



2005 ASSEMBLY BILL 399

May 2, 2005 - Introduced by Representative MUSSER, cosponsored by Senator BROWN. Referred to Committee on Military Affairs.

1 **AN ACT** *to amend* 59.69 (2) (e), 59.69 (2) (f), 60.61 (4) (a), 60.61 (4) (b), 60.61 (4)
2 (c) 1., 62.23 (1) (a), 62.23 (3) (b), 62.23 (7) (d) 1., 62.23 (7) (d) 2. and 66.1001 (2)
3 (g); and *to create* 14.017 (4), 59.69 (2) (cm) and 709.03 (form) C. 28. of the
4 statutes; **relating to:** the involvement of military base commanders with local
5 zoning entities; creating a council on military and state relations; and requiring
6 a seller of real property to disclose its proximity to the boundaries of a military
7 installation.

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. 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 town that is not authorized to exercise village powers chooses to exercise zoning authority, the town board must appoint a town zoning committee.

Under this bill, the planning agency, plan commission, or zoning committee of a political subdivision (any city, village, town, or county) must also include, as a nonvoting member, a representative from a military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is

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located in the political subdivision, if the base's or installation's commanding officer appoints such a representative.

Generally, under current law, if a political subdivision or a subunit of a political subdivision wants to propose a new zoning ordinance, development plan, or master plan, or if a political subdivision or a subunit of a political subdivision wants to amend an existing ordinance or plan, the political subdivision or the subunit must first hold a public hearing on the proposed ordinance or amendment and provide notice that the hearing will be held.

Under this bill, with regard to a proposed zoning ordinance or development or master plan change, the entity holding the public hearing must consider any comments made or submitted by the commanding officer, or his or her designee, of a military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is located in or near the political subdivision. If a political subdivision enacts such zoning or land use ordinances or plans, a copy of the enactment must be sent to the commanding officer or designee.

Under the current law commonly known as the "Smart Growth" statute, if a political subdivision or regional planning commission 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: intergovernmental cooperation; housing; transportation; utilities and community facilities; agricultural, natural, and cultural resources; economic development; and land use.

Under this bill, the intergovernmental cooperation element must consider, to the greatest extent possible, the maps and plans of any military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, with which the political subdivision or regional planning commission shares common territory.

This bill also creates a council on military and state relations in the office of the governor. The council is to work with the state's military installations and communities, state agencies, and economic development professionals to enhance those military installations and determine how state agencies can better serve military communities and military families. The council must also advise and assist the governor on issues related to the location of military installations in the state. The council consists of representatives from the Department of Military Affairs, Fort McCoy, and the governor's office, and two members of each house of the legislature.

Current law generally requires a person who wishes to sell real property to provide within ten days after acceptance of an offer to purchase the property a real estate disclosure report to the buyer of the property. The report must list any condition (defect) that would have a significantly adverse effect on the value of the property, that would significantly impair the health or safety of future occupants of the property, or that if not repaired or replaced, would significantly shorten or adversely affect the normal life of the property. After receiving the report, the buyer, before the applicable deadline, may rescind the contract of sale if the report discloses a defect.

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This bill requires a seller of real estate that lies within a two-mile radius of a military installation to include this fact as a defect in the real estate disclosure report.

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.** 14.017 (4) of the statutes is created to read:
- 2 14.017 (4) COUNCIL ON MILITARY AND STATE RELATIONS. There is created in the
- 3 office of the governor a council on military and state relations. The council shall
- 4 assist the governor by working with the state's military installations, commands and
- 5 communities, state agencies, and economic development professionals to develop
- 6 and implement strategies designed to enhance those military installations. The
- 7 council shall advise and assist the governor on issues related to the location of
- 8 military installations in this state. The council shall assist and cooperate with state
- 9 agencies to determine how those agencies can better serve military communities and
- 10 military families. The council shall assist the efforts of military families and their
- 11 support groups regarding quality-of-life issues for service men and women, their
- 12 spouses, and their dependents. The council shall consist of the following:
- 13 (a) A representative of the department of military affairs.
- 14 (b) A representative of Fort McCoy, Monroe County.
- 15 (c) Two members of each house of the legislature, representing the majority
- 16 party and minority party in each house, chosen as are members of the standing
- 17 committees of that house.
- 18 (d) A representative of the office of the governor.
- 19 **SECTION 2.** 59.69 (2) (cm) of the statutes is created to read:

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1 59.69 (2) (cm) In addition to the members who serve on, or are appointed to,
2 a planning and zoning committee, commission, or agency under par. (a), the
3 committee, commission, or agency shall also include, as a nonvoting member, a
4 representative from a military base or installation, with at least 200 assigned
5 military personnel or that contains at least 2,000 acres, that is located in the county,
6 if the base's or installation's commanding officer appoints such a representative.

7 **SECTION 3.** 59.69 (2) (e) of the statutes is amended to read:

8 59.69 (2) (e) Wherever a public hearing is specified under this section, the
9 hearing shall be conducted by the county zoning agency in the county courthouse or
10 in such other appropriate place as may be selected by the county zoning agency. The
11 county zoning agency shall give notice of the public hearing by publication in the
12 county as a class 2 notice under ch. 985, and shall consider any comments made, or
13 submitted by, the commanding officer, or the officer's designee, of a military base or
14 installation, with at least 200 assigned military personnel or that contains at least
15 2,000 acres, that is located in or near the county.

16 **SECTION 4.** 59.69 (2) (f) of the statutes is amended to read:

17 59.69 (2) (f) Whenever a county development plan, part thereof or amendment
18 thereto is adopted by, or a zoning ordinance or amendment thereto is enacted by, the
19 board, a duplicate copy shall be certified by the clerk and sent to the municipal clerks
20 of the municipalities affected thereby, and also to the commanding officer, or the
21 officer's designee, of any military base or installation, with at least 200 assigned
22 military personnel or that contains at least 2,000 acres, that is located in or near the
23 county.

24 **SECTION 5.** 60.61 (4) (a) of the statutes is amended to read:

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1 60.61 (4) (a) The town board shall appoint a town zoning committee consisting
2 of 5 members. The town zoning committee shall also include, as a nonvoting member,
3 a representative from a military base or installation, with at least 200 assigned
4 military personnel or that contains at least 2,000 acres, that is located in the town,
5 if the base's commanding officer appoints such a representative.

6 **SECTION 6.** 60.61 (4) (b) of the statutes is amended to read:

7 60.61 (4) (b) Before the town board may adopt an ordinance under sub. (2), the
8 town zoning committee shall recommend zoning district boundaries and appropriate
9 regulations and restrictions for the districts. In carrying out its duties, the town
10 zoning committee shall develop a preliminary report and hold a public hearing on the
11 report before submitting a final report to the town board. The town zoning committee
12 shall consider any comments made, or submitted, by the commanding officer, or the
13 officer's designee, of a military base or installation, with at least 200 assigned
14 military personnel or that contains at least 2,000 acres, that is located in or near the
15 town. If the town zoning committee makes a substantial change in its report
16 following the public hearing, it shall hold another public hearing on the report. After
17 the final report of the town zoning committee is submitted to the town board, the
18 board may adopt an ordinance under sub. (2) following a public hearing held by the
19 board on the proposed ordinance. A copy of an adopted ordinance shall be sent to the
20 commanding officer, or the officer's designee, of any military base or installation,
21 with at least 200 assigned military personnel or that contains at least 2,000 acres,
22 that is located in or near the town.

23 **SECTION 7.** 60.61 (4) (c) 1. of the statutes is amended to read:

24 60.61 (4) (c) 1. After the town board has adopted a town zoning ordinance, the
25 board may alter, supplement or change the boundaries or regulations established in

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1 the ordinance if a public hearing is held on the revisions. The board shall give notice
2 of any proposed revisions in the zoning ordinance and of the time and place of the
3 public hearing on them by a class 2 notice under ch. 985. The board shall allow any
4 interested person to testify at the hearing, and shall consider any comments made,
5 or submitted, by the commanding officer, or the officer's designee, of a military base
6 or installation, with at least 200 assigned military personnel or that contains at least
7 2,000 acres, that is located in or near the town. If any proposed revision under this
8 subdivision would make any change in an airport affected area, as defined in s. 62.23
9 (6) (am) 1. b., the board shall mail a copy of such notice to the owner or operator of
10 the airport bordered by the airport affected area.

11 **SECTION 8.** 62.23 (1) (a) of the statutes is amended to read:

12 62.23 (1) (a) The council of any city may by ordinance create a "City Plan
13 Commission," to consist of 7 members. The commission shall also include, as a
14 nonvoting member, a representative from a military base or installation, with at
15 least 200 assigned military personnel or that contains at least 2,000 acres, that is
16 located in the city, if the base's or installation's commanding officer appoints such a
17 representative. All members of the commission, other than the representative
18 appointed by the commanding officer of a military base or installation, shall be
19 appointed by the mayor, who shall also choose the presiding officer. The mayor may
20 appoint himself or herself to the commission and may appoint other city elected or
21 appointed officials, except that the commission shall always have at least 3 citizen
22 members who are not city officials. Citizen members shall be persons of recognized
23 experience and qualifications. The council may by ordinance provide that the
24 membership of the commission shall be as provided thereunder.

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

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

18 **SECTION 10.** 62.23 (7) (d) 1. of the statutes is amended to read:

19 62.23 (7) (d) 1. a. Upon the request of the city council, the city plan commission,
20 the board of public land commissioners, or if the city has neither, the city plan
21 committee of the city council shall prepare and recommend a district plan and
22 regulations for the city. Following the formulation of tentative recommendations a
23 public hearing shall be held by, at the council's option, the council, the plan
24 commission, the board of public land commissioners or the plan committee. The
25 entity holding the hearing shall consider any comments made, or submitted, by the

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1 commanding officer, or the officer's designee, of a military base or installation, with
2 at least 200 assigned military personnel or that contains at least 2,000 acres, that
3 is located in or near the city. At least 10 days' prior written notice of any such
4 hearings shall be given to the clerk of any municipality whose boundaries are within
5 1,000 feet of any lands included in the proposed plan and regulations, and to the
6 commanding officer, or the officer's designee, of any military base or installation,
7 with at least 200 assigned military personnel or that contains at least 2,000 acres,
8 that is located in or near the city, but failure to give such notice shall not invalidate
9 such district plan or regulations. Publication of a class 2 notice, under ch. 985, of the
10 tentative recommendations and hearings thereon must be made once during each of
11 the 2 weeks prior to such hearing.

12 b. The council may make changes in the tentative recommendations after first
13 submitting the proposed changes to the plan commission, board of public land
14 commissioners or plan committee for recommendation and report and after
15 publishing a class 2 notice, under ch. 985, of the proposed changes and hearings
16 thereon as well as the notice to the clerk of any contiguous municipality and to the
17 commanding officer, or the officer's designee, of any military base or installation,
18 with at least 200 assigned military personnel or that contains at least 2,000 acres,
19 that is located in or near the city, as required in subd. 1. a. Hearings on the proposed
20 changes may be held by, at the council's option, the council, the plan commission, the
21 board of public land commissioners or the plan committee. The entity holding the
22 hearing shall consider any comments made, or submitted, by the commanding
23 officer, or the officer's designee, of a military base or installation, with at least 200
24 assigned military personnel or that contains at least 2,000 acres, that is located in
25 or near the city.

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1 **SECTION 11.** 62.23 (7) (d) 2. of the statutes is amended to read:

2 62.23 (7) (d) 2. The council may adopt amendments to an existing zoning
3 ordinance after first submitting the proposed amendments to the city plan
4 commission, board of public land commissioners or plan committee for
5 recommendation and report and after providing the notices as required in subd. 1.
6 b. of the proposed amendments and hearings thereon. In any city which is not located
7 in whole or in part in a county with a population of 500,000 or more, if the proposed
8 amendment would make any change in an airport affected area, as defined in sub.
9 (6) (am) 1. b., the council shall mail a copy of such notice to the owner or operator of
10 the airport bordered by the airport affected area. A hearing shall be held on the
11 proposed amendments by, at the council's option, the council, the plan commission,
12 the board of public land commissioners or the plan committee. The entity holding
13 the hearing shall consider any comments made, or submitted, by the commanding
14 officer, or the officer's designee, of a military base or installation, with at least 200
15 assigned military personnel or that contains at least 2,000 acres, that is located in
16 or near the city. If the council does not receive recommendations and a report from
17 the plan commission, board of public land commissioners or plan committee within
18 60 days of submitting the proposed amendments, the council may hold hearings
19 without first receiving the recommendations and report.

20 **SECTION 12.** 66.1001 (2) (g) of the statutes is amended to read:

21 66.1001 (2) (g) *Intergovernmental cooperation element.* A compilation of
22 objectives, policies, goals, maps, and programs for joint planning and decision
23 making with other jurisdictions, including school districts and adjacent local
24 governmental units, for siting and building public facilities and sharing public
25 services. The element shall analyze the relationship of the local governmental unit

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1 to school districts and adjacent local governmental units, and to the region, the state
2 and other governmental units. The element shall consider, to the greatest extent
3 possible, the maps and plans of any military base or installation, with at least 200
4 assigned military personnel or that contains at least 2,000 acres, with which the local
5 governmental unit shares common territory. The element shall incorporate any
6 plans or agreements to which the local governmental unit is a party under s. 66.0301,
7 66.0307 or 66.0309. The element shall identify existing or potential conflicts
8 between the local governmental unit and other governmental units that are specified
9 in this paragraph and describe processes to resolve such conflicts.

10 **SECTION 13.** 709.03 (form) C. 28. of the statutes is created to read:

11 **709.03** (form) C. 28.

12 C. 28. I am aware that the property is located within
13 a 2-mile radius of the boundaries of a military
14 installation at which training activities are
15 conducted.

16 **SECTION 14. Nonstatutory provisions.**

17 (1) REAL ESTATE CONDITION REPORT. Notwithstanding section 709.03 (form) C.
18 28., as created by this act, a property owner who has furnished to a prospective buyer
19 of the property an original or amended real estate condition report before the
20 effective date of this subsection is not required to submit an amended real estate
21 condition report under section 709.035 of the statutes with respect to the information
22 required by section 709.03 (form) C. 28. of the statutes, as created by this act.

23 **SECTION 15. Initial applicability.**

