

### Fiscal Estimate - 2023 Session

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> <b>23-0585/1</b>	<b>Introduction Number</b> <b>AB-0266</b>
<b>Description</b> judicial review of local governmental decisions related to certain land development, local approval of residential housing development, and amendment of zoning ordinances	
<b>Fiscal Effect</b>	
<b>State:</b> <input checked="" type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs	
<b>Local:</b> <input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs      3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs      4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts	
<b>Fund Sources Affected</b> <b>Affected Ch. 20 Appropriations</b> <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	
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<b>Date</b> 6/14/2023	

## Fiscal Estimate Narratives

DOA 6/14/2023

LRB Number	23-0585/1	Introduction Number	AB-0266	Estimate Type	Original
<b>Description</b> judicial review of local governmental decisions related to certain land development, local approval of residential housing development, and amendment of zoning ordinances					

### Assumptions Used in Arriving at Fiscal Estimate

2023 Assembly Bill 266 relates to procedures by which certain permit applications for residential housing developments are approved by political subdivisions and other changes made to appeal and review processes of land use decisions made by political subdivisions.

This bill limits the authority of political subdivisions to deny certain permit applications related to residential housing developments that meet certain requirements outlined in the bill and requires the subdivision to approve an application for a permit or administrative approval required to proceed with development if the developer's application is complete and the details of the development meet certain requirements. The bill also limits the subdivision's authority to require a supermajority for zoning ordinance amendments, and, with certain exceptions, would require subdivisions to adopt zoning ordinance amendments where a simple majority of a quorum of the members-elect of the governing body votes in the affirmative.

Under current law, decisions related to zoning and land use are often subject to judicial review by certiorari. The bill would create new guidelines for the certiorari procedure under s. 781.10, Wis. Stats., and would change the way in which the certiorari procedure is applied in these cases in several ways. First, the bill limits those who may seek review of these decisions to those who submitted the application, to those who have an ownership interest, to those who have sustained actual damages or will sustain personal damages (provided they have given a statement or testified before the relevant political subdivision), to local government units as defined under s. 66.0131 (1) (a), Wis. Stats., or a state agency that is aggrieved by the final decision. Additionally, the bill would allow counties to provide by ordinance that the county's decision on a conditional use permit is not reviewable by the Board of Adjustment and could only be appealed under the new certiorari procedure outlined in the bill. Under the bill, decisions by the Board of Adjustment would be subject to this same certiorari procedure.

The bill would require that certiorari action must be filed within 30 days of the political subdivision's decision, and that the court must decide based only on the record provided by the political subdivision. Based on this record, they may only affirm or reverse the decision, or they may remand for further proceedings. The bill outlines a series of deadlines for the various steps to take place, such as when pleadings must be filed by the aggrieved party, when the political subdivision must file an answer and transmit the record, the time after which the court must allow for additional pleadings or motions, and when the court must issue its decision. The court would be required to give actions related to this section preference over all other civil actions and proceedings.

There is no fiscal impact anticipated for the Department of Administration (Department). Due to the wide variance in circumstances and frequency of permit applications, zoning ordinance changes, and reviews by certiorari related to residential housing developments, the local fiscal impact is indeterminate.

### Long-Range Fiscal Implications