



## 2009 ASSEMBLY BILL 834

March 11, 2010 – Introduced by Representatives HUBLER and BROOKS, cosponsored by Senators KREITLOW and HARSDFORF. Referred to Committee on Urban and Local Affairs.

1     **AN ACT** *to repeal* 236.13 (1) (c); *to amend* 59.69 (3) (a), 60.62 (1), 62.23 (3) (b),  
2           66.1001 (1) (a) (intro.), 66.1001 (1) (a) 2., 66.1001 (3) (intro.), (g), (h) and (q) and  
3           66.1001 (4) (c); and *to create* 16.965 (5), 60.23 (33), 66.1001 (1) (am), 66.1001  
4           (2m) and 66.1001 (3m) of the statutes; **relating to:** comprehensive planning.

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### ***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. A town may create a comprehensive plan only if it exercises village powers as authorized by the town meeting. 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.

Also under current law, beginning on January 1, 2010, 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 under current law, beginning on January 1, 2010, 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.

**ASSEMBLY BILL 834**

This bill specifies that the actions of a local governmental unit that must be consistent with the local governmental unit's comprehensive plan are ordinances related to official mapping, local subdivision regulation, and zoning, including zoning of shorelands or wetlands in shorelands. "Consistent with" is defined in this bill to mean "furthers or does not contradict the objectives, goals, and policies contained in the comprehensive plan." This bill also specifies that enacting a comprehensive plan by ordinance does not make the comprehensive plan itself a regulation.

Also under this bill, if a local governmental unit has not adopted a comprehensive plan, it may be exempt from the consistency requirement if either: 1) the local governmental unit has not received a comprehensive planning grant from the Department of Administration (DOA), and the local governmental unit adopts a resolution stating that it will adopt a comprehensive plan by January 1, 2012; or 2) the local governmental unit has received a comprehensive planning grant and an extension from DOA. The local governmental unit is exempt from the consistency requirement until January 1, 2012, if it qualifies under the former provision or until the expiration of the extension granted by DOA if it qualifies under the latter provision.

Also under this bill, a town may adopt a comprehensive plan whether or not it exercises village powers.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 16.965 (5) of the statutes is created to read:

2           16.965 (5) The department may, upon application, grant a local governmental  
3 unit that has received a grant under sub. (2) and that has not adopted a  
4 comprehensive plan under s. 66.1001 an extension of time to adopt a comprehensive  
5 plan. During the period of the extension, the local governmental unit shall be exempt  
6 from the requirements under s. 66.1001 (3).

7           **SECTION 2.** 59.69 (3) (a) of the statutes is amended to read:

8           59.69 (3) (a) The county zoning agency may direct the preparation of a county  
9 development plan or parts of the plan for the physical development of the  
10 unincorporated territory within the county and areas within incorporated

**ASSEMBLY BILL 834**

1 jurisdictions whose governing bodies by resolution agree to having their areas  
2 included in the county's development plan. The plan may be adopted in whole or in  
3 part and may be amended by the board and endorsed by the governing bodies of  
4 incorporated jurisdictions included in the plan. The county development plan, in  
5 whole or in part, in its original form or as amended, is hereafter referred to as the  
6 development plan. Beginning on January 1, 2010, or, if the county is exempt under  
7 s. 66.1001 (3m), the date under s. 66.1001 (3m) (b), if the county engages in any  
8 program or action described in s. 66.1001 (3), the development plan shall contain at  
9 least all of the elements specified in s. 66.1001 (2).

10 **SECTION 3.** 60.23 (33) of the statutes is created to read:

11 60.23 (33) COMPREHENSIVE PLAN. Adopt or amend a master plan under s. 62.23.

12 **SECTION 4.** 60.62 (1) of the statutes is amended to read:

13 60.62 (1) ~~Subject~~ Except as provided in s. 60.23 (33) and subject to subs. (2),  
14 (3) and (4), if a town board has been granted authority to exercise village powers  
15 under s. 60.10 (2) (c), the board may adopt zoning ordinances under s. 61.35.

16 **SECTION 5.** 62.23 (3) (b) of the statutes is amended to read:

17 62.23 (3) (b) The commission may adopt the master plan as a whole by a single  
18 resolution, or, as the work of making the whole master plan progresses, may from  
19 time to time by resolution adopt a part or parts of a master plan. Beginning on  
20 January 1, 2010, or, if the city is exempt under s. 66.1001 (3m), the date under s.  
21 66.1001 (3m) (b), if the city engages in any program or action described in s. 66.1001  
22 (3), the master plan shall contain at least all of the elements specified in s. 66.1001  
23 (2). The adoption of the plan or any part, amendment, or addition, shall be by  
24 resolution carried by the affirmative votes of not less than a majority of all the  
25 members of the city plan commission. The resolution shall refer expressly to the

**ASSEMBLY BILL 834**

1 elements under s. 66.1001 and other matters intended by the commission to form the  
2 whole or any part of the plan, and the action taken shall be recorded on the adopted  
3 plan or part of the plan by the identifying signature of the secretary of the  
4 commission, and a copy of the plan or part of the plan shall be certified to the common  
5 council, and also to the commanding officer, or the officer's designee, of any military  
6 base or installation, with at least 200 assigned military personnel or that contains  
7 at least 2,000 acres, that is located in or near the city. The purpose and effect of the  
8 adoption and certifying of the master plan or part of the plan shall be solely to aid  
9 the city plan commission and the council in the performance of their duties.

10 **SECTION 6.** 66.1001 (1) (a) (intro.) of the statutes is amended to read:

11 66.1001 (1) (a) (intro.) “Comprehensive plan” means a guide to the physical,  
12 social, and economic development of a local governmental unit that is one of the  
13 following:

14 **SECTION 7.** 66.1001 (1) (a) 2. of the statutes is amended to read:

15 66.1001 (1) (a) 2. For a city ~~or a~~ village, or ~~for a~~ town that exercises village  
16 ~~powers under s. 60.22 (3)~~, a master plan that is adopted or amended under s. 62.23  
17 (2) or (3).

18 **SECTION 8.** 66.1001 (1) (am) of the statutes is created to read:

19 66.1001 (1) (am) “Consistent with” means furthers or does not contradict the  
20 objectives, goals, and policies contained in the comprehensive plan.

21 **SECTION 9.** 66.1001 (2m) of the statutes is created to read:

22 66.1001 (2m) EFFECT OF ENACTMENT OF A COMPREHENSIVE PLAN. The enactment  
23 of a comprehensive plan by ordinance does not make the comprehensive plan by itself  
24 a regulation.

**ASSEMBLY BILL 834**

1           **SECTION 10.** 66.1001 (3) (intro.), (g), (h) and (q) of the statutes are amended to  
2 read:

3           **66.1001 (3)** ~~ACTIONS, PROCEDURES~~ ORDINANCES THAT MUST BE CONSISTENT WITH  
4 COMPREHENSIVE PLANS. (intro.) ~~Beginning~~ Except as provided in sub. (3m), beginning  
5 on January 1, 2010, if a local governmental unit ~~engages in~~ enacts or amends any of  
6 the following ~~actions, those actions~~ ordinances, the ordinance shall be consistent  
7 with that local governmental unit's comprehensive plan:

8           (g) Official mapping ~~established~~ ordinances enacted or amended under s. 62.23  
9 (6).

10           (h) Local subdivision ~~regulation~~ ordinances enacted or amended under s.  
11 236.45 or 236.46.

12           (q) ~~Zoning of shorelands~~ Shorelands or wetlands in shorelands zoning  
13 ordinances enacted or amended under s. 59.692, 61.351 or 62.231.

14           **SECTION 11.** 66.1001 (3m) of the statutes is created to read:

15           **66.1001 (3m)** DELAY OF CONSISTENCY REQUIREMENT. (a) If a local governmental  
16 unit has not adopted a comprehensive plan before January 1, 2010, the local  
17 governmental unit is exempt from the requirement under sub. (3) if any of the  
18 following applies:

19           1. The local governmental unit has applied for but has not received a  
20 comprehensive planning grant under s. 16.965 (2), and the local governmental unit  
21 adopts a resolution stating that the local governmental unit will adopt a  
22 comprehensive plan that will take effect no later than January 1, 2012.

23           2. The local governmental unit has received a comprehensive planning grant  
24 under s. 16.965 (2) and has been granted an extension of time under s. 16.965 (5) to  
25 complete comprehensive planning.

**ASSEMBLY BILL 834**

1 (b) The exemption under par. (a) shall continue until the following dates:

2 1. For a local governmental unit exempt under par. (a) 1., January 1, 2012.

3 2. For a local governmental unit exempt under par. (a) 2., the date on which the  
4 extension of time granted under s. 16.965 (5) expires.

5 **SECTION 12.** 66.1001 (4) (c) of the statutes is amended to read:

6 66.1001 (4) (c) No comprehensive plan that is recommended for adoption or  
7 amendment under par. (b) may take effect until the political subdivision enacts an  
8 ordinance or the regional planning commission adopts a resolution that adopts the  
9 plan or amendment. The political subdivision may not enact an ordinance or the  
10 regional planning commission may not adopt a resolution under this paragraph  
11 unless the comprehensive plan contains all of the elements specified in sub. (2). An  
12 ordinance may be enacted or a resolution may be adopted under this paragraph only  
13 by a majority vote of the members–elect, as defined in s. 59.001 (2m), of the governing  
14 body. ~~An ordinance that is enacted or a resolution that is adopted under this~~  
15 ~~paragraph, and the plan to which it relates, shall be filed with at least One copy of~~  
16 ~~a comprehensive plan enacted or adopted under this paragraph shall be sent to all~~  
17 ~~of the entities specified under par. (b).~~

18 **SECTION 13.** 236.13 (1) (c) of the statutes is repealed.

19 (END)