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Testimony before the Senate Committee on Transportation and Local Government

Senator André Jacque

January 10, 2024

Chairman Tomczyk and Committee Members:

Thank you for holding this hearing and the opportunity to testify before you in support of Senate Bill 376, the Wisconsin Vegetable Garden Protection Act.

I began working on this legislation at the request of constituents after becoming aware that local zoning ordinances have explicitly banned home vegetable gardens, or put up unreasonable rules governing what homeowners may grow, and where they can plant their food, with heavy fines levied for violating these mandates.

State law should encourage and protect home vegetable gardens and private property rights. Recent events, including the global pandemic which has stressed global supply chains, emptied grocery store shelves, and increased food prices, makes protecting local food sources even more of a necessity for many today.

This proposal, based on model legislation from the Institute for Justice, will protect the right of Wisconsin homeowners to grow their own food on their own property, free from unreasonable restrictions.

Senate Bill 376 strikes a reasonable balance between private property rights, localized “grow your own” food supplies, concern for pollinators, and legitimate community standards and public safety. There is much interest in having the option to pursue a quality gardening space in a residential setting throughout the area, and this proposal has already expanded these opportunities.

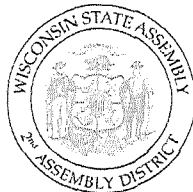
The Two Rivers City Council extended their pilot program for front-yard vegetable gardens into the 2024 growing season, in part due to this legislation. Darla LeClair, a council member, told me, “I don't think it would have been, were it not for your Wisconsin Vegetable Garden Protection Act, which made it clear that this issue has merit. Thank you for all your help.”

Speaking about the Two Rivers initiative last spring, Councilmember LeClair said, “It is a health-focused initiative that's going to allow our residents the freedom and opportunity to eat healthier, have a more diverse selection of produce, keep grocery costs down... (and) know where food comes from.”

In today's inflationary times vegetable gardens can help families cope with the skyrocketing cost of food. And those who grow more vegetables than they can eat may donate their extra supply to local food pantries and help those who are less fortunate than themselves.

Thank you Chairman Tomczyk for your cosponsorship of this proposal. I am pleased to note that its Assembly companion bill has already passed committee with bi-partisan support.

Thank you for your consideration of Senate Bill 376. I'd be happy to answer any questions.



SHAE SORTWELL

STATE REPRESENTATIVE * 2nd ASSEMBLY DISTRICT

Hearing Testimony
Senate Committee on Transportation and Local Government
January 10, 2024
Senate Bill 376

Chairman Tomczyk and members of the Senate Committee on Transportation and Local Government – Thank you for giving me the opportunity to speak on SB 376, relating to the local regulation of vegetable gardens.

Individuals growing their own food on their property is becoming more popular, especially since COVID, due to inflation, supply chains issues, and government food controls on farmland. Protecting this basic human right is essential. Government should encourage and protect, not limit, the right to grow your own food on your own private property.

After hearing concerns from constituents on local government entities discouraging their gardens, Senator Jacque and I crafted Senate Bill 376 based on model legislation from the Institute for Justice, protecting homeowners' right from unreasonable restrictions. This legislation does not affect certain municipal powers as long as it does not specifically regulate vegetable gardens.

The Assembly version passed on a bipartisan vote in its committee a couple of months ago. I hope for the same in this committee.

I appreciate the opportunity to testify on this legislation and would gladly answer any questions the committee may have.



AGRICULTURE POLITICS & GOVERNMENT

Legislative Republicans introduce bill protecting right to garden

BY: HENRY REDMAN - JULY 24, 2023 5:30 AM



The Avid Gardener, a plant store in Cambridge. (Henry Redman | Wisconsin Examiner)

Wisconsinites' ability to spend summers enjoying homegrown herbs, fruits and vegetables could be codified into law under legislation proposed earlier this month by two Republican lawmakers.

The Wisconsin Vegetable Garden Protection Act, co-authored by Sen. André Jacque (R-DePere) and Rep. Shae Sortwell (R-Two Rivers), would prevent local governments from passing or enforcing ordinances that require a permit for or prohibit someone from growing food on their own property.

The draft bill is based on model legislation from the Institute for Justice, a libertarian advocacy organization that focuses on issues such as school choice, private property and loosening economic restrictions. The organization has previously worked in Wisconsin, fighting lawsuits against state laws restricting people's ability to sell homemade baked and canned goods.

Similar vegetable garden laws have already been enacted in Florida and Illinois.

"Growing our own food should be a basic human right," the bill's co-sponsorship memo states. "However, heavy-handed regulators have used local zoning ordinances to explicitly ban home vegetable gardens, or to put up unreasonable rules governing what homeowners may grow, and where they can plant their food, with heavy fines levied for violating these mandates. State law should encourage and protect, not limit, home vegetable gardens."

Jacque told the Examiner that the idea for the legislation came from a constituent, Zara Scharf, who was searching for ways to protect her garden.

"I love my garden. I've invested a substantial amount of work and money into it," Scharf says. "In an effort to protect my native and edible plantings, I sought out model municipal code for rules protecting food gardens. In my search, I came across model legislation called The Vegetable Garden Protection Act from The Institute for Justice. I sent the model legislation to Andre Jacques and other legislators. This was more than what I had originally asked for. I am seeing more fireflies, monarchs, and busy bumblebees in my garden than ever before and plan to peacefully enjoy my garden for many years to come."

The draft legislation includes provisions that give local governments the ability to regulate the height and location of vegetable gardens as well as the use of water or fertilizer and control "noxious weeds" or invasive species.

"It leaves the door open for a local government to pass necessary health and safety regulations," Institute for Justice staff attorney Ari Bargil says. "Governments can pass a law saying it can't be over a certain height, can't be within a certain distance to the road or sidewalk. But it can't expressly prohibit vegetable gardens."

The lawmakers and an attorney for the Institute for Justice say the bill is about food security and protecting the basic human right to

grow your own food.

“Recent events, including the global pandemic which has stressed global supply chains, emptied grocery store shelves, and increased food prices, makes protecting this basic human right a necessity for many today,” the co-sponsorship memo states. “This proposal, based on model legislation from the Institute for Justice, will protect the right of Wisconsin homeowners to grow their own food on their own property, free from unreasonable restrictions.”

Bargil says restricting home gardens is “un-American.”

“Growing food on your own property is something human beings have been doing since time immemorial, and to the extent local governments want to stop people from growing food for themselves, those restrictions impair liberty and impair a time honored American tradition,” Bargil says. “Generally speaking these prohibitions are backed by the subjective aesthetic preferences of those who pass these regulations. There are people who think that looking at another person’s vegetable garden is offensive or unsightly. I think that’s classist and un-American, yet it happens.”

It’s unclear how many municipalities around the state have ordinances prohibiting vegetable gardens. Earlier this year, the city council of Two Rivers, which is in both of the bill authors’ districts, updated the city’s municipal code to create a pilot program allowing vegetable gardens in front yards.

Prior to 2016, the local code had prohibited vegetable gardens entirely. Despite that ordinance, many residents kept their own gardens, which led local officials to update the code, allowing for gardens to be grown in back and side yards as long as they’re at least three feet from the property line. Front yard gardens remained prohibited under the 2016 change, but existing front yard gardens were grandfathered in and allowed to remain.

Meanwhile other municipalities have relatively lax rules about homegrown food. In March, the Madison Common Council amended the city’s chicken ordinance, doubling the amount of chickens a household can have in a backyard from four to eight. Homeowners are required to obtain a \$10 permit before the chickens are allowed. Several of the state’s largest cities, including Appleton, Green Bay, Kenosha and Milwaukee, allow backyard chickens.