even more controversial issues of establishing easements, rights-of-way, and state agency exemptions. These are legal issues beyond the scope of my expertise.

If you have any questions, or if I can be of any assistance, please do not hesitate to ask.

Best wishes,  
Jim

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**\*\* These views are my own, and do not represent the University of Wisconsin. The information above is provided for information and educational purposes only. \*\***