

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2691/1dn
EVM:med:ph

September 27, 2011

ATTN: Rep. Mary Williams

I do not think that the creation of s. 91.18 (3), stats., in this version of the draft, as you requested, is necessary to preserve the eligibility of a county that does not have a comprehensive plan to participate in the farmland preservation program. The changes made to s. 66.1001, stats., have the effect of relieving a county that does not have a comprehensive plan from any consistency requirement in enacting or amending a zoning ordinance under s. 59.69, stats., including, in my opinion, a farmland preservation ordinance under s. 91.30, stats. Also, the various references in ch. 91, stats., to comprehensive plans are conditional, i.e., consistency with and incorporation into a comprehensive plan are necessary only if a relevant comprehensive plan exists.

In any event, I provided a treatment of s. 91.18, stats., specifying that a farmland preservation plan qualifies for certification without regard to whether the county has in effect a comprehensive plan. Does this address your concern or does another provision need amendment? As a caution, it is possible that the addition of the specific language to s. 91.18, stats., as provided in this draft, could create some ambiguity by implying that the specific language was thought by the legislature to be necessary. This could suggest, for example, that other statutes where comprehensive planning is mentioned conditionally can be read to require a comprehensive plan. Please let me know if you have any questions or additional instructions.

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