



**To:** Members, Wisconsin State Assembly  
**From:** Tom Larson, WRA Director of Regulatory & Legislative Affairs  
**Date:** April 19, 2010  
**Re:** SB 601 ó Changes to Wisconsin's Comprehensive Planning Law

---

The Wisconsin REALTORS® Association (WRA) strongly supports SB 601, legislation intended to address some of the major issues related to the implementation of local comprehensive plans. Because the law requires local decisions to be consistent with local comprehensive plans beginning January 1, 2010, these issues will likely result in litigation unless they are resolved through legislation.

To avoid litigation, SB 601 makes the following changes to Wisconsin's Comprehensive Planning Law:

1. **Delays consistency requirement for some local governments** ó A number of local government are having difficulty meeting the January 1, 2010 deadline, requiring all local zoning regulations to be consistent with their comprehensive plans. Many of these communities have actually applied for, but did not receive, state planning grants. Other communities have received state planning grants but also received time extensions from DOA to complete their comprehensive plans.
  - a. Section 11 ó Delays the January 1, 2010 consistency deadline until either January 1, 2012 or the date agreed to by DOA for any community that has (a) applied for, but has not received, a comprehensive planning grant from DOA, or (b) received a comprehensive planning grant and an extension of time to complete it by DOA.
  - b. Sections 1, 2, 4, and 5 ó Makes reference to this delay authorization in other parts of the statutes
2. **Towns Without Village Powers:** Modify the comprehensive planning law to enable, but not require, towns without village powers to adopt comprehensive plans. Because towns without village powers do not have zoning or subdivision ordinances, there would be no consistency requirement applicable to these comprehensive plans.
  - a. Section 3 ó Authorizes towns without village powers to adopt or amend comprehensive plans
  - b. Section 7 ó Deletes "that exercises village powers under 60.22(3)" from 66.1001(1)(a)(2)
3. **Clarify that Comprehensive Plans Are Not Regulations** ó Clarify comprehensive plans are advisory in nature and do not create regulatory requirements independent from other requirements. Some confusion has resulted by the fact that comprehensive plans must be adopted by ordinance and that zoning regulations have to be consistent with comprehensive plans.
  - a. Section 6 ó Defines "comprehensive plan" to mean "a guide to the physical, social, and economic development of a local governmental unit."

- b. Section 9 ó Adds “The enactment of the comprehensive plan by ordinance does not make a comprehensive plan by itself a regulation.”
- 4. **Define “consistency”** ó Under the law, all zoning and subdivision regulations must be consistent with a comprehensive plan. However, “consistency” is not defined. As a result, considerable litigation will likely occur to define the meaning of the consistency, which will create tremendous uncertainty for local communities and property owners trying to use their property in accordance with the comprehensive plan.
  - a. Section 8 ó Defines “consistent with” to mean “furthers or does not contradict the objectives, goals and policies contained in the comprehensive plan.”
- 5. **Clarify what must be consistent with the comprehensive plan** ó Under current law, confusion exists as to what actions must be consistent with the comprehensive plan and with which parts of the plan these actions must be consistent. For example, if a community makes a zoning change, it is unclear whether the zoning change has to be consistent with the land use map, the housing element, the economic development element, or every word of every section of the plan. Because plans are supposed to be visionary, rather than regulatory, in nature, this could present tremendous confusion.
  - a. Section 10 -- Clarifies that only the ordinances have to be consistent with the comprehensive plan.
- 6. **Clarifies what must be sent to affected government entities.** Current law indicates that the ordinance adopting the comprehensive plan must be sent to the various government entities identified in the law after the ordinance is enacted. However, the intent of the original bill was to have the plan itself sent to these entities.
  - a. Section 12 -- Replaces “an ordinance” with “one copy of the comprehensive plan. (Wis. Stat. § 66.1001(4))
- 7. **Consistency with Subdivision Law** ó Under current subdivision law (Wis. Stat. Ch. 236), approval of plats must be conditioned upon, among other things, “compliance with a comprehensive plan. “Compliance with” is possibly a different legal standard than “consistent with” and could result in confusion. Moreover, because zoning and subdivision ordinances are the regulations that must be consistent with a comprehensive plan (see above) under the comprehensive planning law, references to the comprehensive plan should be deleted to avoid confusion.
  - a. Section 13 -- Deletes reference to the comprehensive plan from the list of items with which subdivision plats must be consistent (Wis. Stat. § 236.13(1)(c)) (Note ó deleting this reference does not mean that subdivision plats no longer have to be consistent with the comprehensive plan. It means that subdivision ordinances/regulations have to be consistent with the comprehensive plan (See Section 10 of the AB 834/SB 601) and the subdivision plats have to be consistent with the subdivision regulations.)

We respectfully request your support for SB 601. If you have questions, please contact us at (608) 241-2047.