SENATE BILL 626 (LRB -3826)

An Act to renumber 236.45 (2) (a) 1. to 4.; to renumber and amend 236.45 (2) (a) (intro.); to amend 236.11 (1) (b), 236.13 (1) (b), 236.13 (2) (a), 236.13 (3), 236.25 (1), 236.25 (2) (b), 236.26 and 236.45 (6) (am); and to create 236.11 (1) (c) of the statutes; relating to: modifications to platting requirements.

2010

03-17.	S.	Introduced by Senators **Hansen**, **Kreitlow** and **Cowles**; cosponsored by Representatives **Molepske Jr.**, **Zigmunt**, **Berceau**, **Suder**, **Soletski**, **Roth**, **Huebsch** and **Hintz**.
03-17.	S.	Read first time and referred to committee on Ethics Reform and Government Operations 641
04-06.	S.	Public hearing held.
04-12.	S.	Senate amendment 1 offered by Senator Hansen **(LRB a2062)** 692
04-15.	S.	Fiscal estimate received.
04-15.	S.	Executive action taken.
04-15.	S.	Report adoption of Senate Amendment 1 recommended by committee on Ethics Reform and Government Operations, Ayes 5, Noes 0.
04-15.	S.	Report passage as amended recommended by committee on Ethics Reform and Government Operations, Ayes 5, Noes 0.
04-15.	S.	Available for scheduling.
04-19.	S.	Placed on calendar 4-20-2010 pursuant to Senate Rule 18(1).
04-20.	S.	Read a second time.
04-20.	S.	Senate amendment 1 **adopted**.
04-20.	S.	Ordered to a third reading.
04-20.	S.	Rules suspended.
04-20.	S.	Read a third time and **passed**.
04-20.	S.	Ordered immediately messaged.
04-20.	A.	Received from Senate.
04-20.	A.	Read.
04-20.	A.	Rules suspended and taken up.
04-20.	A.	Read a second time.
04-20.	A.	Ordered to a third reading.
04-20.	A.	Rules suspended.
04-20.	A.	Read a third time and **concurred in**.
04-20.	A.	Ordered immediately messaged.
04-21.	S.	Received from Assembly concurred in.

9MB

2009
ENROLLED BILL

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ADOPTED DOCUMENTS:

☒ **Orig** ☐ **Engr** ___ **SubAmdt** ___ **09-** 3826/1

Amendments to above (if none, write "NONE"): SA1 - a2062/2

Corrections - show date (if none, write "NONE"): None

Topic Rel.

4/22/2010 Eric Mueller

Date **Enrolling Drafter**

State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-3826/1
PJK:kjf&cjs:rs

2009 SENATE BILL 626

March 17, 2010 - Introduced by Senators HANSEN, KREITLOW and COWLES, cosponsored by Representatives MOLEPSKE JR., ZIGMUNT, BERCEAU, SUDER, SOLETSKI, ROTH, HUEBSCH and HINTZ. Referred to Committee on Ethics Reform and Government Operations.

AN ACT ***to renumber*** 236.45 (2) (a) 1. to 4.; ***to renumber and amend*** 236.45 (2) (a) (intro.); ***to amend*** 236.11 (1) (b), 236.13 (1) (b), 236.13 (2) (a), 236.13 (3), 236.25 (1), 236.25 (2) (b), 236.26 and 236.45 (6) (am); and ***to create*** 236.11 (1) (c) of the statutes; **relating to:** modifications to platting requirements.

Analysis by the Legislative Reference Bureau

Under current law, a county, town, city, or village (approving authority) has the right to approve or object to a plat (the map of a subdivision). Generally, the location of the subdivision determines which approving authority or authorities have the right to approve the plat. Approval of a plat is conditioned, among other things, on the plat's compliance with the local ordinances and comprehensive, master, or development plan of the approving authority or authorities that have the right to approve the plat.

This bill specifies that the local ordinances with which a plat must comply are those in effect when the preliminary plat is submitted, or when the final plat is submitted if a preliminary plat is not. The bill allows an approving authority and a subdivider to agree to waive or vary requirements under an ordinance that is in effect when the preliminary plat, or final plat if no preliminary plat, is submitted and to agree as to the application of ordinances that are enacted by the approving authority after the preliminary plat, or final plat if no preliminary plat, is submitted. Current law allows an approving authority to enact ordinances governing the subdivision of land that are more restrictive than the provisions in the statutes. The bill provides that local ordinances may not be enacted that are more restrictive than

the provisions in the statutes with respect to time limits, deadlines, notice requirements, or other provisions that provide protections for subdividers.

Current law provides that if a preliminary plat is submitted, an approving authority may refuse to approve the final plat if it is not submitted within 24 months after the last required approval of the preliminary plat. The bill increases the time for submitting the final plat to 36 months after the last required approval of the preliminary plat and provides that any approving authority may extend this time. Under current law, a subdivider may with the permission of the approving authority submit a final plat that is only the portion of the approved preliminary plat that the subdivider intends to record at that time. The bill provides that a subdivider does not need permission to submit a final plat that is only a portion of the preliminary plat if the preliminary plat identified phases of the development and the portion of the final plat that is being submitted substantially conforms to the preliminary plat.

Current law provides that if a preliminary plat is submitted and approved, the final plat is entitled to approval if it substantially conforms to the preliminary plat. The bill requires a professional engineer, planner, or other person charged with the responsibility to review plats to provide the approving authority with his or her conclusions as to whether the final plat substantially conforms to the preliminary plat and with his or her recommendation on approval of the final plat.

Under current law, as a condition of approval, an approving authority may require a subdivider to execute a surety bond or provide other security to ensure that certain improvements will be made. The bill provides that the approving authority may not require any security for improvements sooner than is reasonably necessary before the commencement of the installation of the improvements and that, if the project will be constructed in phases, the amount of the security must be limited to the phase of the project that is being constructed.

Current law requires a subdivider to record the final plat in the office of the register of deeds in the county where the subdivision is located. The register of deeds may not accept the final plat for recording unless it is offered for recording within six months after the last approval and within 24 months after the first approval. The bill specifically provides that a subdivider may record the final plat in separate parts at different times. In addition, the bill extends the times for recording to within 12 months after the last approval and within 36 months after the first approval.

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

1 **SECTION 1.** 236.11 (1) (b) of the statutes is amended to read:

2 236.11 **(1)** (b) If the final plat conforms substantially to the preliminary plat
3 as approved, including any conditions of that approval, and to local plans and
4 ordinances adopted as authorized by law, it is entitled to approval. If the final plat

is not submitted within ~~24~~ 36 months after the last required approval of the preliminary plat, any approving authority may refuse to approve the final plat or may extend the time for submission of the final plat. The final plat may, if permitted by the approving authority, constitute only that portion of the approved preliminary plat ~~which~~ that the subdivider proposes to record at that time, except that a final plat that is only a portion of an approved preliminary plat may be submitted without the permission of the approving authority and is entitled to approval if the preliminary plat identified phases of the development and the portion of the final plat being submitted substantially conforms to the preliminary plat or portion of the preliminary plat as approved.

SECTION 2. 236.11 (1) (c) of the statutes is created to read:

236.11 **(1)** (c) A professional engineer, a planner, or another person charged with the responsibility to review plats shall provide the approving authority with his or her conclusions as to whether the final plat conforms substantially to the preliminary plat and with his or her recommendation on approval of the final plat. The conclusions and recommendation shall be made a part of the record of the proceeding at which the final plat is being considered and are not required to be submitted in writing.

SECTION 3. 236.13 (1) (b) of the statutes is amended to read:

236.13 **(1)** (b) Any municipal, town, or county ordinance that is in effect when the subdivider submits a preliminary plat, or a final plat if no preliminary plat is submitted;

SECTION 4. 236.13 (2) (a) of the statutes is amended to read:

236.13 **(2)** (a) As a further condition of approval, the governing body of the town or municipality within which the subdivision lies may require that the subdivider

make and install any public improvements reasonably necessary or that the subdivider execute a surety bond or provide other security to ensure that he or she will make those improvements within a reasonable time. If the subdivider's project will be constructed in phases, the amount of any surety bond or other security required by the governing body shall be limited to the phase of the project that is currently being constructed. The governing body may not require that the subdivider provide any security for improvements sooner than is reasonably necessary before the commencement of the installation of the improvements.

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SECTION 5. 236.13 (3) of the statutes is amended to read:

236.13 **(3)** No approving authority or agency having the power to approve or object to plats shall condition approval upon compliance with, or base an objection upon, any requirement other than those specified in this section. Notwithstanding sub. (1) (b), an approving authority and a subdivider may agree to waive or vary requirements under an ordinance specified in sub. (1) (b). Any such agreement shall be entered into freely and voluntarily. An approving authority and a subdivider may also agree as to the application of ordinances enacted by the approving authority after the subdivider has submitted a preliminary plat, or a final plat if no preliminary plat is submitted.

SECTION 6. 236.25 (1) of the statutes is amended to read:

236.25 **(1)** The subdivider shall have the final plat recorded in the office of the register of deeds of the county in which the subdivision is located. The final plat may be recorded in whole or in separate parts at different times.

SECTION 7. 236.25 (2) (b) of the statutes is amended to read:

236.25 **(2)** (b) The plat is offered for record within ~~6~~ 12 months after the date of the last approval of the plat and within ~~24~~ 36 months after the first approval;

SECTION 8. 236.26 of the statutes is amended to read:

236.26 Notification to approving authorities. When a final plat, in whole or in part, is recorded, the register of deeds shall notify all authorities required by s. 236.10 to approve or permitted by s. 236.12 to object to the plat by mailing to the clerk of each authority written notice thereof.

SECTION 9. 236.45 (2) (a) (intro.) of the statutes is renumbered 236.45 (2) (ac) and amended to read:

236.45 **(2)** (ac) To accomplish the purposes listed in sub. (1), any municipality, town or county ~~which~~ that has established a planning agency may ~~adopt~~ enact ordinances governing the subdivision or other division of land ~~which~~ that are more restrictive than the provisions of this chapter~~. Such ordinances~~, except that no ordinance may modify in a more restrictive way time limits, deadlines, notice requirements, or other provisions of this chapter that provide protections for a subdivider.

(am) Ordinances under par (ac) may include provisions regulating divisions of land into parcels larger than 1 1/2 acres or divisions of land into less than 5 parcels, and may prohibit the division of land in areas where such prohibition will carry out the purposes of this section. Such ordinances shall make applicable to such divisions all of the provisions of this chapter, or may provide other surveying, monumenting, mapping and approving requirements for such division. The governing body of the municipality, town, or county shall require that a plat of such division be recorded with the register of deeds and kept in a book provided for that purpose. "COUNTY PLAT," "MUNICIPAL PLAT," or "TOWN PLAT" shall be printed on the map in prominent letters with the location of the land by government lot, recorded private claim, quarter–quarter section, section, township, range, and county noted. When

so recorded, the lots included in the plat shall be described by reference to "COUNTY PLAT," "MUNICIPAL PLAT," or "TOWN PLAT," the name of the plat and the lot and block in the plat, for all purposes, including those of assessment, taxation, devise, descent, and conveyance as defined in s. 706.01 (4). Such ordinance, insofar as it may apply to divisions of less than 5 parcels, shall not apply to:

SECTION 10. 236.45 (2) (a) 1. to 4. of the statutes are renumbered 236.45 (2) (am) 1. to 4.

SECTION 11. 236.45 (6) (am) of the statutes is amended to read:

236.45 **(6)** (am) Notwithstanding subs. (1) and (2) ~~(a) (intro.)~~ (ac), a municipality, town, or county may not, as a condition of approval under this chapter, impose any fees or other charges to fund the acquisition or improvement of land, infrastructure, or other real or personal property, except that a municipality or town may impose a fee or other charge to fund the acquisition or initial improvement of land for public parks.

SECTION 12. Nonstatutory provisions.

(1) INCONSISTENT ORDINANCE. If, on or after the first day of the 7th month beginning after the effective date of this subsection, a city, village, town, or county has in effect an ordinance that is inconsistent with this act, the ordinance does not apply and may not be enforced.

SECTION 13. Initial applicability.

(1) The treatment of section 236.13 (1) (b) and (2) (a) of the statutes first applies to preliminary plats or, in cases in which no preliminary plats are submitted, final plats that are submitted for approval on the effective date of this subsection.

(2) The treatment of section 236.11 (1) (b) and (c) of the statutes first applies to final plats submitted after preliminary plats that are submitted for approval on the effective date of this subsection.

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(3) The treatment of sections 236.25 (1) and (2) (b) and 236.26 of the statutes first applies to final plats that are submitted for recording on the effective date of this subsection.

(END)

State of Wisconsin
2009 – 2010 LEGISLATURE

LRBa2062/2
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SENATE AMENDMENT 1,

TO 2009 SENATE BILL 626

April 12, 2010 – Offered by Senator HANSEN.

At the locations indicated, amend the bill as follows:

1. Page 3, line 5: delete the material beginning with "<u>, except</u>" and ending with "<u>approved</u>" on line 10.

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2. Page 4, line 3: delete "<u>If</u>" and substitute "<u>The subdivider may construct the project in such phases as the governing body approves, which approval may not be unreasonably withheld. If</u>".

3. Page 4, line 9: delete lines 9 to 22.

4. Page 5, line 1: delete lines 1 to 5.

5. Page 7, line 4: delete "sections 236.25 (1) and (2) (b) and 236.26" and substitute "section 236.25 (2) (b)".

SA1-2

(END)