



2003 ASSEMBLY BILL 435

July 21, 2003 – Introduced by Representatives M. WILLIAMS, SUDER, HINES, OWENS, J. WOOD, MUSSER, SERATTI, PETROWSKI, GRONEMUS, ZIEGELBAUER, KREIBICH, BIES, FRISKE and D. MEYER, cosponsored by Senators REYNOLDS, ZIEN and A. LASEE. Referred to Committee on Rural Affairs.

1 **AN ACT to repeal** 1.13 (3), 16.9651, 20.505 (1) (z) and 66.1001; and **to amend**
2 16.965 (2), 16.967 (6), 20.395 (4) (ax), 59.69 (3) (a), 59.72 (5) (b) 3., 62.23 (2),
3 62.23 (3) (b), 66.0309 (8) (a) 1. b., 66.0309 (9), 66.0309 (10) and 236.13 (1) (c)
4 (intro.) of the statutes; **relating to:** repealing the comprehensive planning
5 statute known as Smart Growth.

Analysis by the Legislative Reference Bureau

Under current law, a county board may engage in zoning and land use planning by creating a county planning agency or by designating a previously constituted county committee or commission as the county planning agency. If a county board creates or designates such an agency, the agency is required to direct the preparation of a county development plan for the physical development of the towns within the county and for the cities and villages within the county whose governing bodies agree to have their areas included in the county plan.

Also under current law, a city or village, or certain towns that exercise village powers, may create a city, village, or town plan commission to engage in zoning and land use planning. If a city, village, or town creates such a commission, the commission is required to adopt a master plan for the physical development of the city, village, or town, including in some instances, in the case of a city or village, unincorporated areas outside of the city or village which are related to the city's or village's development.

Under the current law popularly known as the "Smart Growth" statute, if a local governmental unit (city, village, town, county, or regional planning commission)

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creates a comprehensive plan (a development plan or a master 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; and land use.

Beginning on January 1, 2010, under Smart Growth, any program or action of a local governmental unit that affects land use must be consistent with that local governmental unit's comprehensive plan. The actions to which this requirement applies include zoning ordinances, municipal incorporation procedures, annexation procedures, agricultural preservation plans, and impact fee ordinances. Also beginning on January 1, 2010, under Smart Growth, if a local governmental unit engages in any program or action that affects land use, the comprehensive plan must contain at least all of the required planning elements.

This bill repeals the Smart Growth statute.

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.** 1.13 (3) of the statutes is repealed.

2 **SECTION 2.** 16.965 (2) of the statutes is amended to read:

3 16.965 (2) From the appropriations under s. 20.505 (1) (cm) and (if), the
4 department may provide grants to local governmental units to be used to finance the
5 cost of planning activities, including contracting for planning consultant services,
6 public planning sessions and other planning outreach and educational activities, or
7 for the purchase of computerized planning data, planning software or the hardware
8 required to utilize that data or software. The department shall require any local
9 governmental unit that receives a grant under this section to finance a percentage
10 of the cost of the product or service to be funded by the grant from the resources of
11 the local governmental unit. The department shall determine the percentage of the
12 cost to be funded by a local governmental unit based on the number of applications
13 for grants and the availability of funding to finance grants for the fiscal year in which

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1 grants are to be provided. A local governmental unit that desires to receive a grant
2 under this subsection shall file an application with the department. The application
3 shall contain a complete statement of the expenditures proposed to be made for the
4 purposes of the grant. ~~No local governmental unit is eligible to receive a grant under
5 this subsection unless the local governmental unit agrees to utilize the grant to
6 finance planning for all of the purposes specified in s. 66.1001 (2).~~

7 **SECTION 3.** 16.9651 of the statutes is repealed.

8 **SECTION 4.** 16.967 (6) of the statutes is amended to read:

9 16.967 (6) REPORTS. By March 31 of each year, the department of
10 administration, the department of agriculture, trade and consumer protection, the
11 department of commerce, the department of health and family services, the
12 department of natural resources, the department of tourism, the department of
13 revenue, the department of transportation, the board of regents of the University of
14 Wisconsin System, the public service commission and the board of curators of the
15 historical society shall each submit to the board a plan to integrate land information
16 to enable such information to be readily translatable, retrievable and geographically
17 referenced for use by any state, local governmental unit or public utility. ~~The plans
18 shall include the information that will be needed by local governmental units to
19 prepare comprehensive plans containing the planning elements required under s.
20 66.1001 (2).~~ Upon receipt of this information, the board shall integrate the
21 information to enable the information to be used to meet land information data
22 needs. The integrated information shall be readily translatable, retrievable, and
23 geographically referenced to enable members of the public to use the information.

24 **SECTION 5.** 20.395 (4) (ax) of the statutes is amended to read:

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1 20.395 (4) (ax) *Departmental management and operations, federal funds.* All
2 moneys received from the federal government for the administration and
3 management of departmental programs except those programs under subs. (2) (bx)
4 and (dx) and (3) (ix), and for departmental planning and administrative activities
5 including all moneys received as federal aid as authorized by the governor under s.
6 16.54 to promote highway safety and continue the local traffic safety representatives
7 program and for purposes of s. 85.07 and for activities related to the transportation
8 employment and mobility program under s. 85.24 that are not funded from the
9 appropriation under sub. (1) (bs), (bv), or (bx), ~~and to transfer to the appropriation~~
10 ~~account under s. 20.505 (1) (z) the amounts in the schedule under s. 20.505 (1) (z) for~~
11 ~~such purposes.~~

12 **SECTION 6.** 20.505 (1) (z) of the statutes is repealed.

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

14 59.69 (3) (a) The county zoning agency may direct the preparation of a county
15 development plan or parts of the plan for the physical development of the
16 unincorporated territory within the county and areas within incorporated
17 jurisdictions whose governing bodies by resolution agree to having their areas
18 included in the county's development plan. The plan may be adopted in whole or in
19 part and may be amended by the board and endorsed by the governing bodies of
20 incorporated jurisdictions included in the plan. The county development plan, in
21 whole or in part, in its original form or as amended, is hereafter referred to as the
22 development plan. ~~Beginning on January 1, 2010, if the county engages in any~~
23 ~~program or action described in s. 66.1001 (3), the development plan shall contain at~~
24 ~~least all of the elements specified in s. 66.1001 (2).~~

25 **SECTION 8.** 59.72 (5) (b) 3. of the statutes is amended to read:

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1 59.72 (5) (b) 3. The county uses \$4 of each \$5 fee retained under this paragraph
2 to develop, implement, and maintain the countywide plan for land records
3 modernization, and \$1 of each \$5 fee retained under this paragraph to develop and
4 maintain a computerized indexing of the county's land information records relating
5 to housing, ~~including the housing element of the county's land use plan under s.~~
6 ~~66.1001 (2) (b)~~, in a manner that would allow for greater public access via the
7 Internet.

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

9 62.23 (2) FUNCTIONS. It shall be the function and duty of the commission to
10 make and adopt a master plan for the physical development of the city, including any
11 areas outside of its boundaries that in the commission's judgment bear relation to the
12 development of the city provided, however, that in any county where a regional
13 planning department has been established, areas outside the boundaries of a city
14 may not be included in the master plan without the consent of the county board of
15 supervisors. The master plan, with the accompanying maps, plats, charts, and
16 descriptive and explanatory matter, shall show the commission's recommendations
17 for such physical development, ~~and shall, as described in sub. (3) (b), contain at least~~
18 ~~the elements described in s. 66.1001 (2).~~ The commission may from time to time
19 amend, extend, or add to the master plan or carry any part or subject matter into
20 greater detail. The commission may adopt rules for the transaction of business and
21 shall keep a record of its resolutions, transactions, findings, and determinations,
22 which record shall be a public record.

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

24 62.23 (3) (b) The commission may adopt the master plan as a whole by a single
25 resolution, or, as the work of making the whole master plan progresses, may from

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1 time to time by resolution adopt a part or parts of a master plan. ~~Beginning on~~
2 ~~January 1, 2010, if the city engages in any program or action described in s. 66.1001~~
3 ~~(3), the master plan shall contain at least all of the elements specified in s. 66.1001~~
4 ~~(2).~~ The adoption of the plan or any part, amendment, or addition, shall be by
5 resolution carried by the affirmative votes of not less than a majority of all the
6 members of the city plan commission. The resolution shall refer expressly to the
7 elements ~~under s. 66.1001 and other~~ matters intended by the commission to form the
8 whole or any part of the plan, and the action taken shall be recorded on the adopted
9 plan or part of the plan by the identifying signature of the secretary of the
10 commission, and a copy of the plan or part of the plan shall be certified to the common
11 council. The purpose and effect of the adoption and certifying of the master plan or
12 part of the plan shall be solely to aid the city plan commission and the council in the
13 performance of their duties.

14 **SECTION 11.** 66.0309 (8) (a) 1. b. of the statutes is amended to read:

15 66.0309 (8) (a) 1. b. ~~Consistent with the elements specified in s. 66.1001, make~~
16 Make plans for the physical, social and economic development of the region, and,
17 ~~consistent with the elements specified in s. 66.1001, adopt by resolution any plan or~~
18 the portion of any plan so prepared as its official recommendation for the
19 development of the region.

20 **SECTION 12.** 66.0309 (9) of the statutes is amended to read:

21 66.0309 (9) PREPARATION OF MASTER PLAN FOR REGION. The regional planning
22 commission shall have the function and duty of making and adopting a master plan
23 for the physical development of the region. The master plan, with the accompanying
24 maps, plats, charts, programs and descriptive and explanatory matter, shall show
25 the commission's recommendations for physical development ~~and shall contain at~~

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1 ~~least the elements described in s. 66.1001.~~ The regional planning commission may
2 amend, extend or add to the master plan or carry any part or subject matter into
3 greater detail.

4 **SECTION 13.** 66.0309 (10) of the statutes is amended to read:

5 66.0309 (10) ADOPTION OF MASTER PLAN FOR REGION. The master plan shall be
6 made with the general purpose of guiding and accomplishing a coordinated, adjusted
7 and harmonious development of the region which will, in accordance with existing
8 and future needs, best promote public health, safety, morals, order, convenience,
9 prosperity or the general welfare, as well as efficiency and economy in the process
10 of development. The regional planning commission may adopt the master plan as
11 a whole by a single resolution, or, as the work of making the whole master plan
12 progresses, may by resolution adopt a part or parts of the master plan, ~~any part to~~
13 ~~correspond with one or more of the elements specified in s. 66.1001.~~ The resolution
14 shall refer expressly to the maps, plats, charts, programs and descriptive and
15 explanatory matter, and other matters intended by the regional planning
16 commission to form the whole or any part of the plan, and the action taken shall be
17 recorded on the adopted plan or part of the adopted plan by the identifying signature
18 of the chairperson of the regional planning commission and a copy of the plan or part
19 of the adopted plan shall be certified to the legislative bodies of the local
20 governmental units within the region. The purpose and effect of adoption of the
21 master plan shall be solely to aid the regional planning commission and the local
22 governments and local government officials comprising the region in the
23 performance of their functions and duties.

24 **SECTION 14.** 66.1001 of the statutes is repealed.

25 **SECTION 15.** 236.13 (1) (c) (intro.) of the statutes is amended to read:

