

WAPA Legislative Update
By Steve Hiniker
[1000 Friends of Wisconsin](#)

June 5, 2009

These legislative updates and other related information are on the WAPA website's [Law and Legislation](#) page for members to access and continue to personally track the bills that they are interested in following more closely.

2009 - 2010 Wisconsin Legislative Session Bill Tracking

Budget Update: Joint Finance Committee has completed its review of the Budget Bill. It now goes to the Caucuses for review which is where the real action takes place. We expect to see that process completed by June 30th. Senate Majority Leader Russ Decker has indicated that the Senate will likely revisit the RTA provisions. We will have more updates as the process continues.

NEW LEGISLATIVE PROPOSALS

[AB 243](#) - relating to delaying the implementation date of the comprehensive planning statute for certain local governmental units.

4/5/2009 - Referred to Committee on Urban and Local Affairs.

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.

This bill delays the implementation date in current law from January 1, 2010, until January 1, 2012, but only for a local governmental unit that has not enacted a comprehensive plan that takes effect on January 1, 2010, and that take certain steps towards meeting the consistency requirement. The local government unit must adopt a resolution before January 1, 2010, that commits the local government unit to enacting a comprehensive plan that will take effect on or before January 1, 2012, and the local government must have applied for but not yet received, or must have decided not to apply for, a grant under a program administered by the Department of Administration that provides funding for local planning activities.

Under current law, beginning on January 1, 2010, certain actions of a local governmental unit that affect land use must be consistent with that local governmental unit's comprehensive plan. The actions 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 engages in any of these specified actions, the comprehensive plan must contain at least all of the required planning elements.

AB 256 – relating to the regulation of wind energy systems.

5/5/09 - Referred to Committee on Energy & Utilities

5/12/09 – Public Hearing held.

Under current law, a city, village, town, or county (political subdivision) may not place any restrictions on the installation or use of an energy system (a solar energy system or a wind energy system) unless the restriction is for health or safety reasons, does not significantly increase the cost of the system or decrease its efficiency, or allows for an alternative comparable system. Current law defines "wind energy system" as equipment that converts and then stores or transfers energy from the wind into usable forms of energy. This bill requires the Public Service Commission (PSC) to promulgate rules establishing common standards for political subdivisions to regulate the construction and operation of wind energy systems. The bill also revises the definition of "wind energy system" to include associated facilities of the equipment specified under current law. The PSC's rules must specify the restrictions a political subdivision may impose on the installation or use of such a system, and may include subjects such as visual appearance, setback distances, decommissioning, shadow flicker, electrical connections to the power grid, and interference with radio, telephone, or television signals. The PSC must also promulgate rules specifying requirements and procedures for a political subdivision to enforce such restrictions. If a political subdivision chooses to regulate such systems, its ordinances may not be more restrictive than the PSC rules.

The bill also specifies various standards, procedures for applicants, and approval timelines for political subdivisions that must be contained in a political subdivision's ordinance regulating the systems. The bill prohibits a political subdivision from prohibiting or restricting any person from conducting tests to determine the suitability of a site for the possible placement of a wind energy system, although the political subdivision may petition the PSC to impose reasonable restrictions on the testing. With regard to a proposed wind energy system that is one megawatt or larger, the bill provides that any person who is aggrieved by a political subdivision's decision or enforcement action may seek review by the PSC. If the PSC determines that the political subdivision's decision or enforcement action does not comply with the agency's rules or is unreasonable, it must issue a superseding decision and order an appropriate remedy. The PSC's decision or order may be appealed to circuit court. The bill specifies that if a county enacts an ordinance relating to the construction or operation of a wind energy system, as provided by the bill, the county ordinance applies only in the unincorporated parts of the county, except that if a town enacts a similar ordinance, the more restrictive terms of the two ordinances apply to the town. Finally, the bill does not affect a provision under current law that exempts certain electric generating facilities from local ordinances.

Under current law, a person may not construct an electric generating facility with a nominal operating capacity of 100 megawatts or more unless the PSC grants a certificate of public convenience and necessity (CPCN) to the person. If the PSC has granted a CPCN to such a facility, and if installation or utilization of the facility is precluded or inhibited by a local ordinance, current law provides that the installation and utilization of the facility may

nevertheless proceed. Because this bill does not affect that provision, the authority of a political subdivision to regulate a wind energy system under the bill is limited to those wind energy systems with a nominal operating capacity of less than 100 megawatts. However, the bill requires the PSC to consider the restrictions specified in the rules described above when the PSC determines whether to grant a CPCN to a wind energy system with a nominal operating capacity of 100 megawatts or more.

AB 260 – related to extraterritorial plat approval on basis of land's use.

5/8/09- Referred to Committee on Renewable Energy and Rural Affairs.

Current law specifies whether a county, town, city, or village has the right to approve or object to a plat (the map of a subdivision). Generally, the location of the subdivision determines which local governmental unit or units have the right to approve the plat. However, if a subdivision lies in the unincorporated area within three miles of the corporate limits of a first, second, or third class city, or within one and one-half miles of a fourth class city or village, the governing body of the city or village has the right to approve the plat under its extraterritorial plat approval jurisdiction, as well as the board of the town within which the subdivision lies and the planning agency of the county within which the subdivision lies if the planning agency employs on a full-time basis a professional engineer, a planner, or another person charged with administering zoning or other planning legislation. Approval of a plat is conditioned on, among other things, the plat's compliance with the local ordinances and a comprehensive, master, or development plan of the local governmental unit or units that have the right to approve the plat.

AB 282 – relating to the creation of regional transit authorities and making appropriations.

5/27/09 – Referred to Committee on Transportation.

This bill was prepared for the Joint Legislative Council's Special Committee on Regional Transportation Authority. This bill allows most cities, towns, villages, and counties (political subdivisions) to create regional transit authorities (RTAs), which are public bodies corporate and politic. Generally, the governing bodies of two or more political subdivisions may join together (participating political subdivisions) to jointly create an RTA by adopting identical resolutions (authorizing resolutions). The bill also permits a county, under certain circumstances, to unilaterally create an RTA. The bill allows a county to prevent the creation or joining of an RTA by a municipality within the county if the county adopts a resolution stating that it intends to create an RTA that will include the municipality in its jurisdictional area and initiating a study relating to this RTA. The municipality may create or join the RTA despite denial of approval by the county if the county does not complete the study relating to creation of its RTA within 18 months of denial of approval by the county or if the municipality is not included in the jurisdictional area of another RTA within 24 months of denial of approval by the county.

If an RTA has already been formed, additional political subdivisions may join the RTA by adopting authorizing resolutions identical to the authorizing resolutions if the RTA also adopts a resolution allowing the additional political subdivisions to join the RTA. Participating political subdivisions may generally amend or modify their authorizing resolutions, including to allow a new political subdivision to join the RTA, if, after any amendment or modification, the authorizing resolutions of all participating political subdivisions remain identical.

Any RTA authorizing resolution must contain certain information, including all of the following:

1. The name of the RTA and a description or map of its jurisdictional area. "Jurisdictional area" is defined as the geographic area formed by the combined territorial boundaries of all participating political subdivisions except that for a county, it includes the portion of the county that is within the "county jurisdictional area". A county that is a participating political subdivision determines the county jurisdictional area as one of the following: a. The portion of the county that is within the combined territorial boundaries of each of the cities, villages, and towns in the county that are also participating political subdivisions of the RTA. b. The territorial boundaries of the county. c. The combined territorial boundaries of each of the cities, villages, and towns in the county with at least 75 percent of their populations residing within a metropolitan planning area at the time of designation by the county. To designate a county jurisdictional area under b. or c. above, a county must receive the approval of: (1) each political subdivision within the proposed county jurisdictional area that is a participating political subdivision in an RTA; and (2) each city, village, town, or tribal government within the proposed county jurisdictional area that is the owner, operator, or controlling authority of a transit system that serves, on average, at least 10 percent of the passengers served by all transit systems in the county over the 3 years preceding creation of the RTA.
2. The purpose of the RTA and the functions or services to be provided by the RTA.
3. The powers, duties, and limitations of the RTA.
4. The establishment and organization of a board of directors, in which all powers for the payment of the bonds. Bond proceeds, except those derived from refunding bonds, may be used only for capital expenditures related to the acquisition of transit system equipment having a useful life of at least five years. The useful life limitation does not apply to expenditures made for the acquisition of all or part of an existing transit system.
8. Set fees and charges for functions, facilities, and services provided by the RTA.
9. Adopt bylaws and rules to carry out the powers and purposes of the RTA.
10. Sue and be sued in its own name.
11. Employ agents, consultants, and employees, engage professional services, and purchase furniture, supplies, and materials reasonably necessary to perform its duties and exercise its powers.
12. Invest funds not required for immediate disbursement.
13. Do and perform any authorized acts by means of an agent or by contracts with any person.
14. Exercise any other powers that the board of directors considers necessary and convenient to effectuate the purposes of the RTA, including providing for passenger safety.

The board of directors of an RTA must annually prepare a budget for the RTA. Rates and other charges received by the RTA must be used only for the general expenses and capital

expenditures of the RTA, to pay interest, amortization, and retirement charges on the RTA's revenue bonds, and for specific purposes of the RTA and may not be transferred to any political subdivision. The RTA must maintain an accounting system in accordance with generally accepted accounting principles and must have its financial statements and debt covenants audited annually by an independent certified public accountant. For purposes of subch. III of ch. 19, stats., the board of directors of an RTA are considered local public officials, and as such are subject to the code of ethics for local public officials.

An RTA that acquires a transit system must assume all of the employer's obligations under any contract between the employees and management of the system to the extent allowed by law. An RTA that acquires, constructs, operates, or contracts for the operation of a transit system must negotiate an agreement with the representative of the labor organization that covers the employees affected by the acquisition, construction, or operation to protect the interests of employees affected, and that agreement must include specified provisions. Employees of the RTA are participatory employees under the Wisconsin Retirement System (WRS) if the RTA elects to join the WRS.

A participating political subdivision may withdraw from an RTA if: (1) the governing body of the political subdivision adopts a resolution requesting withdrawal from the RTA; (2) the political subdivision has paid, or made provision for the payment of, all obligations of the political subdivision to the RTA; and (3) any authorized sales and use tax that is levied by the RTA within the political subdivision continues to be levied for the period of time for which the tax is authorized. Unless otherwise agreed upon, if a political subdivision withdraws from an RTA, the political subdivision continues to receive services from the RTA for so long as the sales and use tax continues to be levied in the political subdivision. An RTA may be dissolved if the authority adopts a resolution dissolving the RTA. Dissolution of an RTA may not occur until adequate provision has been made for payment of the RTA's outstanding indebtedness, including outstanding revenue bonds. Dissolution of an RTA, and withdrawal of a political subdivision from an RTA, is subject to provisions of the authorizing resolutions relating to, respectively, dissolution or withdrawal.

Current law provides limited immunity for cities, villages, towns, counties, and other political corporations and governmental subdivisions, and for officers, officials, agents, and employees of these entities, for acts done in an official capacity or in the course of employment. Claimants must generally follow a specified claims procedure and liability for damages is generally limited to \$50,000 except that no liability may be imposed for performance of a discretionary duty or for punitive damages. If a person suffers damage resulting from the negligent operation of a motor vehicle owned and operated by a county, city, village, town, school district, sewer district, or other political subdivision of the state in the course of its business, the person may file a claim for damages following this claims procedure and the amount of damages recoverable is limited to \$250,000. This bill specifies that this provision related to claims and liability for negligent operation of a motor vehicle by a political subdivision applies to an RTA. The bill also allows RTAs to participate in organizing municipal insurance mutuals to provide insurance and risk management services.

SB 185 – relating to the regulation of wind energy systems.

See AB 256 above for detailed analysis.

SB 205 - relating to the creation of regional transit authorities and making appropriations.

See AB 282 above for detailed analysis.

Updates on previously reported LEGISLATIVE PROPOSALS

AB 18 – Tax Credit for Historic Rehabilitation

4/23/2009 – Passed in Assembly and sent to the Senate

AB 25 - Relating to school board approval of subdivision plats

Referred to committee on Urban and Local Affairs

AB 75 – Budget Bill - An act relating to state finances and appropriations, constituting the executive budget act of the 2009 legislature.

Budget Bill currently in Joint Finance Committee

AB 90 – The operation of motorboats, other than personal watercraft, at slow-no-wake speed within a given distance of the shoreline of a lake.

Referred to committee on Natural Resources

AB 92 - The regulation, preservation, and restoration of historic buildings; the supplement to the federal historic rehabilitation tax credit and the state historic rehabilitation tax credit; requiring the certification of downtowns; promoting certain downtown areas in this state; highway projects involving business and downtown areas; granting rule-making authority; and making appropriations.

*Referred to committee on Jobs, the Economy and Small Business
(AB 92 is a Companion Bill to SB 55)*

AB 109 - Relating to authorizing a city or village to extend the life of a tax incremental district for one year to benefit housing in the city or village.

Referred to the Committee on Housing

AB 113 - Relating to changes to economic development tax benefit programs, providing an exemption from emergency rule procedures, and requiring the exercise of rule-making authority.

Consolidation of economic development zone programs

Referred to committee on Jobs, the Economy and Small Business

AB 165 - Relating to expanding the types of property that may be specially assessed by a neighborhood improvement district.

5/13/09 – Passed in the Assembly and sent to the Senate.

AB 174 –Authoring sharing of tax increments by certain remediation tax incremental districts.

Referred to Committee on Urban and Local Affairs

5/8/09 – Recommended passage and referred to Rules Committee.

AB 180 – changes to and extension of the Environmental Results Program, extension of the Environmental Improvement Program and the length of a compliance schedule under that program, and reporting requirements for certain environmental programs.

Companion bill to SB 126

5/6/09 – Public Hearing held.

AB 205 – adopting changes to the Internal Revenue Code for state income tax purposes related to deductions for energy efficient commercial building.

Referred to Committee on Jobs, Economy and Small Business.

5/12/09 – Public Hearing held.

5/26/09 – Executive Action taken.

AB 213 - relating to establishing and changing compensation for city and village elective offices; signing village contracts; bidding procedure for village public construction contracts; officer-of-the-peace status of village officers; publication by the city clerk of fund receipts and disbursements; village and 4th class city regulation of political signs; liability of counties and cities for mob damage; means of providing police and fire protection by cities and villages; holdover status of appointed city and village officers; use of the s. 32.05 procedure in villages for certain housing and urban renewal condemnation; and application of public contract bidder prequalification to 1st class cities.

Referred to Urban and Local Affaris Committee

5/5/09 - Public Hearing held.

6/2/09 – Executive Action taken.

SB 12 - Relating to the operation of motorboats, other than personal watercraft, at slow-no-wake speed within a given distance of the shoreline of a lake.

Passed in both houses.

SB 47 - Designating portions of the Totogatic River as a wild river

*Recommended by committee on Transportation, Tourism, Forestry, and Natural Resources.
Available for scheduling.*

SB 50 - Legislative oversight of expenditure of federal economic stimulus funds

Referred to committee on Ethics Reform and Government Operations

SB 55 - The regulation, preservation, and restoration of historic buildings; the supplement to the federal historic rehabilitation tax credit and the state historic rehabilitation tax credit; requiring the certification of downtowns; promoting certain downtown areas in this state; highway projects involving business and downtown areas; granting rule-making authority; and making appropriations.

*State Historic Building Code
Historic buildings used as multifamily dwellings
Historic rehabilitation tax credit
Certification and promotion of downtowns*

*Referred to Committee on Economic Development.
3/31/09 – Public hearing held.*

SB 62 – An Act relating to state finances and appropriations and making diverse other changes in the statutes.

2009 Wisconsin Act 2 – Published March 9, 2009

SB 77 - Changes to economic development tax benefit programs, providing an exemption from emergency rule procedures, and requiring the exercise of rule-making authority.

Consolidation of economic development zone programs

Referred to Committee on Economic Development

SB 78 - Protections for tenants in foreclosure actions

Referred to committee on Judiciary, Corrections, Insurance, Campaign Finance Reform, and Housing

SB 81 - Authorizing a city or village to extend the life of a tax incremental district for one year to benefit housing in the city or village.

*Referred to committee on Ethics Reform and Government Operations
Passage recommended by committee.
Available for scheduling.*

SB 117 - Relating to extraterritorial plat approval on basis of land's use.

Referred to committee on Rural Issues, Biofuels, and Information Technology

SB 131 - Relating to authorizing the cities of Cudahy and Oak Creek to use environmental remediation tax increments generated by one environmental tax incremental district to benefit another environmental remediation tax incremental district.

Referred to committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue

SB 132 - Relating to expanding the life of a tax incremental district in the city of Racine.

Referred to committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue

4/14/09 - Public Hearing held.

SB 126 – relating to changes to and extension of the Environmental Results Program, extension of the Environmental Improvement Program and the length of a compliance schedule under that program, and reporting requirements for certain environmental programs.

4/28/09 - Passed unanimously in the Senate and sent to Assembly Natural Resources Committee.

4/28/09 – passed unanimously in the Senate.

4/30/09- Referred to Assembly Natural Resources Committee.

5/6/09 – Public Hearing held.

5/20/09 – Executive Action taken.

SB 144 – Authorizing sharing of tax increments by certain environmental remediation tax incremental districts.

Companion bill to AB 174

SB 145 – determining the value of billboards for personal property tax purposes.

Referred to committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue.

SB 172 – Relating to limiting a city’s and village’s use of direct annexation and authorizing limited tow challenges to an annexation.

Referred to Committee on Labor, Elections, and Urban Affairs.

SB 173 – relating to the removal of nonconforming outdoor advertising signs.

Referred to committee on Transportation, Tourism, Forestry, and Natural Resources

5/21/09 – Public Hearing held.

