



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-3663/3
ALL:all

2017 ASSEMBLY BILL 770

December 19, 2017 - Introduced by Representatives R. BROOKS and FELZKOWSKI, cosponsored by Senators LASEE, LEMAHIEU and TIFFANY. Referred to Committee on Housing and Real Estate.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to repeal* 66.0617 (9) (b), 66.0617 (9) (c), 66.0617 (9) (d), 66.10015 (2) (d)
2 and 281.33 (6); *to renumber* 66.1102 (1) (a) and 66.1102 (1) (b); *to renumber*
3 **and amend** 32.09 (1m), 66.0617 (9) (a), 66.1105 (2) (ab), 236.13 (2) (a) 1. and
4 236.13 (2) (a) 2.; *to amend* 32.19 (4m) (a) (intro.), 32.19 (4m) (b) 1., 32.20, 62.23
5 (7) (d) 2m. a., 66.0617 (2) (a), 66.0617 (6) (g), 66.0617 (7), 66.0628 (4) (a), 66.0821
6 (4) (c), 66.1015 (title), 66.1102 (title), 66.1105 (2) (f) 3. (intro.), 66.1105 (4) (c),
7 66.1105 (4) (gm) 4. a., 66.1105 (4) (gm) 4. bm., 66.1105 (4) (gm) 6., 66.1105 (4m)
8 (b) 2., 66.1105 (6) (a) 8., 66.1105 (6) (g) 3., 101.65 (1) (a), 236.34 (1) (ar) 1. and
9 236.45 (6) (am); and *to create* 32.09 (1m) (b), 32.19 (2) (hm), 32.19 (4m) (a) 4.,
10 66.0104 (2) (h), 66.0602 (3) (m), 66.0617 (6) (am), 66.0617 (6) (fm), 66.10013,
11 66.10014, 66.10015 (1) (f), 66.10015 (5), 66.10015 (6), 66.1015 (3), 66.1102 (1)
12 (ae), 66.1102 (5), 66.1105 (2) (n) 1., 66.1105 (2) (n) 2., 66.1105 (2) (o), 66.1105 (4)
13 (gm) 4. am., 66.1105 (6) (a) 14., 66.1105 (7) (ak) 5., 66.1108, 101.65 (1c), 236.13
14 (2) (ad), 236.13 (2) (am) 1m., 236.13 (2) (am) 3. and 236.45 (6) (c) of the statutes;

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1 **relating to:** workforce housing development tax incremental districts; local
2 fees and charges; local levy limits; subdivision approval conditions; plat
3 approval conditions; expiration of certain project approvals; division of land by
4 certified survey map; erosion control and storm water management; limiting
5 certain local regulatory authority; relocation benefits in condemnation
6 proceedings; and zoning ordinance amendments.

Analysis by the Legislative Reference Bureau

EXPIRATION OF LOCAL APPROVALS

Under current law, if a person has submitted an application for a permit or authorization for building, zoning, driveway, storm water, or other activity related to a land development project (approval), the city, village, town, or county (political subdivision) must approve, deny, or conditionally approve the application based on regulations, ordinances, rules, or other properly adopted requirements in effect at the time the application for an approval is submitted to the political subdivision. Under this bill, a political subdivision may not establish an expiration date for an approval related to a planned development district of less than five years after the date of the last approval required for completion of the project.

DIVISION OF LAND BY CERTIFIED SURVEY MAP

This bill expands the types of land that a political subdivision may allow to be divided by certified survey map to include land that is zoned multifamily.

Under current law, the subdivision of land into five or more parcels generally is regulated by state and local government and must be completed using a subdivision plat, while the division of land into four or fewer parcels is not subject to those regulations and may be completed using a certified survey map. Under current law, a political subdivision that has established a planning agency may enact an ordinance or adopt a resolution that allows land to be divided into more than four parcels by using a certified survey map without the division being a subdivision and, therefore, without all of the attendant requirements that apply to subdivisions. Currently, the political subdivision's ordinance or resolution may only allow division of land into more than four parcels by certified survey map if the land is located in the political subdivision and is zoned for commercial, industrial, or mixed-use development. The bill extends the special land division rule to land that is zoned multifamily.

LEVY LIMIT EXCEPTION

Generally under current law, local levy limits are applied to the property tax levies that are imposed by political subdivisions in December of each year. Current law prohibits a political subdivision from increasing its levy by a percentage that exceeds its "valuation factor," which is defined as the greater of either 0 percent or

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the percentage change in the political subdivision's equalized value due to new construction, less improvements removed. Current law contains a number of exceptions to the levy limit.

This bill creates a new levy limit exception that allows a city or village to increase its levy if it has issued occupancy permits for certain residential dwelling units in the preceding year. Specifically, the levy limit is increased by \$1,000 for each new single-family residential dwelling unit that is 1) located on a parcel no more than 0.25 acre; or 2) sold for not more than 80 percent of the median price of a new housing unit in the city or village.

FEES IMPOSED BY POLITICAL SUBDIVISIONS

Under current law, a person may contest a fee imposed by a political subdivision if the person does not believe that the fee bears a reasonable relationship to the service for which the fee is imposed by filing a petition with the tax appeals commission within 60 days after the fee's imposition. This bill eliminates the requirement that the petition be filed within 60 days of the fee's imposition.

SEWERAGE SYSTEM SERVICE CHARGES

Under current law, a city, village, town, or metropolitan sewerage district may construct and operate a system for collecting, transporting, pumping, treating, or disposing of sewage, storm water, and surface water. The costs for such a system may be funded with taxes, special assessments, service charges, municipal obligations or revenue bonds, or any combination of these sources. For a storm water and surface water sewerage system, current law specifically allows a system operator to classify the properties it serves for the purpose of establishing service charges. In general, the specified classification criteria is related to the manner in which storm water falling on the property affects the system.

Under this bill, no new and additional storm and surface water sewerage system service charge may be made for a property that retains at least 90 percent of storm water falling on the subject property.

WEEKEND WORK

Under this bill, a political subdivision may not prohibit a private person from working on a private construction project on a weekend, or impose conditions on the person that are inapplicable to, or more restrictive than conditions that apply to, such a person who works on a construction project during weekdays. If the political subdivision has in effect an ordinance or resolution that is inconsistent with this provision, that ordinance or resolution does not apply and may not be enforced after the bill takes effect.

UNIFORM DWELLING CODE

This bill prohibits a political subdivision from making or enforcing an ordinance that does not conform to the one-family and two-family dwelling code (commonly called the uniform dwelling code). The bill also provides that, if a contract between a political subdivision and the owner of a dwelling requires the owner to comply with such an ordinance, the owner may waive the provision, and the provision, if waived, is void and unenforceable.

ASSEMBLY BILL 770**TAX INCREMENTAL FINANCING, IMPACT FEES**

This bill authorizes the creation of workforce housing development tax incremental districts and changes the method of imposing certain impact fees.

Under the current tax incremental financing program, a city or village may create a TID in part of its territory to foster development under certain conditions. Currently, towns and counties also have a limited ability to create a TID under certain limited circumstances. Before a city or village may create a TID, several steps and plans are required. These steps and plans include public hearings on the proposed TID within specified time frames, preparation and adoption by the local planning commission of a proposed project plan for the TID, approval of the proposed project plan by the common council or village board, approval of the city's or village's proposed TID by a joint review board (JRB) that consists of members who represent the overlying taxation districts, and adoption of a resolution by the common council or village board that creates the TID as of a date provided in the resolution.

Also under current law, once a TID has been created, the Department of Revenue calculates the "tax incremental base" value of the TID, which is the equalized value of all taxable property within the TID at the time of its creation. If the development in the TID increases the value of the property in the TID above the base value, a "value increment" is created. That portion of taxes collected on the value increment in excess of the base value is called a "tax increment." The tax increment is placed in a special fund that may be used only to pay back the project costs of the TID.

The project costs of a TID, which are initially incurred by the creating city or village, include public works such as sewers, streets, and lighting systems; financing costs; site preparation costs; and professional service costs. DOR authorizes the allocation of the tax increments until the TID terminates or, generally, 20 years, 23 years, or 27 years after the TID is created, depending on the type of TID and the year in which it was created. Also under current law, a city or village may not generally make expenditures for project costs later than five years before the unextended termination date of the TID. Under certain circumstances, the life of the TID, the expenditure period, and the allocation period may be extended. A TID is required to terminate, under current law and with some exceptions, once its project costs are paid back.

Generally under current law, project costs may be expended to benefit residential development but only certain TIDs for which a project plan was approved before September 30, 1995, or for a mix-use development. With regard to a mixed-use development, lands proposed for newly platted residential use may not exceed 35 percent, by area, of real property within the TID.

Under the bill, a workforce housing TID may contain only newly platted residential uses, 100 percent of which must be workforce housing. Before such a TID may be created, the JRB must approve the TID by a unanimous vote. For other TIDs, only a majority vote is required. A workforce housing TID has a maximum life of 15 years, and DOR may allocate tax increments for only 15 years.

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Also under the bill, workforce housing is defined to mean housing based on the following two factors, which are subject to the five year average median costs as determined by the U.S. bureau of census:

1. Housing that costs no more than 30 percent of the household's gross median income.
2. The construction cost per housing unit, including rental housing, is no more than 80 percent of the median price for new residential construction in the county.

Under current law, a municipality may impose an impact fee on a developer to pay for the capital costs to construct certain public facilities that are necessary to accommodate land development.

Current law requires that impact fees must be used within certain specified periods, depending upon when the ordinance authorizing impact fees was enacted and when the fee was imposed, or be refunded to the current owner of the property for which the impact fees were imposed. Under this bill, impact fees that are not used within eight years after they are collected must be refunded to the current owner of the property.

This bill requires a municipality to prepare an annual report listing the impact fees that have been imposed during the previous year and containing certain additional information related to the municipality's administration of impact fees during the year. The bill also prohibits certain uses of impact fee moneys.

Under current law, if a city, village, or town imposes an impact fee on a developer to pay for certain capital costs that are necessary to accommodate land development, the ordinance may provide for an exemption from, or a reduction in the amount of, impact fees on land development that provides low-cost housing. Under this bill, the impact fee exemption or reduction provisions also apply to workforce housing. Current law prevents the shifting of an exemption from or reduction in impact fees to any other development in the land development in which the low-cost housing is located. The bill applies this provision to workforce housing as well.

ZONING LIMITATIONS, INSPECTIONS

The bill provides that if a political subdivision or utility district imposes requirements on a developer related to the installation of a water meter station or a sanitary sewer lift pump station for a development project, the requirements may not require a developer to install more than the minimum level of such a station or its housing that is required to ensure the proper functioning of such a station.

Under the bill, if a political subdivision employs a building inspector to enforce its zoning ordinances or other ordinances related to building, and a developer requests the inspector to perform an inspection, the inspector must complete the inspection not later than 14 business days after receiving the request. If the local inspector does not complete the inspection within this time frame, the bill allows a developer to request that a qualified state inspector perform the required inspection. The political subdivision must accept a certificate of inspection provided by the state building inspector as if it were provided by the local building inspector if the inspection meets the requirements for an inspection that was supposed to have been provided by the local building inspector.

ASSEMBLY BILL 770**INCLUSIONARY ZONING PROHIBITIONS**

The bill also prohibits a political subdivision from enacting or enforcing an inclusionary zoning ordinance. The bill defines this type of ordinance as one which prescribes that a certain number or percentage of new or existing residential dwelling units in a land development be made available for rent or sale to an individual or family with a family income at or below a certain percentage of the median income.

PLAT APPROVAL PROCESS; PUBLIC IMPROVEMENTS

This bill makes various changes related to security required by a city, village, town, or county (approving authority) as part of the plat approval process. Under current law, as a condition of approving a plat, an approving authority may require a subdivider to execute a surety bond or provide other security to ensure that certain public improvements are made in connection with a project. This bill reduces the maximum amount of security that an approving authority may require from 120 percent of the estimated total cost to complete the required public improvements (estimated completion cost) to 110 percent of the estimated completion cost. The bill also creates limitations on how the estimated completion cost is determined and provides that the total cost of the public improvements includes the cost to make and install storm water facilities, but does not include any fees charged by the approving authority or certain land disturbing activities. This bill explicitly requires an approving authority to accept a performance bond, a letter of credit, or any combination thereof, at the subdivider's option, to satisfy the security requirement.

Upon substantial completion of required public improvements, current law limits both the amount of security that may be required from a subdivider and the length of time during which the security may be required. Under the bill, if the public improvements include roads to be dedicated, substantial completion occurs upon the installation of the asphalt or concrete binder course on the roads to be dedicated. Additionally, under the bill, upon substantial completion, any outstanding local building permits that are related to and dependent upon substantial completion of the required public improvements must be released. Before substantial completion, the bill requires an approving authority to, upon request, issue a permit to commence construction of a foundation or any other noncombustible construction. Finally, the bill prohibits an approving authority from enacting an ordinance related to substantial completion of public improvements that is inconsistent with state law.

SUBDIVISION APPROVAL CONDITIONS

Under current law, a political subdivision may, as a condition of approval of a subdivision or other division of land (subdivision), require land dedication, easement, or other public improvement by a subdivider. However, a political subdivision is generally prohibited from imposing, as a condition of approval of a subdivision, a fee or other charge to fund the acquisition or improvement of real or personal property, except that a city, village, or town may impose a fee or other charge to fund the acquisition or initial improvement of land for public parks (public park fee). The bill modifies that exception to provide that a city, village, or town may impose a public park fee only if the authorizing ordinance of the city, village, or town

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is enacted by following the same procedures and requirements that apply to the imposition of impact fees on developers.

The bill also provides that, if a political subdivision's ordinance requires, as a condition of approval of a subdivision, that a subdivider dedicate land for a public park, the political subdivision may offer the subdivider the option of either dedicating the land or paying a fee or other charge in lieu of the dedication. If the subdivider elects to pay the fee or other charge, it is payable by the landowner to the political subdivision upon the issuance of a building permit by the political subdivision.

CONSTRUCTION BANNERS

Except for an ordinance related to health or safety concerns, this bill prohibits a political subdivision from enacting an ordinance or adopting a resolution that limits the owner or other person in control of a construction site from installing a banner over a fence that surrounds the site. Under the bill, such a banner may cover the entire height and length of the fence. If a political subdivision has in effect an ordinance or resolution that is inconsistent with the subject matter of the bill, that ordinance or resolution does not apply and may not be enforced after the bill takes effect.

STORM WATER MANAGEMENT

This bill prohibits a political subdivision from enacting or enforcing an ordinance relating to storm water management unless the ordinance strictly conforms to uniform statewide standards.

Current law allows a political subdivision to enact or enforce provisions that are stricter than uniform statewide standards if necessary to control storm water quantity or control flooding or to comply with federally approved total maximum daily load requirements, or if the provisions regulate storm water management relating to existing development or redevelopment.

EMINENT DOMAIN

This bill requires that, when determining the fair market value of property that is taken for a public purpose under the eminent domain law, a commission in condemnation or a court consider appraisals of the fair market value based on the sale of comparable properties, based on evidence of the value of future income, and based on evidence of the cost of the market value of the land plus the cost of replacing or reproducing improvements. Under current law, a property owner whose property is taken for a public purpose is entitled to the fair market value of the property taken. The supreme court has held, in *Leathem Smith Lodge, Inc. v. State*, 94 Wis.2d 406, 288 N.W.2d 808 (1980), that, when determining fair market value, evidence of the income of a business is not admissible if there is evidence of the sale of comparable property.

The bill also makes changes to additional payments required under the eminent domain law to certain persons who are displaced by a condemnation proceeding from a business or farm operation. Under current law, a person who is displaced from the person's business or farm operation as a result of condemnation is entitled to a payment for certain specified costs from the condemnor when that person rents or purchases a comparable replacement business or farm operation. A

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property owner who is displaced from the owner's business or farm operation and purchases a comparable replacement business or farm operation is entitled to a payment of up to \$50,000. A tenant who is displaced from the tenant's business or farm operation and rents or purchases a comparable business or farm operation is entitled to a payment of up to \$30,000. This bill makes the following changes:

1. Increases the statutory limitation on additional payments from \$50,000 to \$100,000 for a property owner who is displaced by a condemnation proceeding from a business or farm operation when the property owner purchases a comparable replacement business or farm operation.

2. Increases the statutory limitation on additional payments from \$30,000 to \$80,000 for a tenant who is displaced by a condemnation proceeding from a business or farm operation when the tenant leases a comparable replacement business or farm operation.

3. Specifies that a person displaced from the person's business or farm operation is entitled to an amount to pay for costs the person incurs or will incur to make the replacement business or farm operation functionally equivalent to the business or farm operation from which the person was displaced and suitable to remain a going concern. The bill specifies that these costs include cost of capital, financing, professional services, administration, and alterations to or construction of certain infrastructure improvements or public utility infrastructure.

4. Provides that a person displaced by a condemnation proceeding from the person's business or farm operation is entitled to litigation expenses from the condemnor if the person prevails in an action for the determination of the amount of the additional payment.

LOCAL DEVELOPMENT-RELATED REGULATION REPORTS

This bill requires municipalities to prepare certain reports related to its regulation of land development. Among the information that must be provided, a municipality must identify certain development-related fees it imposes and the amount of each fee. The municipality must post the reports on the municipality's Internet site. If a fee that is required to be posted is not posted on the municipality's Internet site, the municipality may not charge the fee.

REGULATION OF RENTAL HOUSING UNITS

This bill prohibits municipalities from regulating the size of a bedroom in a rental unit and from imposing any requirement related to the number of bedrooms in a rental unit.

ZONING AMENDMENT PROTEST

Under current law, the common council of a city may adopt amendments to an existing zoning ordinance. Certain affected landowners, however, may protest the amendment. If the amendment is protested, the amendment does not take effect unless three-fourths of the members of the common council approve the amendment. Under current law, a protest may be lodged by 1) owners of property included in the proposed amendment (affected property); 2) owners of property immediately adjacent to, and extending 100 feet from, the affected property; or 3) the owners of property directly opposite the affected property extending 100 feet from the street frontage of the affected property.

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This bill provides that a protested amendment takes effect if approved by a majority of the members of the common council. The bill also clarifies that a protesting owner under item 2) or 3) above must be an owner of property located within the city.

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.** 32.09 (1m) of the statutes is renumbered 32.09 (1m) (a) and
2 amended to read:

3 32.09 **(1m)** (a) As a basis for determining value, a commission in condemnation
4 or a court ~~may~~ shall consider the price and other terms and circumstances of any good
5 faith sale or contract to sell and purchase comparable property. A sale or contract
6 is comparable within the meaning of this ~~subsection~~ paragraph if it was made within
7 a reasonable time before or after the date of evaluation and the property is
8 sufficiently similar in the relevant market, with respect to situation, usability,
9 improvements, and other characteristics, to warrant a reasonable belief that it is
10 comparable to the property being valued.

11 **SECTION 2.** 32.09 (1m) (b) of the statutes is created to read:

12 32.09 **(1m)** (b) As a basis for determining value, a commission in condemnation
13 or a court shall consider an appraisal based on the income approach and an appraisal
14 based on the cost approach.

15 **SECTION 3.** 32.19 (2) (hm) of the statutes is created to read:

16 32.19 **(2)** (hm) "Reasonable project costs" means the total of all of the following
17 costs that an owner displaced person of an owner-occupied business or farm
18 operation or tenant displaced person of a tenant-occupied business or farm

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1 operation must reasonably incur to make a comparable replacement business or
2 farm operation under sub. (4m) functionally equivalent to the business or farm
3 operation from which the owner or tenant is displaced and suitable to remain a going
4 concern:

5 1. Capital costs, including the actual costs of the construction of improvements,
6 new buildings, structures, and fixtures; the demolition, alteration, remodeling,
7 repair or reconstruction of existing buildings, structures, and fixtures; the removal
8 or containment of, or the restoration of soil or groundwater affected by,
9 environmental pollution; and the clearing and grading of land.

10 2. Financing costs, including all interest paid to holders of evidences of
11 indebtedness issued to pay for project costs and any premium paid over the principal
12 amount of the obligations because of the redemption of the obligations prior to
13 maturity.

14 3. Professional service costs, including costs incurred for architectural,
15 planning, engineering, and legal advice and services.

16 4. Imputed administrative costs, including reasonable charges for the time
17 spent by the owner or tenant in connection with the implementation of the project.

18 5. Costs related to the construction or alteration of sewerage treatment plants,
19 water treatment plants or other environmental protection devices, storm or sanitary
20 sewer lines, water lines, or amenities on streets; the relocation of utility lines or other
21 utility infrastructure, including any lines or infrastructure related to an electric
22 utility, natural gas utility, or telecommunications utility; the installation of
23 infrastructure necessary to provide utility service to the property, including any
24 service from an electric utility, natural gas utility, or telecommunications utility; or

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1 the rebuilding or expansion of streets if such costs are required by the applicable
2 municipality and are not paid for by the municipality.

3 **SECTION 4.** 32.19 (4m) (a) (intro.) of the statutes is amended to read:

4 32.19 (4m) (a) *Owner-occupied business or farm operation.* (intro.) In addition
5 to amounts otherwise authorized by this subchapter, the condemnor shall make a
6 payment, not to exceed ~~\$50,000~~ \$100,000, to any owner displaced person who has
7 owned and occupied the business operation, or owned the farm operation, for not less
8 than one year prior to the initiation of negotiations for the acquisition of the real
9 property on which the business or farm operation lies, and who actually purchases
10 a comparable replacement business or farm operation for the acquired property
11 within 2 years after the date the person vacates the acquired property or receives
12 payment from the condemnor, whichever is later. An owner displaced person who
13 has owned and occupied the business operation, or owned the farm operation, for not
14 less than one year prior to the initiation of negotiations for the acquisition of the real
15 property on which the business or farm operation lies may elect to receive the
16 payment under par. (b) 1. in lieu of the payment under this paragraph, but the
17 amount of payment under par. (b) 1. to such an owner displaced person may not
18 exceed the amount the owner displaced person is eligible to receive under this
19 paragraph. The additional payment under this paragraph shall include the
20 following amounts:

21 **SECTION 5.** 32.19 (4m) (a) 4. of the statutes is created to read:

22 32.19 (4m) (a) 4. Any reasonable project costs incurred or to be incurred by the
23 displaced person.

24 **SECTION 6.** 32.19 (4m) (b) 1. of the statutes is amended to read:

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1 32.19 (4m) (b) 1. The amount, not to exceed \$30,000, ~~which \$80,000, that is~~
2 necessary to lease or rent a comparable replacement business or farm operation for
3 a period of 4 years, plus any reasonable project costs incurred or to be incurred by
4 the tenant displaced person. The rental payment shall be computed by determining
5 the average monthly rent paid for the property from which the person was displaced
6 for the 12 months prior to the initiation of negotiations or, if displacement is not a
7 direct result of acquisition, such other event as determined by the department of
8 administration and the monthly rent of a comparable replacement business or farm
9 operation, and multiplying the difference by 48; or

10 **SECTION 7.** 32.20 of the statutes is amended to read:

11 **32.20 Procedure for collection of itemized items of compensation.**

12 Claims for damages itemized in ss. 32.19 and 32.195 shall be filed with the
13 condemnor carrying on the project through which condemnee's or claimant's claims
14 arise. All such claims must be filed after the damages upon which they are based
15 have fully materialized but not later than 2 years after the condemnor takes physical
16 possession of the entire property acquired or such other event as determined by the
17 department of administration by rule. If such claim is not allowed within 90 days
18 after the filing thereof, the claimant has a right of action against the condemnor
19 carrying on the project through which the claim arises. Such action shall be
20 commenced in a court of record in the county wherein the damages occurred. In
21 causes of action, involving any state commission, board or other agency, excluding
22 counties, the sum recovered by the claimant shall be paid out of any funds
23 appropriated to such condemning agency. Any judgment shall be appealable by
24 either party and any amount recovered by the body against which the claim was filed,
25 arising from costs, counterclaims, punitive damages or otherwise may be used as an

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1 offset to any amount owed by it to the claimant, or may be collected in the same
2 manner and form as any other judgment. The court shall award litigation expenses,
3 as defined in s. 32.28 (1), to a claimant if the award of damages for the claimant
4 exceeds the amount of damages initially allowed by the condemnor by 15 percent in
5 an action under this section.

6 **SECTION 8.** 62.23 (7) (d) 2m. a. of the statutes is amended to read:

7 62.23 (7) (d) 2m. a. In case of a protest against an amendment proposed under
8 subd. 2., duly signed and acknowledged by the owners of 20 percent or more either
9 of the areas of the land included in such the proposed amendment, or by the owners
10 of 20 percent or more of the area of the land that is immediately adjacent extending
11 100 feet ~~therefrom~~ from areas of the land included in the proposed amendment and
12 that is located within the city, or by the owners of 20 percent or more of the land that
13 is directly opposite ~~thereto~~ to areas of the land included in the proposed amendment
14 extending 100 feet from the street frontage of such opposite land, ~~such~~ and that is
15 located within the city, the amendment shall may not become effective except by the
16 favorable vote of ~~three-fourths~~ a majority of the members of the council voting on the
17 proposed change.

18 **SECTION 9.** 66.0104 (2) (h) of the statutes is created to read:

19 66.0104 (2) (h) 1. No city, village, or town may regulate the size of a bedroom
20 in a rental unit.

21 2. No city, village, or town may impose any requirement related to the number
22 of bedrooms in a rental unit.

23 **SECTION 10.** 66.0602 (3) (m) of the statutes is created to read:

24 66.0602 (3) (m) The levy increase limit otherwise applicable under this section
25 to a city or village in the current year is increased by \$1,000 for each new

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1 single-family residential dwelling unit for which a city or village issues an occupancy
2 permit in the preceding year and that is all of the following:

- 3 1. Located on a parcel of no more than 0.25 acre.
- 4 2. Sold in the preceding year for not more than 80 percent of the median price
5 of a new residential dwelling unit in the city or village in the preceding year.

6 **SECTION 11.** 66.0617 (2) (a) of the statutes is amended to read:

7 66.0617 (2) (a) A municipality may enact an ordinance under this section that
8 imposes impact fees on developers to pay for the capital costs that are necessary to
9 accommodate land development. A developer may pay fees imposed under this
10 paragraph by maintaining in force a bond or irrevocable letter of credit in the amount
11 of the fee imposed executed in the name of the municipality.

12 **SECTION 12.** 66.0617 (6) (am) of the statutes is created to read:

13 66.0617 (6) (am) May not include amounts for an increase in service capacity
14 greater than the capacity necessary to serve the development for which the fee is
15 imposed.

16 **SECTION 13.** 66.0617 (6) (fm) of the statutes is created to read:

17 66.0617 (6) (fm) May not include expenses for operation or maintenance of a
18 public facility.

19 **SECTION 14.** 66.0617 (6) (g) of the statutes is amended to read:

20 66.0617 (6) (g) Shall be payable by the developer or the property owner to the
21 municipality in full upon the issuance of a building permit by the municipality or 6
22 months before costs to construct, expand, or improve public facilities related to the
23 development are actually incurred, whichever is later.

24 **SECTION 15.** 66.0617 (7) of the statutes is amended to read:

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1 66.0617 (7) LOW-COST, WORKFORCE HOUSING. An ordinance enacted under this
2 section may provide for an exemption from, or a reduction in the amount of, impact
3 fees on land development that provides low-cost housing, ~~except that no or workforce~~
4 housing, as defined in s. 66.1105 (2) (n). Under no circumstances may the amount
5 of an impact fee for which an exemption or reduction is provided under this
6 subsection may be shifted to any other development in the land development in
7 which the low-cost housing or workforce housing is located or to any other land
8 development in the municipality.

9 **SECTION 16.** 66.0617 (9) (a) of the statutes is renumbered 66.0617 (9) and
10 amended to read:

11 66.0617 (9) REFUND OF IMPACT FEES. ~~Subject to pars. (b), (c), and (d), and with~~
12 ~~regard to an impact fee that is collected after April 10, 2006, an ordinance enacted~~
13 ~~under this section shall specify that impact Impact fees that are collected by a~~
14 ~~municipality within 7 years of the effective date of the ordinance, but are not used~~
15 ~~within 10 8 years after the effective date of the ordinance they are collected to pay~~
16 ~~the capital costs for which they were imposed, shall be refunded to the current owner~~
17 ~~of the property with respect to which the impact fees were imposed, along with any~~
18 ~~interest that has accumulated, as described in sub. (8). The ordinance shall specify,~~
19 ~~by type of public facility, reasonable time periods within which impact fees must be~~
20 ~~spent or refunded under this subsection, subject to the 10-year limit in this~~
21 ~~paragraph and the extended time period specified in par. (b). In determining the~~
22 ~~length of the time periods under the ordinance, a municipality shall consider what~~
23 ~~are appropriate planning and financing periods for the particular types of public~~
24 ~~facilities for which the impact fees are imposed.~~

25 **SECTION 17.** 66.0617 (9) (b) of the statutes is repealed.

ASSEMBLY BILL 770**SECTION 18**

1 **SECTION 18.** 66.0617 (9) (c) of the statutes is repealed.

2 **SECTION 19.** 66.0617 (9) (d) of the statutes is repealed.

3 **SECTION 20.** 66.0628 (4) (a) of the statutes is amended to read:

4 66.0628 (4) (a) Any person aggrieved by a fee imposed by a political subdivision
5 because the person does not believe that the fee bears a reasonable relationship to
6 the service for which the fee is imposed may appeal the reasonableness of the fee to
7 the tax appeals commission by filing a petition with the commission within 60 days
8 after the fee's imposition, ~~as provided under s. 73.01 (5) with respect to income or~~
9 ~~franchise tax cases, and the fee is paid.~~ The commission's decision may be reviewed
10 under s. 73.015. For appeals brought under this subsection, the filing fee required
11 under s. 73.01 (5) (a) does not apply.

12 **SECTION 21.** 66.0821 (4) (c) of the statutes is amended to read:

13 66.0821 (4) (c) For the purpose of making equitable charges for all services
14 rendered by a storm water and surface water sewerage system to users, the property
15 served may be classified, taking into consideration the volume or peaking of storm
16 water or surface water discharge that is caused by the area of impervious surfaces,
17 topography, impervious surfaces and other surface characteristics, extent and
18 reliability of mitigation or treatment measures available to service the property,
19 apart from measures provided by the storm water and surface water sewerage
20 system, and any other considerations that are reasonably relevant to a use made of
21 the storm water and surface water sewerage system. The charges may also include
22 standby charges to property not yet developed with significant impervious surfaces
23 for which capacity has been made available in the storm water and surface water
24 sewerage system. No new and additional charge for services rendered by a storm and

ASSEMBLY BILL 770**SECTION 21**

1 surface water system may be made for a property that retains at least 90 percent of
2 storm water falling on the subject property.

3 **SECTION 22.** 66.10013 of the statutes is created to read:

4 **66.10013 Housing affordability report. (1)** In this section, “municipality”
5 means a city or village with a population of 10,000 or more.

6 **(2)** Not later than January 1, 2020, a municipality shall prepare a report of the
7 municipality’s implementation of the housing element of the municipality’s
8 comprehensive plan under s. 66.1001. The municipality shall update the report
9 annually, not later than January 31. The report shall contain all of the following:

10 (a) The number of subdivision plats, certified survey maps, condominium plats,
11 and building permit applications approved in the prior year.

12 (b) The total number of new residential dwelling units proposed in all
13 subdivision plats, certified survey maps, condominium plats, and building permit
14 applications that were approved by the municipality in the prior year.

15 (c) A list and map of undeveloped parcels in the municipality that are zoned for
16 residential development.

17 (d) A list of all undeveloped parcels in the municipality that are suitable for,
18 but not zoned for, residential development, including vacant sites and sites that have
19 potential for redevelopment, and a description of the zoning requirements and
20 availability of public facilities and services for each property.

21 (e) An analysis of the municipality’s residential development regulations, such
22 as land use controls, site improvement requirements, fees and land dedication
23 requirements, and permit procedures. The analysis shall calculate the financial
24 impact that each regulation has on the cost of each new subdivision. The analysis
25 shall identify ways in which the municipality can modify its construction and

ASSEMBLY BILL 770**SECTION 22**

1 development regulations, lot sizes, approval processes, and related fees to do each
2 of the following:

- 3 1. Meet existing and forecasted housing demand.
- 4 2. Reduce the time and cost necessary to approve and develop a new residential
5 subdivision in the municipality by 20 percent.

6 **(3)** A municipality shall post the report under sub. (2) on the municipality's
7 Internet site on a web page dedicated solely to the report and titled "Housing
8 Affordability Analysis."

9 **SECTION 23.** 66.10014 of the statutes is created to read:

10 **66.10014 Development fee report.** (1) Not later than January 1, 2019, a
11 municipality shall prepare a report of the municipality's development fees. The
12 report shall contain all of the following:

13 (a) Whether the municipality imposes any of the following fees or other
14 requirements for purposes related to residential construction, remodeling, or
15 development and, if so, the amount of each fee:

- 16 1. Building permit fee.
- 17 2. Impact fee.
- 18 3. Park fee.
- 19 4. Land dedication or fee in lieu of land dedication requirement.
- 20 5. Plat approval fee.
- 21 6. Storm water management fee.
- 22 7. Water or sewer hook-up fee.

23 (b) The total amount of fees under par. (a) that the municipality imposed for
24 purposes related to residential construction, remodeling, or development in the prior
25 year and an amount calculated by dividing the total amount of fees under this

ASSEMBLY BILL 770

1 paragraph by the number of new residential dwelling units approved in the
2 municipality in the prior year.

3 (2) (a) A municipality shall post the report under sub. (1) on the municipality's
4 Internet site on a web page dedicated solely to the report and titled "Development
5 Fee Report." If a municipality does not have an Internet site, the county in which
6 the municipality is located shall post the information under this paragraph on its
7 Internet site on a web page dedicated solely to development fee information for the
8 municipality.

9 (b) A municipality shall provide a copy of the report under sub. (1) to each
10 member of the governing body of the municipality.

11 (3) If a fee or the amount of a fee under sub. (1) (a) is not posted as required
12 under sub. (2) (a), the municipality may not charge the fee.

13 **SECTION 24.** 66.10015 (1) (f) of the statutes is created to read:

14 66.10015 (1) (f) "Zoning ordinance" means an ordinance enacted by a political
15 subdivision under s. 59.69, 60.61, 60.62, 61.35, or 62.23.

16 **SECTION 25.** 66.10015 (2) (d) of the statutes is repealed.

17 **SECTION 26.** 66.10015 (5) of the statutes is created to read:

18 66.10015 (5) EXPIRATION DATES. A political subdivision may not establish an
19 expiration date for an approval related to a planned development district of less than
20 5 years after the date of the last approval required for completion of the project.

21 **SECTION 27.** 66.10015 (6) of the statutes is created to read:

22 66.10015 (6) ZONING LIMITATIONS, INSPECTIONS. (a) If a political subdivision or
23 a utility district requires the installation of a water meter station for a political
24 subdivision, neither the political subdivision nor the utility district may require a
25 developer to install a water meter that is larger than a utility-type box, and may not

ASSEMBLY BILL 770**SECTION 27**

1 require a developer to include heating, air conditioning, or a restroom in the water
2 meter station. Any requirements for such a project that go beyond the limitations
3 specified in this paragraph must be funded entirely by the political subdivision or
4 utility district.

5 (b) 1. If a political subdivision employs a building inspector to enforce its zoning
6 ordinance or other ordinances related to building, and a developer requests the
7 building inspector to perform an inspection that is part of the inspector's duties, the
8 inspector shall complete the inspection not later than 14 business days after the
9 building inspector receives the request for an inspection.

10 2. If a building inspector does not complete a requested inspection as required
11 under subd. 1., the developer may request a state building inspector to provide the
12 requested inspection, provided that the state inspector has a comparable level of
13 qualification as the local building inspector.

14 3. If a developer provides a political subdivision with a certificate of inspection
15 from a state building inspector from an inspection described under subd. 2., which
16 meets the requirements of the inspection that was supposed to be provided by the
17 local building inspector, the political subdivision must accept the certificate provided
18 by the state building inspector as if it had been provided by the political subdivision's
19 building inspector.

20 **SECTION 28.** 66.1015 (title) of the statutes is amended to read:

21 **66.1015 (title) Municipal rent control, inclusionary zoning, prohibited.**

22 **SECTION 29.** 66.1015 (3) of the statutes is created to read:

23 66.1015 (3) INCLUSIONARY ZONING PROHIBITED. (a) In this subsection:

24 1. "Inclusionary zoning ordinance" means a zoning ordinance, as defined in s.
25 66.10015 (1) (e), that prescribes that a certain number or percentage of new or

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1 existing residential dwelling units in a land development be made available for rent
2 or sale to an individual or family with a family income at or below a certain
3 percentage of the median income.

4 2. "Median income" has the meaning given in s. 234.49 (1) (g).

5 (b) No city, village, town, or county may enact or enforce an inclusionary zoning
6 ordinance.

7 **SECTION 30.** 66.1102 (title) of the statutes is amended to read:

8 **66.1102 (title) Land development; notification; records requests;**
9 **construction site development.**

10 **SECTION 31.** 66.1102 (1) (a) of the statutes is renumbered 66.1102 (1) (bm).

11 **SECTION 32.** 66.1102 (1) (ae) of the statutes is created to read:

12 66.1102 (1) (ae) "Construction site" means the site of the construction,
13 alteration, painting, or repair of a building, structure, or other work.

14 **SECTION 33.** 66.1102 (1) (b) of the statutes is renumbered 66.1102 (1) (bs).

15 **SECTION 34.** 66.1102 (5) of the statutes is created to read:

16 66.1102 (5) CONSTRUCTION SITE FENCES. (a) Except for an ordinance that is
17 related to health or safety concerns, no political subdivision may enact an ordinance
18 or adopt a resolution that limits the ability of any person who is the owner, or other
19 person in lawful possession or control, of a construction site to install a banner over
20 the entire height and length of a fence surrounding the construction site.

21 (b) If a political subdivision has enacted an ordinance or adopted a resolution
22 before the effective date of this paragraph [LRB inserts date], that is inconsistent
23 with par. (a), the ordinance or resolution does not apply and may not be enforced.

24 **SECTION 35.** 66.1105 (2) (ab) of the statutes is renumbered 66.1105 (2) (n)
25 (intro.) and amended to read:

ASSEMBLY BILL 770**SECTION 35**

1 66.1105 (2) (n) (intro.) “Affordable Workforce housing” means housing that
2 costs a household no more than 30 percent of the household’s gross monthly income.
3 to which all of the following apply, as adjusted for family size and the county in which
4 the household is located, based on the county’s 5 year average median income and
5 housing costs as calculated by the U.S. bureau of census in its American community
6 survey:

7 **SECTION 36.** 66.1105 (2) (f) 3. (intro.) of the statutes is amended to read:

8 66.1105 (2) (f) 3. (intro.) Notwithstanding subd. 1., project costs may include
9 any expenditures made or estimated to be made or monetary obligations incurred or
10 estimated to be incurred by the city for newly platted residential development only
11 for any tax incremental district for which a project plan is approved before
12 September 30, 1995, for any workforce housing development, or for a mixed-use
13 development tax incremental district to which one of the following applies:

14 **SECTION 37.** 66.1105 (2) (n) 1. of the statutes is created to read:

15 66.1105 (2) (n) 1. The housing costs a household no more than 30 percent of the
16 household’s gross median income.

17 **SECTION 38.** 66.1105 (2) (n) 2. of the statutes is created to read:

18 66.1105 (2) (n) 2. With regard to a workforce housing development district, the
19 construction cost per housing unit, including rental housing, is no more than 80
20 percent of the median price for new residential construction in the county.

21 **SECTION 39.** 66.1105 (2) (o) of the statutes is created to read:

22 66.1105 (2) (o) “Workforce housing development” means development that
23 contains only newly platted residential uses, and 100 percent of the residential
24 development must be workforce housing.

25 **SECTION 40.** 66.1105 (4) (c) of the statutes is amended to read:

ASSEMBLY BILL 770**SECTION 40**

1 66.1105 (4) (c) Identification of the specific property to be included under par.
2 (gm) 4. as blighted, in need of workforce housing, or in need of rehabilitation or
3 conservation work. Owners of the property identified shall be notified of the
4 proposed finding and the date of the hearing to be held under par. (e) at least 15 days
5 prior to the date of the hearing. In cities with a redevelopment authority under s.
6 66.1333, the notification required under this paragraph may be provided with the
7 notice required under s. 66.1333 (6) (b) 3., if the notice is transmitted at least 15 days
8 prior to the date of the hearing to be held under par. (e).

9 **SECTION 41.** 66.1105 (4) (gm) 4. a. of the statutes is amended to read:

10 66.1105 (4) (gm) 4. a. ~~Not~~ Except as provided in subd. 4. am., not less than 50
11 percent, by area, of the real property within the district is at least one of the following:
12 a blighted area; in need of rehabilitation or conservation work, as defined in s.
13 66.1337 (2m) (a); suitable for industrial sites within the meaning of s. 66.1101 and
14 has been zoned for industrial use; or suitable for mixed-use development; and

15 **SECTION 42.** 66.1105 (4) (gm) 4. am. of the statutes is created to read:

16 66.1105 (4) (gm) 4. am. If the district is a workforce housing development
17 district, 100 percent, by area, of the real property within the district is suitable for
18 a workforce housing development district and will be used for workforce housing.

19 **SECTION 43.** 66.1105 (4) (gm) 4. bm. of the statutes, as affected by 2017
20 Wisconsin Act 15, is amended to read:

21 66.1105 (4) (gm) 4. bm. The project costs relate directly to eliminating blight,
22 directly serve to rehabilitate or conserve the area, directly increase workforce
23 housing, or directly serve to promote industrial or mixed-use development,
24 consistent with the purpose for which the tax incremental district is created under
25 subd. 4. a. or am.; and

ASSEMBLY BILL 770**SECTION 44**

1 **SECTION 44.** 66.1105 (4) (gm) 6. of the statutes is amended to read:

2 66.1105 (4) (gm) 6. Declares that the district is a blighted area district, a
3 rehabilitation or conservation district, an industrial district, a workforce housing
4 development district, or a mixed-use district based on the identification and
5 classification of the property included within the district under par. (c) and subd. 4.
6 a. or am. If the district is not exclusively blighted, rehabilitation or conservation,
7 industrial, workforce housing, or mixed use, the declaration under this subdivision
8 shall be based on which classification is predominant with regard to the area
9 described in subd. 4. a.

10 **SECTION 45.** 66.1105 (4m) (b) 2. of the statutes is amended to read:

11 66.1105 (4m) (b) 2. No tax incremental district may be created and no project
12 plan may be amended unless the board approves the resolution adopted under sub.
13 (4) (gm) or (h) 1., and no tax incremental base may be redetermined under sub. (5)
14 (h) unless the board approves the resolution adopted under sub. (5) (h) 1., by a
15 majority vote within 45 days after receiving the resolution, except that with regard
16 to a workforce housing development district, the board must approve the resolution
17 adopted under sub. (4) (gm) or (h) 1. by a unanimous vote. With regard to a
18 multijurisdictional tax incremental district created under this section, each public
19 member of a participating city must be part of the majority that votes for approval
20 of the resolution or the district may not be created. The board may not approve the
21 resolution under this subdivision unless the board's approval contains a positive
22 assertion that, in its judgment, the development described in the documents the
23 board has reviewed under subd. 1. would not occur without the creation of a tax
24 incremental district. The board may not approve the resolution under this
25 subdivision unless the board finds that, with regard to a tax incremental district that

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1 is proposed to be created by a city under sub. (17) (a), such a district would be the only
2 existing district created under that subsection by that city.

3 **SECTION 46.** 66.1105 (6) (a) 8. of the statutes is amended to read:

4 66.1105 (6) (a) 8. Twenty-seven years after the tax incremental district is
5 created if the district is created on or after October 1, 2004, and if the district is a
6 district specified under sub. (4) (gm) 6. other than a district specified under subd. 7.
7 or 14. If the life of the district is extended under sub. (7) (am) 3. an allocation under
8 this subdivision may be made 30 years after such a district is created. If the life of
9 the district is extended under sub. (7) (am) 4., an allocation under this subdivision
10 may be made for not more than an additional 3 years after allocations would
11 otherwise have been terminated under this subdivision. For a tax incremental
12 district created after March 3, 2016, the period during which a tax increment may
13 be allocated under this subdivision shall be increased by one year if that district's
14 project plan is adopted under sub. (4) (g) after September 30 and before May 15.

15 **SECTION 47.** 66.1105 (6) (a) 14. of the statutes is created to read:

16 66.1105 (6) (a) 14. Fifteen years after the tax incremental district is created if
17 the district is a workforce housing development district.

18 **SECTION 48.** 66.1105 (6) (g) 3. of the statutes is amended to read:

19 66.1105 (6) (g) 3. If a city receives tax increments as described in subd. 2., the
20 city shall use at least 75 percent of the increments received to benefit affordable
21 workforce housing in the city. The remaining portion of the increments shall be used
22 by the city to improve the city's housing stock.

23 **SECTION 49.** 66.1105 (7) (ak) 5. of the statutes is created to read:

24 66.1105 (7) (ak) 5. For a workforce housing development district, 15 years after
25 the district is created.

ASSEMBLY BILL 770**SECTION 50**

1 **SECTION 50.** 66.1108 of the statutes is created to read:

2 **66.1108 Limitation on weekend work. (1) DEFINITIONS.** In this section:

3 (a) “Construction project” means a project involving the erection, construction,
4 repair, remodeling, or demolition, including any alteration, painting, decorating, or
5 grading, of a private facility, including land, a building, or other infrastructure.

6 (b) “Political subdivision” means a city, village, town, or county.

7 **(2) CONSTRUCTION PROJECTS; WEEKEND WORK.** (a) A political subdivision may not
8 prohibit a private person from working on a construction project on a Saturday or
9 Sunday. A political subdivision may not impose conditions that apply to a private
10 person who works on a construction project on a Saturday or Sunday that are
11 inapplicable to, or more restrictive than the conditions that apply to, such a person
12 who works on a construction project during weekdays.

13 (b) If a political subdivision has enacted an ordinance or adopted a resolution
14 before the effective date of this paragraph [LRB inserts date], that is inconsistent
15 with par. (a), the ordinance or resolution does not apply and may not be enforced.

16 **SECTION 51.** 101.65 (1) (a) of the statutes is amended to read:

17 101.65 **(1)** (a) ~~Exercise~~ Subject to sub. (1c), exercise jurisdiction over the
18 construction and inspection of new dwellings by passage of ordinances, ~~provided~~
19 ~~such ordinances meet the requirements of the one- and 2-family dwelling code~~
20 ~~adopted in accordance with this subchapter.~~ Except as provided by s. 101.651, a
21 county ordinance shall apply in any city, village, or town ~~which~~ that has not enacted
22 ~~such ordinance~~ those ordinances.

23 **SECTION 52.** 101.65 (1c) of the statutes is created to read:

24 101.65 **(1c)** May not make or enforce an ordinance under sub. (1) that is applied
25 to a dwelling and that does not conform to this subchapter and the uniform dwelling

ASSEMBLY BILL 770**SECTION 52**

1 code adopted by the department under this subchapter or is contrary to an order of
2 the department under this subchapter. If any provision of a contract between a city,
3 village, town, or county and an owner requires the owner to comply with an ordinance
4 that does not conform to this subchapter or the uniform dwelling code adopted by the
5 department under this subchapter or is contrary to an order of the department under
6 this subchapter, the owner may waive the provision, and the provision, if waived, is
7 void and unenforceable.

8 **SECTION 53.** 236.13 (2) (a) 1. of the statutes is renumbered 236.13 (2) (am) 1.
9 a. and amended to read:

10 236.13 (2) (am) 1. a. As a further condition of approval, the governing body of
11 the town or municipality within which the subdivision lies may require that the
12 subdivider make and install any public improvements reasonably necessary or that
13 the subdivider provide security to ensure that ~~he or she~~ the subdivider will make
14 those improvements within a reasonable time. The governing body may not require
15 the subdivider to provide security at the commencement of a project in an amount
16 that is more than ~~120~~ 110 percent of the estimated total cost to complete the required
17 public improvements. ~~It is the subdivider's option whether to execute a performance~~
18 ~~bond or whether to provide a letter of credit to satisfy the governing body's~~
19 ~~requirement that the subdivider provide security to ensure that the public~~
20 ~~improvements are made within a reasonable time~~ The estimated total cost to
21 complete the required public improvements may not exceed the bona fide bid from
22 the subdivider's contractor to complete the required public improvements or, if the
23 subdivider has not obtained a bid, an estimate of the total cost to complete the
24 required public improvements, as mutually agreed upon by the subdivider's
25 engineer and the town's or municipality's engineer.

ASSEMBLY BILL 770**SECTION 53**

1 **b.** The subdivider may construct the project in such phases as the governing
2 body of the town or municipality approves, which approval may not be unreasonably
3 withheld. If the subdivider's project will be constructed in phases, the amount of
4 security required by the governing body shall be under subd. 1. a. is limited to the
5 phase of the project that is currently being constructed. The governing body may not
6 require that the subdivider provide any security for improvements sooner than is
7 reasonably necessary before the commencement of the installation of the
8 improvements.

9 **c.** If the governing body of the town or municipality requires a subdivider to
10 provide security under ~~this paragraph~~ subd. 1. a., the governing body may not
11 require the subdivider to provide the security for more than 14 months after the date
12 the public improvements for which the security is provided are substantially
13 completed and upon substantial completion of the public improvements, the amount
14 of the security the subdivider is required to provide may be no more than an amount
15 equal to the total cost to complete any uncompleted public improvements plus 10
16 percent of the total cost of the completed public improvements.

17 **d.** This paragraph applies to all preliminary and final plats, regardless of
18 whether submitted for approval before, on, or after August 1, 2014.

19 **SECTION 54.** 236.13 (2) (a) 2. of the statutes is renumbered 236.13 (2) (am) 2.
20 and amended to read:

21 236.13 (2) (am) 2. For purposes of subd. 1., public improvements reasonably
22 necessary for a project or a phase of a project are considered to be substantially
23 completed ~~at the time upon the installation of the asphalt or concrete binder coat is~~
24 ~~installed~~ course on roads to be dedicated or, if the required public improvements do

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1 not include a road to be dedicated, at the time that 90 percent of the public
2 improvements by cost are completed.

3 **SECTION 55.** 236.13 (2) (ad) of the statutes is created to read:

4 236.13 (2) (ad) In this subsection:

5 1. "Binder course" means the non-surface-level course that is attached to the
6 packed-level gravel course.

7 2. "Land disturbing activity" means any man-made alteration of the land
8 surface resulting in a change in the topography or existing vegetative or
9 nonvegetative soil cover, that may result in runoff and lead to an increase in soil
10 erosion and movement of sediment into waters of this state. "Land disturbing
11 activity" includes clearing and grubbing, demolition, excavating, pit trench
12 dewatering, filling, and grading activities.

13 3. "Total cost to complete a public improvement" includes the cost to make and
14 install storm water facilities. "Total cost to complete a public improvement" does not
15 include any of the following:

16 a. Any fees charged by the governing body of the town or municipality.

17 b. Land disturbing activities that are necessary to achieve the desired subgrade
18 for public improvements.

19 **SECTION 56.** 236.13 (2) (am) 1m. of the statutes is created to read:

20 236.13 (2) (am) 1m. a. If the governing body of the town or municipality
21 requires a subdivider to provide security under subd. 1. a., the governing body shall
22 accept a performance bond or a letter of credit, or any combination thereof, at the
23 subdivider's option, to satisfy the requirement.

24 b. The subdivider and the governing body of the town or municipality may
25 agree that all or part of the requirement to provide security under subd. 1. a. may

ASSEMBLY BILL 770**SECTION 56**

1 be satisfied by a performance bond provided by the subdivider's contractor that
2 names the town or municipality as an additional obligee provided that the form of
3 the contractor's performance bond is acceptable to the governing body of the town or
4 municipality.

5 c. The governing body of a town or municipality shall accept a bond under this
6 subdivision if the person submitting the bond demonstrates that the bond is
7 consistent with a standard surety bond form used by a company that, on the date the
8 bond is obtained, is listed as an acceptable surety on federal bonds in the most recent
9 circular 570 published by the U.S. department of the treasury, as required under 31
10 CFR 223.16.

11 **SECTION 57.** 236.13 (2) (am) 3. of the statutes is created to read:

12 236.13 (2) (am) 3. a. With regard to public improvements to which subd. 1.
13 applies, no town or municipality may enact an ordinance relating to the substantial
14 completion of such a public improvement that is inconsistent with subd. 2.

15 b. Upon such substantial completion, any outstanding local building permits
16 that are related to, and dependent upon, substantial completion shall be released.

17 c. The governing body of a town or municipality shall, upon a subdivider's
18 request, issue a permit to commence construction of a foundation or any other
19 noncombustible structure before substantial completion of a public improvement if
20 all public improvements related to public safety are complete and the security
21 requirement under subd. 1. a. has been met. The subdivider may not commence work
22 on a building until the governing body of the town or municipality approves or issues
23 a permit for the construction of the building.

24 **SECTION 58.** 236.34 (1) (ar) 1. of the statutes is amended to read:

ASSEMBLY BILL 770**SECTION 58**

1 236.34 (1) (ar) 1. Notwithstanding s. 236.45 (2) (ac) and (am), a municipality,
2 town, or county that has established a planning agency may enact an ordinance or
3 adopt a resolution that specifies a maximum number of parcels that is greater than
4 4 into which land that is situated in the municipality, town, or county and zoned for
5 commercial, multifamily dwelling, as defined in s. 101.971 (2), industrial, or
6 mixed-use development may be divided by certified survey map.

7 **SECTION 59.** 236.45 (6) (am) of the statutes is amended to read:

8 236.45 (6) (am) Notwithstanding subs. (1) and (2) (ac), a municipality, town,
9 or county may not, as a condition of approval under this chapter, impose any fees or
10 other charges to fund the acquisition or improvement of land, infrastructure, or other
11 real or personal property, except that a municipality or town may impose a fee or
12 other charge to fund the acquisition or initial improvement of land for public parks
13 if the fee or other charge is imposed under a subdivision ordinance enacted or
14 amended in accordance with the procedures under s. 66.0617 (3) to (5) and meets the
15 requirements under s. 66.0617 (6) to (10).

16 **SECTION 60.** 236.45 (6) (c) of the statutes is created to read:

17 236.45 (6) (c) If a subdivision ordinance of a municipality, town, or county
18 requires, as a condition of approval under this chapter, that a subdivider dedicate
19 land for a public park, the municipality, town, or county may offer the subdivider the
20 option of either dedicating the land or paying a fee or other charge under par. (am)
21 in lieu of the dedication. If the subdivider elects to pay a fee or other charge under
22 this paragraph, the fee or other charge is payable by the landowner to the
23 municipality, town, or county upon the issuance of a building permit by the
24 municipality, town, or county.

25 **SECTION 61.** 281.33 (6) of the statutes is repealed.

ASSEMBLY BILL 770**SECTION 62****1 SECTION 62. Nonstatutory provisions.**

2 (1) Notwithstanding SECTION 63 (4), in any claim or action under section 32.20
3 of the statutes for the determination of additional items payable that is pending,
4 including any appeal, on the effective date of this subsection, the claimant shall be
5 allowed 45 days to submit a revised claim to the condemnor that includes expenses
6 permitted under section 32.19 (4m) (a) or (b) of the statutes, as affected by this act,
7 whichever is applicable.

8 SECTION 63. Initial applicability.

9 (1) LOCAL PROJECT APPROVALS. The treatment of section 66.10015 (2) (d) and (5)
10 of the statutes first applies to an approval made on the effective date of this
11 subsection.

12 (2) SUBDIVISION APPROVAL CONDITIONS RELATED TO PUBLIC PARK IMPROVEMENTS.
13 The treatment of section 236.45 (6) (am) and (c) of the statutes first applies to a
14 subdivision or other division of land submitted for approval to a municipality, town,
15 or county on the effective date of this subsection.

16 (3) JUST COMPENSATION. The treatment of section 32.09 (1m) (a) and (b) of the
17 statutes first applies to an action for the determination of fair market value in a
18 condemnation proceeding for which title to the subject property has not vested in the
19 condemnor on the effective date of this subsection.

20 (4) RELOCATION BENEFITS. The treatment of sections 32.19 (2) (hm) and (4m) (a)
21 (intro.) and 4. and (b) 1. and 32.20 of the statutes first applies to a claim for expenses
22 filed under section 32.20 of the statutes for the determination of additional items
23 payable on the effective date of this subsection.

