

**2011 DRAFTING REQUEST**

**Bill**

Received: 08/19/2011

Received By: **emueller**

Wanted: **As time permits**

Companion to LRB:

For: **Mary Williams (608) 266-7506**

By/Representing: **Larry Konopacki**

May Contact:

Drafter: **emueller**

Subject: **Local Gov't - counties**  
**Local Gov't - munis generally**  
**Local Gov't - zoning**

Addl. Drafters:

Extra Copies: **MES, JTK**

Submit via email: **YES**

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

Carbon copy (CC:) to:

---

**Pre Topic:**

No specific pre topic given

---

**Topic:**

Make comprehensive planning optional; other changes to comprehensive planning; smart growth requirements.

---

**Instructions:**

See attached

---

**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>
/?				_____			S&L
/P1	emueller 09/19/2011	mduchek 09/23/2011	jfrantze 09/23/2011	_____	ggodwin 09/23/2011		S&L
/1	emueller 09/27/2011	mduchek 09/27/2011	phenry 09/27/2011	_____	lparisi 09/27/2011		S&L
/2	emueller	mduchek	phenry	_____	mbarman	lparisi	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	09/28/2011	09/28/2011	09/28/2011	_____	09/28/2011	09/30/2011	

FE Sent For:

*at intro  
10-4-11*

<END>

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/1	emueller 09/27/2011	mduchek 09/27/2011	phenry 09/27/2011		lparisi 09/27/2011		

1/2 EVM  
9/28/11

9/28/11

FE Sent For:

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Drafter: emueller

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Local Gov't - zoning

Addl. Drafters:

Extra Copies: MES, JTK LCT

Submit via email: YES

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

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/?							S&L
/P1	emueller 09/19/2011	mduchek 09/23/2011	jfrantze 09/23/2011	<u>ph/gre</u>	ggodwin 09/23/2011		

11 EVM 9/27/11  
FE Sent For: 11 MD 9/27/11  
9/27/11  
[END]

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/?	emueller	1/P1 ND 9/23/11	Jb 9/23	<del>JK</del> JK 9/23			S&L
1/P1	EvM 9/19/11						

FE Sent For:

<END>



## Mueller, Eric

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**From:** Champagne, Rick  
**Sent:** Friday, August 19, 2011 3:32 PM  
**To:** Konopacki, Larry  
**Cc:** Shovers, Marc; Mueller, Eric  
**Subject:** RE: Comprehensive planning bill drafting instructions

Larry, I'm forwarding this to Marc and Eric who handle the local government assignment. Hope all is going well.

Rick

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

**From:** Konopacki, Larry  
**Sent:** Fri 8/19/2011 1:49 PM  
**To:** Champagne, Rick  
**Subject:** FW: Comprehensive planning bill drafting instructions

Hi Rick, would you please prepare a draft bill for the Representative Williams office as described below?

Thanks,

Larry

---

Larry A. Konopacki  
Wisconsin Legislative Council  
(608) 267-0683  
larry.konopacki@legis.wisconsin.gov

---

**From:** Konopacki, Larry  
**Sent:** Wednesday, August 10, 2011 5:03 PM  
**To:** Berken, Nathan  
**Cc:** Hilgemann, Luke  
**Subject:** Comprehensive planning bill drafting instructions

Hi Nathan, per my conversations with you and Luke, the following are the drafting instructions that I will forward to the LRB, with your approval:

- \* Under s. 66.1001 (3), remove the requirement that beginning on January 1, 2010, enactment or amendment of certain ordinances of local governments must be consistent with that local government's comprehensive plan.
- \* Specify that a local governmental unit may repeal that local governmental unit's comprehensive plan.
- \* Require that any enactment or amendment of the types of ordinances listed under (3) by a local governmental unit must be consistent with the local governmental unit's comprehensive plan if the local governmental unit chooses to maintain a comprehensive plan.
- \* Specify that the decision by a local governmental unit as to whether to maintain a comprehensive plan may not be a factor in determining the eligibility of the local governmental unit or any person or other entity in the local governmental unit for participation in any economic development program.
- \* Require approval of any county comprehensive plan enactment or amendment by each town that would be affected by the enactment or amendment.
- \* Require that DOA stop obligating funds for comprehensive planning grants upon the effective date of the bill.

\* From the all moneys received continuing "Land" appropriation, lapse to the general fund the difference between \$2,000,000 and the funds obligated to or paid for comprehensive planning grants in the fiscal year in which the bill becomes effective. For subsequent fiscal years, deposit into the general fund the first \$2,000,000 received from the \$2 (of the \$10 copy fee) received by the state from fees collected by county registers of deeds for copying legal documents.

20,505 (1Xie)

Thanks, and please let me know if you would like me to forward this request to the LRB.

Larry

---

Larry A. Konopacki  
Wisconsin Legislative Council  
(608) 267-0683  
larry.konopacki@legis.wisconsin.gov

→ want first \$2,000,000 each year  
to go to gen fund  
from reg deed fees  
1st year reduction to reflect monies  
spent or obligated prior to eff. date



Note  
State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-2691/P1  
EVM:.....  
med

Friday  
please  
per request

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMR

In 9/19/11

Soon

gen

1 AN ACT... relating to: comprehensive planning and making an appropriation.

FIX

*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. 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, unless certain conditions apply, beginning on January 1, 2010, certain ordinances enacted or amended by a local governmental unit that affect land use must be consistent with that local governmental unit's comprehensive plan. The ordinances 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 enacts or amends any of these specified ordinances, the comprehensive plan must contain at least all of the required planning elements.

Under this bill, a local governmental unit is authorized to repeal its comprehensive plan. The ordinances that under current law must be consistent with a local governmental unit's comprehensive plan must be consistent with the local governmental unit's comprehensive plan if the local governmental unit has a comprehensive plan. Also under this bill, the adoption or amendment of a development plan by a county is not effective in any town until the adoption or amendment is approved by the town board.

Insert Analysis

in effect

Correspondingly

only by

the

Under current law, the Department of Administration provides grants to local governmental units to assist in financing the cost of planning activities. This bill eliminates this grant program.

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

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

Insert A

1 SECTION 1. 16.965 of the statutes is repealed.

2 ✓ SECTION 2. 20.505 (1) (cm) of the statutes is repealed.

3 ✓ SECTION 3. 20.505 (1) (cn) of the statutes is repealed.

4 SECTION 4. 20.505 (1) (ie) of the statutes is amended to read:

5 20.505 (1) (ie) *Land*. ~~The~~ From the moneys received by the department under

6 s. 59.72 (5) (a), ~~the amounts in the schedule for the land information program under~~

7 s. 16.967 and for reviews of proposed municipal incorporations and annexations by

8 the department and for the purpose of providing aids under s. 16.965, Beginning

9 with the first fiscal year beginning after the effective date of this paragraph ... [LRB

10 inserts date], the first \$2,000,000 received by the department under s. 59.72 (5) (a)

11 in each fiscal year shall lapse to the general fund at the end of that fiscal year. plain

**History:** 1971 c. 108, 125, 215; 1971 c. 270 s. 104; 1973 c. 90 and supp. 157, 305; 1975 c. 39 ss. 179 to 184f, 735 (5); 1975 Ex. Order No. 24; 1975 c. 224, 397; 1977 c. 29; 1977 c. 196 ss. 70, 131; 1977 c. 377 s. 30; 1977 c. 418 s. 929 (1), (55); 1979 c. 32 s. 92 (5); 1979 c. 34, 175, 221; 1979 c. 355 s. 241; 1979 c. 361; 1981 c. 20 ss. 400b to 421, 2202 (57) (b); 1981 c. 44 s. 3; 1981 c. 62, 121; 1981 c. 202 s. 23; 1981 c. 314, 374, 391; 1983 a. 27 ss. 439 to 456, 2202 (1); 1983 a. 36, 187, 282, 371, 393; 1985 a. 29, 31, 57, 120, 296, 297, 332; 1987 a. 27 ss. 296n, 296q, 297b, 297d, 299a to 299r, 300a, 301a, 418 to 432; 1987 a. 142, 147, 342, 399; 1989 a. 31, 56, 107, 122, 336, 339, 345, 366; 1991 a. 39 s. 469, 593q to 614; 1991 a. 105, 269, 315; 1993 a. 16 ss. 470g, 470m, 470r, 488 to 506m; 1993 a. 33, 75, 193, 349, 358, 374, 414, 437, 477, 491; 1995 a. 27, 56, 201, 216, 225, 227, 370, 403; 1997 a. 3; 1997 a. 27 ss. 199, 227 to 229m, 233, 666g to 692, 9456 (3m); 1997 a. 237, 283; 1999 a. 5; 1999 a. 9 ss. 508 to 587d, 9401 (2zt), (2zu); 1999 a. 24, 52, 105, 113, 148, 185; 2001 a. 16 ss. 684d, 685d, 800 to 905; 2001 a. 104 ss. 21, 141; 2001 a. 109; 2003 a. 33 ss. 364d, 365d, 369d, 370d, 374d, 376d, 378d, 380d to 384d, 567 to 615f, 639, 640, 642d to 644, 2811 to 2813; 2003 a. 48 ss. 10, 11; 2003 a. 84; 2003 a. 139 ss. 9 to 12; 2003 a. 206 s. 23; 2003 a. 326; 2005 a. 25 ss. 389 to 429m, 2493, 2494, 2495, 9401, 9409; 2005 a. 60, 124, 141, 142, 253, 344, 414, 433; 2007 a. 20 ss. 323, 326, 516e to 542g, 9121 (6) (a); 2007 a. 226; 2009 a. 11, 28, 302, 318; 2011 a. 29, 32 ss. 406, 421m, 435m to 446m, 716m to 747c, 755, 759 to 766; s. 13.92 (2) (i).

12 ✓ SECTION 5. 20.505 (1) (if) of the statutes is repealed.

13 ✓ SECTION 6. 36.11 (37) of the statutes is amended to read:

14 36.11 (37) EXTENSION LOCAL PLANNING PROGRAM. The board shall offer a local

15 planning program through the extension to educate local policymakers about local

16 planning and the grant program under s. 16.965.

**History:** 1973 c. 335; 1975 c. 39, 41, 224, 400; 1977 c. 29, 418; 1979 c. 32 s. 92 (8); 1979 c. 221; 1981 c. 20; 1983 a. 27, 366; 1983 a. 435 s. 7; 1983 a. 484; 1985 a. 62, 120; 1985 a. 332 ss. 47, 49, 50; 1985 a. 332 s. 251 (1); 1987 a. 27, 287; 1989 a. 31, 56, 121, 177, 359; 1991 a. 39, 203, 250, 269, 285, 315; 1993 a. 16, 213, 227, 399; 1995 a.

27 ss. 1757 to 1762y, 9130 (4); 1995 a. 201, 404, 448; 1997 a. 3, 27, 128, 237; 1999 a. 9, 29; 1999 a. 150 ss. 7, 351; 2001 a. 16, 22; 2003 a. 33, 69, 149, 282; 2005 a. 25, 253, 324, 470; 2007 a. 20, 85, 125; 2009 a. 28, 59, 302; 2011 a. 32.

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

2           **59.69 (3) (a)** The county zoning agency may direct the preparation of a county  
3 development plan or parts of the plan for the physical development of the  
4 unincorporated territory within the county, subject to par. (dm), and areas within  
5 incorporated jurisdictions whose governing bodies by resolution agree to having  
6 their areas included in the county's development plan. The plan may be adopted in  
7 whole or in part and may be amended by the board and endorsed by the governing  
8 bodies of incorporated jurisdictions included in the plan. The county development  
9 plan, in whole or in part, in its original form or as amended, is hereafter referred to  
10 as the development plan. ~~Beginning on January 1, 2010, or, if the county is exempt~~  
11 ~~under s. 66.1001 (3m), the date under s. 66.1001 (3m) (b), if the county engages in~~  
12 ~~any program or action described in s. 66.1001 (3), the development plan shall contain~~  
13 ~~at least all of the elements specified in s. 66.1001 (2).~~

**History:** 1971 c. 40 s. 93; 1971 c. 86, 224; 1973 c. 274; 1977 c. 205; 1979 c. 233 ss. 2 to 5, 7 and 8; 1979 c. 323; 1981 c. 341, 354, 374; 1983 a. 192 s. 303 (1); 1983 a. 410; 1983 a. 532 s. 36; 1985 a. 29, 136, 196, 281, 316; 1987 a. 161, 395; 1989 a. 80, 201; 1991 a. 255, 269, 316; 1993 a. 16, 27, 246, 327, 400, 446, 491; 1995 a. 27 ss. 9130 (4), 9126 (19); 1995 a. 201 s. 475; Stats. 1995 s. 59.69; 1995 a. 225 s. 174; 1995 a. 227; 1997 a. 3, 35; 1999 a. 9, 148, 185; 2001 a. 16, 30, 50, 105; 2003 a. 214; 2005 a. 26, 79, 81, 112, 171, 208; 2007 a. 11; 2007 a. 20 ss. 1852 to 1857, 9121 (6) (a); 2009 a. 28, 209, 351, 372, 405; 2011 a. 32.

14 ✓ **SECTION 8. 59.69 (3) (dm)** of the statutes is created to read:

15           **59.69 (3) (dm)** The adoption or amendment of a development plan is not  
16 effective in any town unless the adoption or amendment is approved by the town  
17 board.

18 ✓ **SECTION 9. 62.23 (2)** of the statutes is amended to read:

19           **62.23 (2) FUNCTIONS.** It shall be the function and duty of the commission to  
20 make and adopt a master plan for the physical development of the city, including any  
21 areas outside of its boundaries that in the commission's judgment bear relation to the  
22 development of the city provided, however, that in any county where a regional  
23 planning department has been established, areas outside the boundaries of a city

1 may not be included in the master plan without the consent of the county board of  
2 supervisors. The master plan, with the accompanying maps, plats, charts, and  
3 descriptive and explanatory matter, shall show the commission's recommendations  
4 for such physical development, and shall, as described in sub. (3) (b), contain at least  
5 the elements described in s. 66.1001 (2). The commission may from time to time  
6 amend, extend, or add to the master plan or carry any part or subject matter into  
7 greater detail. The commission may adopt rules for the transaction of business and  
8 shall keep a record of its resolutions, transactions, findings, and determinations,  
9 which record shall be a public record.

**History:** 1973 c. 60; 1975 c. 281; 1977 c. 205; 1979 c. 221, 355; 1981 c. 289, 341, 354, 374; 1983 a. 49, 410; 1985 a. 136 ss. 7 to 9, 10; 1985 a. 187, 225, 281, 316; 1987 a. 161, 395; 1989 a. 201; 1991 a. 255, 316; 1993 a. 27, 184, 301, 327, 400, 446, 471, 490, 491; 1995 a. 27 ss. 9126 (19), 9130 (4); 1995 a. 225; 1997 a. 3, 35, 246; 1999 a. 9, 148; 1999 a. 150 s. 672; 2001 a. 30 ss. 16, 17, 108; 2001 a. 50; 2005 a. 26, 34, 79, 81, 112, 171, 208; 2007 a. 20 ss. 1868 to 1873, 9121 (6) (a); 2007 a. 72; 2009 a. 28, 209, 276, 351, 372, 405; 2011 a. 32.

10 **SECTION 10.** 62.23 (3) (b) of the statutes is amended to read:

11 62.23 (3) (b) The commission may adopt the master plan as a whole by a single  
12 resolution, or, as the work of making the whole master plan progresses, may from  
13 time to time by resolution adopt a part or parts of a master plan. ~~Beginning on~~  
14 ~~January 1, 2010, or, if the city is exempt under s. 66.1001 (3m), the date under s.~~  
15 ~~66.1001 (3m) (b), if the city engages in any program or action described in s. 66.1001~~  
16 ~~(3), the master plan shall contain at least all of the elements specified in s. 66.1001~~  
17 ~~(2).~~ The adoption of the plan or any part, amendment, or addition, shall be by  
18 resolution carried by the affirmative votes of not less than a majority of all the  
19 members of the city plan commission. The resolution shall refer expressly to the  
20 ~~elements under s. 66.1001 and other matters intended by the commission to form the~~  
21 whole or any part of the plan, and the action taken shall be recorded on the adopted  
22 plan or part of the plan by the identifying signature of the secretary of the  
23 commission, and a copy of the plan or part of the plan shall be certified to the common

1 council, and also to the commanding officer, or the officer's designee, of any military  
2 base or installation, with at least 200 assigned military personnel or that contains  
3 at least 2,000 acres, that is located in or near the city. The purpose and effect of the  
4 adoption and certifying of the master plan or part of the plan shall be solely to aid  
5 the city plan commission and the council in the performance of their duties.

**History:** 1973 c. 60; 1975 c. 281; 1977 c. 205; 1979 c. 221, 355; 1981 c. 289, 341, 354, 374; 1983 a. 49, 410; 1985 a. 136 ss. 7 to 9, 10; 1985 a. 187, 225, 281, 316; 1987 a. 161, 395; 1989 a. 201; 1991 a. 255, 316; 1993 a. 27, 184, 301, 327, 400, 446, 471, 490, 491; 1995 a. 27 ss. 9126 (19), 9130 (4); 1995 a. 225; 1997 a. 3, 35, 246; 1999 a. 9, 148; 1999 a. 150 s. 672; 2001 a. 30 ss. 16, 17, 108; 2001 a. 50; 2005 a. 26, 34, 79, 81, 112, 171, 208; 2007 a. 20 ss. 1868 to 1873, 9121 (6) (a); 2007 a. 72; 2009 a. 28, 209, 276, 351, 372, 405; 2011 a. 32.

6 **SECTION 11. 66.1001 (3) (intro.) of the statutes is amended to read:**

66.1001 (3) ORDINANCES THAT MUST BE CONSISTENT WITH COMPREHENSIVE PLANS.

(intro.) ~~Except as provided in sub. (3m), beginning on January 1, 2010, if~~ If a local  
9 governmental unit has in effect a comprehensive plan and enacts or amends any of  
10 the following ordinances, the ordinance shall be consistent with that local  
11 governmental unit's comprehensive plan:

**History:** 1999 a. 9, 148; 1999 a. 150 s. 74; Stats. 1999 s. 66.1001; 1999 a. 185 s. 57; 1999 a. 186 s. 42; 2001 a. 30, 90; 2003 a. 33, 93, 233, 307, 327; 2005 a. 26, 208; 2007 a. 121; 2009 a. 372.

12 **SECTION 12. 66.1001 (3m) of the statutes is repealed.**

13 **SECTION 13. 66.1001 (7) of the statutes is created to read:**

14 **66.1001 (7) REPEAL OF COMPREHENSIVE PLAN.** A local governmental unit may  
15 repeal its comprehensive plan by a majority vote of the members-elect, as defined  
16 in s. 59.001 (2m), of the governing body.

17 **SECTION 14. 66.1001 (8) of the statutes is created to read:**

18 **66.1001 (8) LIMITATION ON CONSIDERATION OF COMPREHENSIVE PLANNING.** No  
19 department or agency of the state or any city, village, town, or county may consider  
20 whether or not a local governmental unit has in effect a comprehensive plan in  
21 determining the eligibility of the local governmental unit or any person or entity in  
22 the local government unit for participation in an economic development program.

23 **SECTION 15. Fiscal changes.**

Handwritten notes: "66.023(2)(d)" with an arrow pointing to line 6 and "x 7" next to it.

1 (1) Notwithstanding section 20.001 (3) (c) of the statutes, there is lapsed to the  
 2 general fund from the appropriation account under section 20.505<sup>✓</sup> (1) (ie) of the  
 3 statutes to the department of administration as affected by the acts of 2011,  
 4 \$2,000,000 less any amount obligated or paid for comprehensive planning grants in  
 5 the fiscal year, in the fiscal year in which this subsection takes effect.

6

(END)

an amount equal to

Insert B

Note



**2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2691/P1ins  
EVM:.....

**INSERT ANALYSIS**

Under this bill, a local governmental unit is authorized to repeal its comprehensive plan. Correspondingly, the ordinances that under current law must be consistent with a local governmental unit's comprehensive plan must, under the bill, be consistent with the local governmental unit's comprehensive plan only if the local governmental unit has a comprehensive plan in effect. Also under the bill, the adoption or amendment of a development plan by a county is not effective in any town until the adoption or amendment is approved by the town board.

**INSERT A**

**SECTION 1.** 20.505 (1) (ie) of the statutes is amended to read:

20.505 (1) (ie) *Land*. ~~The All moneys received by the department under s. 59.72 (5) (a), other than the first \$2,000,000 received in each fiscal year under s. 59.72 (5) (a), for the land information program under s. 16.967 and for reviews of proposed municipal incorporations and annexations by the department and for the purpose of providing aids under s. 16.965.~~

**INSERT B**

**SECTION 2. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The treatment of section 20.505 (1) (ie) of the statutes takes effect on July 1, 2012.

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

LRB-2691/P1dn

EVMz.....

med

(Date)

ATTN: Rep. Mary Williams

Please review the attached draft carefully to ensure that it is consistent with your intent. The following are several issues you may wish to consider in your review of this draft.

1. Please review s. 66.1001 (8), as created by this draft, precluding consideration of whether a local governmental unit has in effect a comprehensive plan in determining eligibility for an economic development program to ensure that the provision meets your intent. I have not attempted to provide a definition of "economic development program" and I am not certain to which programs the term would apply. Are there particular programs you are interested in including? If so, a definition or more explicit list of covered programs could be included. Is the list of parties who may not consider the existence of a comprehensive plan correct and complete?
2. This draft includes express authorization to repeal a comprehensive plan. I have made the repeal requirements the same as the current adoption requirements, see s. 66.1001 (4) (c), stats. Please let me know if you want any changes to this provision.
3. I have provided that a county development plan adoption or amendment does not apply in a town unless the town adopts the plan or amendment. Does the provision, s. 59.69 (3) (dm), as created by this draft, reflect your intent? Do you instead want to limit the adoption requirement to only county development plans that are also comprehensive plans? Do you instead intend to require that an adoption or amendment is of no effect anywhere in the county unless all towns adopt the plan or amendment?
4. This draft repeals the Department of Administration planning grant program in s. 16.965, stats. Do you also want to repeal the transportation planning grant program in s. 16.9651, stats.?
5. I have not made any changes to the comprehensive plan provisions regarding regional planning commissions (RPCs) in s. 66.0309, stats. These provisions currently provide that an RPC must adopt a comprehensive plan for its region, but also that the plan is only advisory to constituent local governmental units. Please let me know if you want any changes to these provisions included in this draft.
- \*6. This draft repeals ss. 20.505 (1) (cm), (cn), <sup>and</sup> (if) and 66.0230 (2) (d), stats. Please let me know if you would prefer to retain any of these provisions.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Eric V. Mueller  
Legislative Attorney  
Phone: (608) 261-7032  
E-mail: [eric.mueller@legis.wisconsin.gov](mailto:eric.mueller@legis.wisconsin.gov)

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

LRB-2691/P1dn  
EVM:med:jf

September 23, 2011

ATTN: Rep. Mary Williams

Please review the attached draft carefully to ensure that it is consistent with your intent. The following are several issues you may wish to consider in your review of this draft.

1. Please review s. 66.1001 (8), as created by this draft, precluding consideration of whether a local governmental unit has in effect a comprehensive plan in determining eligibility for an economic development program to ensure that the provision meets your intent. I have not attempted to provide a definition of "economic development program" and I am not certain to which programs the term would apply. Are there particular programs you are interested in including? If so, a definition or more explicit list of covered programs could be included. Is the list of parties who may not consider the existence of a comprehensive plan correct and complete?
2. This draft includes express authorization to repeal a comprehensive plan. I have made the repeal requirements the same as the current adoption requirements, see s. 66.1001 (4) (c), stats. Please let me know if you want any changes to this provision.
3. I have provided that a county development plan adoption or amendment does not apply in a town unless the town adopts the plan or amendment. Does the provision, s. 59.69 (3) (dm), as created by this draft, reflect your intent? Do you instead want to limit the adoption requirement to only county development plans that are also comprehensive plans? Do you instead intend to require that an adoption or amendment is of no effect anywhere in the county unless all towns adopt the plan or amendment?
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6. This draft repeals ss. 20.505 (1) (cm), (cn), and (if) and 66.0230 (2) (d), stats. Please let me know if you would prefer to retain any of these provisions.

Please let me know if you would like any changes made to the attached draft or if you have any questions. If the attached draft meets with your approval, let me know and I will convert it to an introducible "/1" draft.

Eric V. Mueller  
Legislative Attorney  
Phone: (608) 261-7032  
E-mail: [eric.mueller@legis.wisconsin.gov](mailto:eric.mueller@legis.wisconsin.gov)

## Mueller, Eric

---

**From:** Berken, Nathan  
**Sent:** Monday, September 26, 2011 2:49 PM  
**To:** Mueller, Eric  
**Cc:** Konopacki, Larry  
**Subject:** Comprehensive Planning Bill - LRB 2691/P1

**Importance:** High

Hi Eric,

Thanks for drafting the comprehensive planning bill, LRB 2691/P1. We have three minor changes to the draft. After incorporating the changes, could you get us an introducible draft as soon as possible? Is the end of the day tomorrow, Tuesday, possible?

1) In regards to your drafter's note, item #1, we don't feel it's necessary to include a definition of economic development program. *However, the list of parties providing economic development programs should probably include state authorities.* The list you drafted includes state departments, agencies and local governments. (See page 5, lines 14-18) Since the Department of Commerce has transitioned into the WEDC authority, we should probably also include authorities.

2) We also want the bill to explicitly state that counties without a comprehensive plan are still eligible to participate in the farmland preservation program. Along with updating the statutory text to reflect this, could you also include this in the LRB analysis?

3) In regards to your drafter's note, item #3, please remove all provisions in the bill that require town adoption of county comprehensive planning changes, amendments, etc. I believe the only places in the bill where these references need to be removed are on page 3: the underlined text on line 3, and all of lines 13-16.

Thanks,  
Nathan

--  
Nathan Berken  
Research Assistant  
Office of State Representative Mary Williams  
(608) 266-7506



D Note  
**State of Wisconsin**  
**2011 - 2012 LEGISLATURE**



LRB-2691/PT 11  
EVM:med:jf

stays RMR

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

INSERT

In 9/27/11

Today  
9/27

regen

1 **AN ACT** *to repeal* 16.965, 20.505 (1) (cm), 20.505 (1) (cn), 20.505 (1) (if), 66.023  
2 (2) (d) and 66.1001 (3m); *to amend* 20.505 (1) (ie), 36.11 (37), 59.69 (3) (a), 62.23  
3 (2), 62.23 (3) (b) and 66.1001 (3) (intro.); and *to create* 59.69 (3) (dm), 66.1001  
4 (7) and 66.1001 (8) of the statutes; **relating to:** comprehensive planning and  
5 making an appropriation.

***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. 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, unless certain conditions apply, beginning on January 1, 2010, certain ordinances enacted or amended by a local governmental unit that affect land use must be consistent with that local governmental unit's comprehensive plan. The ordinances 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 enacts or amends any of these specified ordinances, the comprehensive plan must contain at least all of the required planning elements.

Under this bill, a local governmental unit is authorized to repeal its comprehensive plan. Correspondingly, the ordinances that under current law must be consistent with a local governmental unit's comprehensive plan must, under the bill, be consistent with the local governmental unit's comprehensive plan only if the local governmental unit has a comprehensive plan in effect. Also under the bill, the adoption or amendment of a development plan by a county is not effective in any town until the adoption or amendment is approved by the town board.

Under current law, the Department of Administration provides grants to local governmental units to assist in financing the cost of planning activities. This bill eliminates this grant program.

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

*This bill also specifies that a farmland preservation plan qualifies for certification without regard to whether a county has in effect a comprehensive plan.*

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

1 SECTION 1. 16.965 of the statutes is repealed.

2 SECTION 2. 20.505 (1) (cm) of the statutes is repealed.

3 SECTION 3. 20.505 (1) (cn) of the statutes is repealed.

4 SECTION 4. 20.505 (1) (ie) of the statutes is amended to read:

5 20.505 (1) (ie) *Land.* The All moneys received by the department under s. 59.72  
6 (5) (a), other than the first \$2,000,000 received in each fiscal year under s. 59.72 (5)  
7 (a), for the land information program under s. 16.967 and for reviews of proposed  
8 municipal incorporations and annexations by the department and for the purpose of  
9 providing aids under s. 16.965.

10 SECTION 5. 20.505 (1) (if) of the statutes is repealed.

11 SECTION 6. 36.11 (37) of the statutes is amended to read:

12 36.11 (37) EXTENSION LOCAL PLANNING PROGRAM. The board shall offer a local  
13 planning program through the extension to educate local policymakers about local  
14 planning and the grant program under s. 16.965.

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

DO NOT DELETE



1           59.69 (3) (a) The county zoning agency may direct the preparation of a county  
2 development plan or parts of the plan for the physical development of the  
3 unincorporated territory within the county subject to par. (dm) and areas within  
4 incorporated jurisdictions whose governing bodies by resolution agree to having  
5 their areas included in the county's development plan. The plan may be adopted in  
6 whole or in part and may be amended by the board and endorsed by the governing  
7 bodies of incorporated jurisdictions included in the plan. The county development  
8 plan, in whole or in part, in its original form or as amended, is hereafter referred to  
9 as the development plan. ~~Beginning on January 1, 2010, or, if the county is exempt~~  
10 ~~under s. 66.1001 (3m), the date under s. 66.1001 (3m) (b), if the county engages in~~  
11 ~~any program or action described in s. 66.1001 (3), the development plan shall contain~~  
12 ~~at least all of the elements specified in s. 66.1001 (2).~~

13           **SECTION 8.** 59.69 (3) (dm) of the statutes is created to read:

14           ✓ 59.69 (3) (dm) The adoption or amendment of a development plan is not  
15 effective in any town unless the adoption or amendment is approved by the town  
16 board.

17           **SECTION 9.** 62.23 (2) of the statutes is amended to read:

18           62.23 (2) FUNCTIONS. It shall be the function and duty of the commission to  
19 make and adopt a master plan for the physical development of the city, including any  
20 areas outside of its boundaries that in the commission's judgment bear relation to the  
21 development of the city provided, however, that in any county where a regional  
22 planning department has been established, areas outside the boundaries of a city  
23 may not be included in the master plan without the consent of the county board of  
24 supervisors. The master plan, with the accompanying maps, plats, charts, and  
25 descriptive and explanatory matter, shall show the commission's recommendations

1 for such physical development, ~~and shall, as described in sub. (3) (b), contain at least~~  
2 ~~the elements described in s. 66.1001 (2).~~ The commission may from time to time  
3 amend, extend, or add to the master plan or carry any part or subject matter into  
4 greater detail. The commission may adopt rules for the transaction of business and  
5 shall keep a record of its resolutions, transactions, findings, and determinations,  
6 which record shall be a public record.

7 **SECTION 10.** 62.23 (3) (b) of the statutes is amended to read:

8 62.23 (3) (b) The commission may adopt the master plan as a whole by a single  
9 resolution, or, as the work of making the whole master plan progresses, may from  
10 time to time by resolution adopt a part or parts of a master plan. ~~Beginning on~~  
11 ~~January 1, 2010, or, if the city is exempt under s. 66.1001 (3m), the date under s.~~  
12 ~~66.1001 (3m) (b), if the city engages in any program or action described in s. 66.1001~~  
13 ~~(3), the master plan shall contain at least all of the elements specified in s. 66.1001~~  
14 ~~(2).~~ The adoption of the plan or any part, amendment, or addition, shall be by  
15 resolution carried by the affirmative votes of not less than a majority of all the  
16 members of the city plan commission. The resolution shall refer expressly to ~~the~~  
17 ~~elements under s. 66.1001 and other~~ matters intended by the commission to form the  
18 whole or any part of the plan, and the action taken shall be recorded on the adopted  
19 plan or part of the plan by the identifying signature of the secretary of the  
20 commission, and a copy of the plan or part of the plan shall be certified to the common  
21 council, and also to the commanding officer, or the officer's designee, of any military  
22 base or installation, with at least 200 assigned military personnel or that contains  
23 at least 2,000 acres, that is located in or near the city. The purpose and effect of the  
24 adoption and certifying of the master plan or part of the plan shall be solely to aid  
25 the city plan commission and the council in the performance of their duties.

1 SECTION 11. 66.023 (2) (d) of the statutes is repealed.

2 SECTION 12. 66.1001 (3) (intro.) of the statutes is amended to read:

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

8 SECTION 13. 66.1001 (3m) of the statutes is repealed.

9 SECTION 14. 66.1001 (7) of the statutes is created to read:

10 66.1001 (7) REPEAL OF COMPREHENSIVE PLAN. A local governmental unit may  
11 repeal its comprehensive plan by a majority vote of the members-elect, as defined  
12 in s. 59.001 (2m), of the governing body.

13 SECTION 15. 66.1001 (8) of the statutes is created to read:

14 66.1001 (8) LIMITATION ON CONSIDERATION OF COMPREHENSIVE PLANNING. No  
15 department or agency of the state <sup>or authority created by the state</sup> or any city, village, town, or county may consider  
16 whether or not a local governmental unit has in effect a comprehensive plan in  
17 determining the eligibility of the local governmental unit or any person or entity in  
18 the local government unit for participation in an economic development program.

19 SECTION 16. Fiscal changes.

20 (1) Notwithstanding section 20.001 (3) (c) of the statutes, there is lapsed to the  
21 general fund from the appropriation account to the department of administration  
22 under section 20.505 (1) (ie) of the statutes, as affected by the acts of 2011, an amount  
23 equal to \$2,000,000 less any amount obligated or paid for comprehensive planning  
24 grants in the fiscal year, in the fiscal year in which this subsection takes effect.

INS  
5-19



**2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2691/lins  
EVM:med:jf

1           INS 5-19

2

3           **SECTION 1.** 91.18 (3) of the statutes is created to read:

4           91.18 (3) A farmland preservation plan or an amendment to a farmland  
5           preservation plan qualifies for certification without regard to whether the county has  
6           in effect a comprehensive plan.

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

LRB-2691/1dn  
EVM:med:ll

Date

Stays

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 <sup>e of</sup> to s. 91.18 (3), 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 (3), 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.

Eric V. Mueller  
Legislative Attorney  
Phone: (608) 261-7032  
E-mail: eric.mueller@legis.wisconsin.gov

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

LRB-2691/1dn  
EVM:med:ph

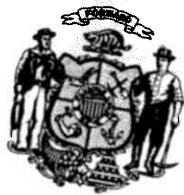
September 27, 2011

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.

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State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-2691/  
EVM:med:p

2011 BILL

In 9/28

Today  
ASAP  
9/28

regen

1 **AN ACT to repeal** 16.965, 20.505 (1) (cm), 20.505 (1) (cn), 20.505 (1) (if), 66.023  
2 (2) (d) and 66.1001 (3m); **to amend** 20.505 (1) (ie), 36.11 (37), 59.69 (3) (a), 62.23  
3 (2), 62.23 (3) (b) and 66.1001 (3) (intro.); and **to create** 66.1001 (7), 66.1001 (8)  
4 and 91.18 (3) of the statutes; **relating to:** comprehensive planning and making  
5 an appropriation.

**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. 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, unless certain conditions apply, beginning on January 1, 2010, certain ordinances enacted or amended by a local governmental unit that affect land use must be consistent with that local governmental unit's comprehensive plan. The ordinances 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 enacts or amends any of these specified ordinances, the comprehensive plan must contain at least all of the required planning elements.



**BILL**

Under this bill, a local governmental unit is authorized to repeal its comprehensive plan. Correspondingly, the ordinances that under current law must be consistent with a local governmental unit's comprehensive plan must, under the bill, be consistent with the local governmental unit's comprehensive plan only if the local governmental unit has a comprehensive plan in effect.

Under current law, the Department of Administration provides grants to local governmental units to assist in financing the cost of planning activities. This bill eliminates this grant program.

This bill also specifies that a farmland preservation plan qualifies for certification without regard to whether a county has in effect a comprehensive plan.

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

---

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

1           **SECTION 1.** 16.965 of the statutes is repealed.

2           **SECTION 2.** 20.505 (1) (cm) of the statutes is repealed.

3           **SECTION 3.** 20.505 (1) (cn) of the statutes is repealed.

4           **SECTION 4.** 20.505 (1) (ie) of the statutes is amended to read:

5           20.505 (1) (ie) *Land.* The All moneys received by the department under s. 59.72  
6           (5) (a), other than the first \$2,000,000 received in each fiscal year under s. 59.72 (5)  
7           (a), for the land information program under s. 16.967 and for reviews of proposed  
8           municipal incorporations and annexations by the department and for the purpose of  
9           providing aids under s. 16.965.

10          **SECTION 5.** 20.505 (1) (if) of the statutes is repealed.

11          **SECTION 6.** 36.11 (37) of the statutes is amended to read:

12          36.11 (37) **EXTENSION LOCAL PLANNING PROGRAM.** The board shall offer a local  
13          planning program through the extension to educate local policymakers about local  
14          planning ~~and the grant program under s. 16.965.~~

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

**BILL**

1           59.69 (3) (a) The county zoning agency may direct the preparation of a county  
2 development plan or parts of the plan for the physical development of the  
3 unincorporated territory within the county and areas within incorporated  
4 jurisdictions whose governing bodies by resolution agree to having their areas  
5 included in the county's development plan. The plan may be adopted in whole or in  
6 part and may be amended by the board and endorsed by the governing bodies of  
7 incorporated jurisdictions included in the plan. The county development plan, in  
8 whole or in part, in its original form or as amended, is hereafter referred to as the  
9 development plan. ~~Beginning on January 1, 2010, or, if the county is exempt under~~  
10 ~~s. 66.1001 (3m), the date under s. 66.1001 (3m) (b), if the county engages in any~~  
11 ~~program or action described in s. 66.1001 (3), the development plan shall contain at~~  
12 ~~least all of the elements specified in s. 66.1001 (2).~~

13           **SECTION 8.** 62.23 (2) of the statutes is amended to read:

14           62.23 (2) FUNCTIONS. It shall be the function and duty of the commission to  
15 make and adopt a master plan for the physical development of the city, including any  
16 areas outside of its boundaries that in the commission's judgment bear relation to the  
17 development of the city provided, however, that in any county where a regional  
18 planning department has been established, areas outside the boundaries of a city  
19 may not be included in the master plan without the consent of the county board of  
20 supervisors. The master plan, with the accompanying maps, plats, charts, and  
21 descriptive and explanatory matter, shall show the commission's recommendations  
22 for such physical development, ~~and shall, as described in sub. (3) (b), contain at least~~  
23 ~~the elements described in s. 66.1001 (2).~~ The commission may from time to time  
24 amend, extend, or add to the master plan or carry any part or subject matter into  
25 greater detail. The commission may adopt rules for the transaction of business and

**BILL**

1 shall keep a record of its resolutions, transactions, findings, and determinations,  
2 which record shall be a public record.

3 **SECTION 9.** 62.23 (3) (b) of the statutes is amended to read:

4 62.23 (3) (b) The commission may adopt the master plan as a whole by a single  
5 resolution, or, as the work of making the whole master plan progresses, may from  
6 time to time by resolution adopt a part or parts of a master plan. ~~Beginning on~~  
7 ~~January 1, 2010, or, if the city is exempt under s. 66.1001 (3m), the date under s.~~  
8 ~~66.1001 (3m) (b), if the city engages in any program or action described in s. 66.1001~~  
9 ~~(3), the master plan shall contain at least all of the elements specified in s. 66.1001~~  
10 ~~(2).~~ The adoption of the plan or any part, amendment, or addition, shall be by  
11 resolution carried by the affirmative votes of not less than a majority of all the  
12 members of the city plan commission. The resolution shall refer expressly to the  
13 ~~elements under s. 66.1001 and other matters intended by the commission to form the~~  
14 ~~whole or any part of the plan, and the action taken shall be recorded on the adopted~~  
15 ~~plan or part of the plan by the identifying signature of the secretary of the~~  
16 ~~commission, and a copy of the plan or part of the plan shall be certified to the common~~  
17 ~~council, and also to the commanding officer, or the officer's designee, of any military~~  
18 ~~base or installation, with at least 200 assigned military personnel or that contains~~  
19 ~~at least 2,000 acres, that is located in or near the city. The purpose and effect of the~~  
20 ~~adoption and certifying of the master plan or part of the plan shall be solely to aid~~  
21 the city plan commission and the council in the performance of their duties.

22 **SECTION 10.** ~~66.023 (2) (d)~~ <sup>66.0230 (2) (d)</sup> of the statutes is repealed.

23 **SECTION 11.** 66.1001 (3) (intro.) of the statutes is amended to read:

24 66.1001 (3) ORDINANCES THAT MUST BE CONSISTENT WITH COMPREHENSIVE PLANS.  
25 (intro.) ~~Except as provided in sub. (3m), beginning on January 1, 2010, if~~ If a local

**BILL**

1 governmental unit has in effect a comprehensive plan and enacts or amends any of  
2 the following ordinances, the ordinance shall be consistent with that local  
3 governmental unit's comprehensive plan:

4 **SECTION 12.** 66.1001 (3m) of the statutes is repealed.

5 **SECTION 13.** 66.1001 (7) of the statutes is created to read:

6 66.1001 (7) REPEAL OF COMPREHENSIVE PLAN. A local governmental unit may  
7 repeal its comprehensive plan by a majority vote of the members-elect, as defined  
8 in s. 59.001 (2m), of the governing body.

9 **SECTION 14.** 66.1001 (8) of the statutes is created to read:

10 66.1001 (8) LIMITATION ON CONSIDERATION OF COMPREHENSIVE PLANNING. No  
11 department or agency of the state or authority created by the state or any city, village,  
12 town, or county may consider whether or not a local governmental unit has in effect  
13 a comprehensive plan in determining the eligibility of the local governmental unit  
14 or any person or entity in the local government unit for participation in an economic  
15 development program.

16 **SECTION 15.** 91.18 (3) of the statutes is created to read:

17 91.18 (3) A farmland preservation plan or an amendment to a farmland  
18 preservation plan qualifies for certification without regard to whether the county has  
19 in effect a comprehensive plan.

20 **SECTION 16. Fiscal changes.**

21 (1) Notwithstanding section 20.001 (3) (c) of the statutes, there is lapsed to the  
22 general fund from the appropriation account to the department of administration  
23 under section 20.505 (1) (ie) of the statutes, as affected by the acts of 2011, an amount  
24 equal to \$2,000,000 less any amount obligated or paid for comprehensive planning  
25 grants in the fiscal year, in the fiscal year in which this subsection takes effect.



STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

9/28 Nathan Q Rep Williams

- leave charge to 91.18

**Barman, Mike**

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**From:** Berken, Nathan  
**Sent:** Friday, September 30, 2011 8:50 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 11-2691/2 Topic: Make comprehensive planning optional; other changes to comprehensive planning; smart growth requirements.

Please Jacket LRB 11-2691/2 for the ASSEMBLY.