

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4409/1dn  
EVM:kjf:rs

February 25, 2010

ATTN: Rep. Mary Hubler

Per your request, I am providing this draft in introducible form. There are, however, several issues you may wish to consider in your review of this draft.

1. Most significantly, this draft may create a statutory conflict within s. 66.1001, stats. This draft adds s. 66.1001 (2m) which reads “[t]he enactment of a comprehensive plan by ordinance does not make the comprehensive plan by itself a regulation.” Section 66.1001 (3), as amended by this draft, however, requires that certain ordinances enacted or amended after January 1, 2010, be consistent with the local governmental unit’s comprehensive plan. Because one subsection seems to deny the comprehensive plan’s regulatory effect and another describes the comprehensive plan’s regulatory effect, these two provisions appear to conflict. It is not clear to me how the conflict would be resolved should the statute come under judicial review.
2. The amendments to s. 66.1001 (3) in this draft may create a loophole. Section 66.1001 (3) is amended by this draft to specify that certain ordinances must be consistent with a comprehensive plan. While most of the actions under s. 66.1001 (3) must be accomplished by ordinance, the actions under s. 66.1001 (3) (g), which covers the establishment or amendment of an official map, may be done by resolution or ordinance. See s. 62.23 (6) (b), stats. Because of the specific reference to an “ordinance,” it is unclear whether s. 66.1001 (3) would require that an official map resolution under s. 62.23 (6) (b) be consistent with the local governmental unit’s comprehensive plan.
3. The addition to the definition of “comprehensive plan” in s. 66.1001 (1) (a) (intro.) does not have any clear legal effect. The language appears to paraphrase the requirements under s. 66.1001 (2), stats., but without adding any legally important information.
4. The definition of “consistent with” added in this draft refers to the “objectives, goals, and policies contained in a comprehensive plan.” Most elements of the comprehensive plan must also include maps and programs. The addition of the new definition will likely mean that the ordinance enactments or amendments covered by s. 66.1001 (3) will not need to be consistent with any maps or programs compiled in the comprehensive plan.

Please let me know if you have any questions or further instructions.

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