

## **Committee Name:**

# **Senate Committee – Economic Development, Job Creation and Housing (SC–EDJCH)**

### **Appointments**

03hr\_SC–EDJCH\_Appt\_pt00

### **Committee Hearings**

03hr\_SC–EDJCH\_CH\_pt00

### **Committee Reports**

03hr\_SC–EDJCH\_CR\_pt00

### **Clearinghouse Rules**

03hr\_SC–EDJCH\_CRule\_03–

### **Executive Sessions**

03hr\_SC–EDJCH\_ES\_pt00

# **Hearing Records**

## **03hr\_ab0608**

03hr\_sb0000

### **Misc.**

03hr\_SC–EDJCH\_Misc\_pt00

### **Record of Committee Proceedings**

03hr\_SC–EDJCH\_RCP\_pt00

AB-608

Senate Committee on Economic Development, Job Creation and Housing

Paper Ballot: Senator Roessler  
Deadline: Tomorrow, 2-20-04, 11:00 am

The following bills received a public hearing yesterday, Wednesday, February 18, 2004. (Except SB 218, which received its public hearing on August 14, 2003. See attached for more information.)

Please return your paper ballot to Senator Stepp's office by 11:00 am tomorrow, Friday, February 20, 2004.

Thank you.

Shall the following Governor's appointments be recommended for confirmation?:

**Kruger, David** – of Madison, as a member of the Wisconsin Housing and Economic Development Authority, to serve for the term ending January 1, 2007.

YES    \_\_\_ NO

**Levin, Lloyd** – of Milwaukee, as a member of the Real Estate Board, to serve for the term ending July 1, 2007.

YES    \_\_\_ NO

**Sveum, Peter** – of Stoughton, as a member of the Real Estate Board, to serve for the term ending July 1, 2006.

YES    \_\_\_ NO

**Thusty, Wayne** – of Rib Lake, as a member of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, to serve for the term ending July 1, 2007.

YES    \_\_\_ NO

**Wilson, Walter** – of Milwaukee, as a member of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, to serve for the term ending July 1, 2006.

YES    \_\_\_ NO

Bills:

**AB 354** - relating to: the display of the United States flag by condominium owners.

Senator Stepp moves concurrence.

YES    \_\_\_ NO

**AB 370** - relating to: termination of a tenancy if notice given regarding drug or criminal gang activity.

Senator Stepp moves concurrence.

YES     NO

**AB 608** – relating to: making changes to the comprehensive planning statute known as Smart Growth.

Senator Stepp moves concurrence.

YES     NO

**SB 218** - relating to: the authority of the board of directors of business corporations and corporate committees; corporate shareholder notices and meetings; mergers, conversions, and other business combinations; the transfer of corporate property to certain affiliates; and naming limited partnerships.

Senator Stepp moves introduction and adoption of Amendment 1 to SB 218.

YES     NO


Senator Stepp moves passage as amended.

YES     NO

**SB 428** – relating to: extending the expenditure period and the life of a tax incremental district in West Bend.

Senator Stepp moves passage.

YES     NO

  
Signature

Senate Committee on Economic Development, Job Creation and Housing

Paper Ballot: Senator Brown

Deadline: Tomorrow, 2-20-04, 11:00 am

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YES     NO

**Sveum, Peter** – of Stoughton, as a member of the Real Estate Board, to serve for the term ending July 1, 2006.

YES     NO

**Tlusty, Wayne** – of Rib Lake, as a member of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, to serve for the term ending July 1, 2007.

YES     NO

**Wilson, Walter** – of Milwaukee, as a member of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, to serve for the term ending July 1, 2006.

YES     NO

Bills:

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Senator Stepp moves concurrence.

YES     NO

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Senator Stepp moves concurrence.

YES     NO

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Senator Stepp moves concurrence.

YES     NO

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Senator Stepp moves introduction and adoption of Amendment 1 to SB 218.

YES     NO

Senator Stepp moves passage as amended.

YES     NO

**SB 428** – relating to: extending the expenditure period and the life of a tax incremental district in West Bend.

Senator Stepp moves passage.

YES     NO

  
Signature

Senate Committee on Economic Development, Job Creation and Housing

Paper Ballot: Senator Moore

Deadline: Tomorrow, 2-20-04, 11:00 am

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YES     NO

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YES     NO

**Thusty, Wayne** – of Rib Lake, as a member of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, to serve for the term ending July 1, 2007.

YES     NO

**Wilson, Walter** – of Milwaukee, as a member of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, to serve for the term ending July 1, 2006.

YES     NO

Bills:

**AB 354** - relating to: the display of the United States flag by condominium owners.

Senator Stepp moves concurrence.

YES     NO

**AB 370** - relating to: termination of a tenancy if notice given regarding drug or criminal gang activity. X

Senator Stepp moves concurrence.

YES     NO

**AB 608** - relating to: making changes to the comprehensive planning statute known as Smart Growth.

Senator Stepp moves concurrence.

YES     NO

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Senator Stepp moves introduction and adoption of Amendment 1 to SB 218.

YES     NO

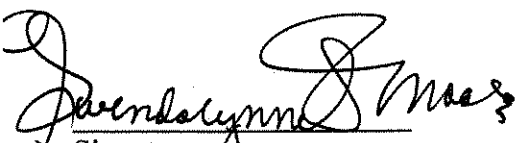
Senator Stepp moves passage as amended.

YES     NO

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Senator Stepp moves passage.

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Senate Committee on Economic Development, Job Creation and Housing

Paper Ballot: Senator Plale

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YES     NO

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YES     NO

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YES     NO

**Wilson, Walter** – of Milwaukee, as a member of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, to serve for the term ending July 1, 2006.

YES     NO

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YES     NO



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Senator Stepp moves concurrence.

YES     NO

**AB 608** – relating to: making changes to the comprehensive planning statute known as Smart Growth.

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YES     NO

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YES     NO

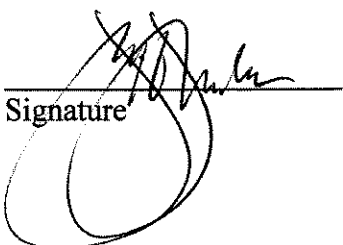
Senator Stepp moves passage as amended.

YES     NO

**SB 428** – relating to: extending the expenditure period and the life of a tax incremental district in West Bend.

Senator Stepp moves passage.

YES     NO

Signature 

**Risch, Jay**

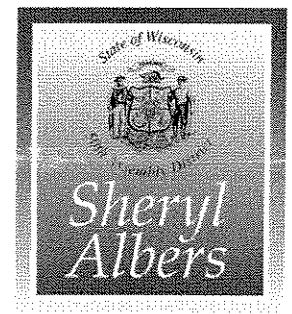
**From:** Bergstrom, Leanne

**Sent:** Friday, February 20, 2004 11:59 AM

**To:** Risch, Jay

**Subject:** Vote on SB 218 from the Senate Economic Development, Job Creation and Housing Committee

Senator Moore votes yes on the amendment and passage of the bill SB 218



**2003 Assembly Bill 608 – Changes to Comprehensive Planning**  
**Testimony of State Representative Sheryl K. Albers before the Senate Committee on**  
**Economic Development, Job Creation, and Housing**  
**February 18, 2004**

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Thank you, Chairperson Stepp, for the opportunity today to testify on bill that has, to date, received broad and significant support from both sides of the aisle.

I think each of us recognizes that comprehensive planning has become a volatile issue for many local communities, especially in rural areas with little growth pressure. I also believe that as we've seen this program unfold since 1999, we can learn from our observations and make improvements to the program. For me, this bill is the first piece of this very important puzzle.

Planning is a good idea. An open, transparent and voluntary planning process remains far better than the system that came before it – one in which decisions on land use were often made with little advance warning, without public hearings, and in a manner that needed to be neither logical nor consistent. I am still waiting for a sound, convincing argument as to how returning to the dark ages of decision making on land use – one in which decisions were often made in an entirely arbitrary manner – makes things any better for property owners.

For those who are concerned about local plans curtailing private property rights, planning does nothing that zoning does not already do. Planning creates a system by which zoning decisions can be made logically and fairly. If you want to live in a world without planning or zoning, there are plenty of places in Wisconsin where you can do just that. Comprehensive planning statutes require nothing be done unless a local government wishes to undertake

certain land use actions. If they do, comprehensive planning dictates that the process is open, that public hearings are held, and input is solicited.

The bill before you today is the result of the work of many of the same people who were involved in assembling the original legislation. Many of those who are accused of defending the status quo are here today, united in their efforts to change it.

One of the biggest areas of agreement in the reform of comprehensive planning is that the consistency requirements enumerated in Chapter 66 are confusing and border on micromanagement. The state should be laying out a broad framework for planning, not dictating minute details of the planning process. As the law currently stands, consistency is required for big issues, like zoning and subdivision regulation, but also concerns itself with smaller details, like municipal incorporation procedures, impact fee ordinances, construction site erosion control, and a host of other lesser issues.

The list all contains a catch-all provision that says any other land use action not spelled out specifically must also be consistent. That has led some rural communities to wonder if matters as minor as driveway permitting would require thousands of dollars to be spent on a plan. When one takes a look at current law, the list is intimidating.

I believe strongly that one of the biggest problems facing the comprehensive planning process is appearance. There is a small but vocal minority in this state that spends large amounts of time portraying this program as something that it is not. It has become a target of criticism for individuals with all types of land use complaints, whether related to planning or not. Time and again I hear people complaining about zoning issues or DNR regulations who then blame "smart growth" for their burdens. Putting long, confusing lists and rules into law doesn't help the cause.

The changes made by this bill preserve the major areas where consistency should be required: official mapping, local subdivision regulation, and zoning ordinances of all types. These areas are the heart of what comprehensive planning is about: allowing members of a community to

work together in an open process to determine the “big idea” when it comes to how their community should grow.

The bill also emphasizes the advisory, non-binding role of Regional Planning Commissions (RPCs) in the comprehensive planning process. RPCs are there to offer assistance and suggestions if their advice is sought. They serve no mandated role in the planning process that political subdivisions undertake.

This legislation is an effective tool, with broad support, that will help us to begin the process of reforming a program that needs some tweaking. It may be a bit flawed, but none of those flaws are fatal. It is important that we work to make comprehensive planning flexible and responsive to the needs of all of Wisconsin’s communities, large or small, urban or rural. This bill moves us in that direction.

Thank you. I would be happy to answer any questions committee members might have at this time.

## **AB 608—SMOKE MIRRORS and DEATH**

**Dear Sir,**

**As you know, AB608 is advertised as a “fix-it” bill for the notoriously socialistic Comprehensive Planning law 66.1001—one of the most secretive, legally-but-unethically-passed special-interest swindles ever included in Wisconsin Biennial Budgets (this one was 1999-2001).**

**AB608 “fixes” virtually nothing and instead creates NEW problems and actually REMOVES THE LAST POSSIBLE CHANCE FOR VOTER INPUT. THIS IS INTENTIONAL—IT IS WRONG—AND IT MUST BE DEFEATED. So, instead of giving you a long list of things to fix IN 66.1001 itself, we’ll focus on the faults of AB608—to wit:**

**PROBLEM#1: In Section 1 of AB608, a new “definition” is born; it is called “political subdivision” which excludes “Regional Plan Commission” from the previous definition(66.1001(1)(b)) of “local governmental unit” –this is apparently a ruse of some sort to empower Regional Plan Commissions with ABSOLUTE AUTHORITY in some aspects of this law—and this is revealed in Section 9 of AB608.**

**In Section 9, FOR THE FIRST TIME, Regional Planning Commissions are given the POWER TO APPROVE, ENACT & IMPLEMENT “local” COMPREHENSIVE PLANS—COMPLETELY BY-PASSING ALL DULY-ELECTED “local” OFFICIALS—WOW !!**

**\*\*\*Example: First, Clark County’s Plan Commission(called the County Board Planning and Zoning Committee) recommends adoption of the County’s Comprehensive Plan to the County Board of Supervisors, as per 66.1001(4)(b). This means the duly-ELECTED Clark County Board shall now vote(enact an ordinance) adopting the recommended plan. But, then—**

**THE BOARD REJECTS THE PLAN—VOTES IT DOWN !! What’s next? Does the Committee re-work their plan, hold more public hearings, make changes, and perhaps recommend a revised plan to the Clark County Board?**

**NO!!**

**Under AB608, Section 9, all that need be done is to submit this very same REJECTED plan to the West Central Wisconsin Regional Plan Commission for adoption—and BINGO! The plan is VALID and effective in Clark County WITHOUT further action or voting!!**

**As you know, the RPC is an UN-elected body and the voters cannot directly influence its members via the ballot box. This is the CLASSIC definition of SOCIALISM(government by committee), which routinely by-passes and over-rules the will of the people to impose governmental control over the people and their property.**

**\*\*\***

**SOLUTION: PLEASE amend AB608 in the Senate by deletion of the entire section 9. The remainder of the proposed section 9 is too broad and vague anyway, with no clear reference as to WHICH governing body may DO WHAT to WHOM . REJECT the argument that the plan “is only a plan” as the implementation element(66.1001(2)(i)) has motivated many plan committees to INCLUDE “new” ordinances as an integral part of the plan document—which, upon adoption by(in this scenario), the RPC, will be automatically “on the books”.**

**PROBLEM#2—Now that you have comprehended this Section 9 scam, note the repetition of it in Section 10, where “local” hearings might only become “regional” hearings, thus denying procedural due process to the average citizen due to inadequate local control, poor notice, and inconvenient access to the ruling “governing body”. SOLUTION:Therefore, delete Section 10 of AB608 thus preserving the 1999 wording of 66.1001(4)(d)(intro.).**

**PROBLEM #3– Section 11 of AB608 creates 66.1001(5), allegedly to “clarify” the “advisory” status of the RPC’s own separate comprehensive plan to the “local governmental unit/political subdivision”. This is, of course, inconsistent with 66.1001(2)(g) which REQUIRES that the “local” unit “SHALL incorporate any plans or agreements to which the local governmental unit is a party under 66.0301,66.0307, and 66.0309.” 66.0309 IS the Regional Plan Commission’s enabling statute which REQUIRES it to generate a comprehensive plan—see especially 66.0309 sub-sections (8),(9), and (10). Thus a CONTRADICTION: 66.1001(2)(g)**

**REQUIRES "local" adoption of the RPC's plan (and, presumably, any and all updates to it) and this new 66.1001(5) calls this plan ADVISORY.\*\*\* SOLUTION: Delete the reference to 66.0309 from the sentence in 66.1001(2)(g). Because this should be sufficient to clarify the advisory status of the Regional Plan Commission, provided Sections 9 and 10 of AB608 are also stricken, then Section 11 of AB608 becomes redundant and should then be stricken also. This, then, completely removes the PURPOSE of Section 1 of AB608 which likewise should then be stricken.**

**SUMMARY: For the reasons shown above, please consider voting against AB608 outright—OR—if some aspects of AB608, sections 2-8, seem to be a good band-aid approach, then please AMEND AB608 as follows:**

- 1) Delete Sections 1, 9, 10, & 11 in their entirety. This will prevent the obvious takeover of land-use decisions by the Regional Plan Commissions which AB608 makes possible if passed unchanged.**
- 2) Delete the 66.0309 reference from 66.1001(2)(g), by adding a new Section to AB308.**

**NOTE: Please do not be deceived by the wide 90-9 vote passage in the Assembly. All that signifies is a "blind vote of confidence" for Representative Albers who considers 66.1001 to be "her baby" since its insertion in the 1999 Budget Bill. TO THE CONTRARY, THE ABOVE ANALYSIS PROVES TO ALL THAT REP. ALBERS MISREPRESENTS HERSELF AS PRO-PROPERTY-RIGHTS BUT HAS SOLD PRIVATE LANDOWNERS TO THE HIGHEST-BIDDING SPECIAL-INTEREST GROUPS: the environmentalists, the builders, the planners, and the government. AB608 is a FINE example of why AB435 MUST be called to the floor from committee for strong, lengthy and thorough review and debate by the VOTING REPRESENTATIVES of the People of Wisconsin. I am confident that such awareness-raising will lead to the proper repeal of 66.1001 AND its replacement with a more reasonable, CONSTITUTIONAL, flexible law that will meet our best standards of representative democracy.**

**Clark Palmer, R.Ph. 715-743-4117 clarkpharm406@tznet.com**





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## MEMORANDUM

TO: Honorable Members of the Senate Committee on Economic Development,  
Job Creation and Housing

FROM: Matthew Stohr, Legislative Associate *MS*

DATE: February 18, 2004

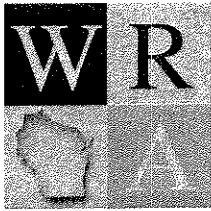
SUBJECT: Assembly Bill 608

The Wisconsin Counties Association (WCA) has long understood the importance of planning for local units of government in Wisconsin. However, until recently WCA has not had a position on the current comprehensive planning statute often referred to as "smart growth".

On Friday, November 14, 2003 the WCA Board of Directors did take a position on the current comprehensive planning statute. The position states that the WCA Board of Directors supports legislation that: 1) reiterates that a Regional Planning Commission's comprehensive plan is only advisory in its applicability to a political subdivision (a city, village, town or county), and a political subdivision's comprehensive plan; and 2) creates a committee appointed by the Governor that includes representatives from Wisconsin Municipal Associations (League of Wisconsin Municipalities, Wisconsin Alliance of Cities, Wisconsin Counties Association and Wisconsin Towns Association) to examine the current comprehensive planning statute for inconsistencies, ambiguities and conflicts with current law and ways to reduce the compliance requirements for rural areas. Based on this review, the aforementioned committee would then make recommendations to the legislature on ways to "change" and "improve" the current comprehensive planning statute to facilitate compliance.

To this end, WCA is supportive of the provision in Assembly Bill 608 (AB 608) which relates to the Regional Planning Commission's comprehensive plan. However, WCA does not have a particular position on the provision in AB 608 which relates to the programs or actions with which a comprehensive plan must be consistent. WCA recommends that the Legislature and Governor work to create a committee to address the consistency requirements of the comprehensive planning statute.

Thank you for considering our comments. Please do not hesitate to contact me at the WCA office if you have any questions.



WISCONSIN REALTORS' ASSOCIATION  
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Walter Hellyer, CRB, CRS, GRI, Chairman  
E-mail: [corky@propertydoor.com](mailto:corky@propertydoor.com)

William Malkasian, CAE, President  
E-mail: [wem@wra.org](mailto:wem@wra.org)

## Memorandum

**To:** Members, Senate Economic Development, Job Creation and Housing  
**From:** Tom Larson  
**Date:** February 18, 2004  
**Re:** AB 608 -- Smart Growth

The Wisconsin REALTORS® Association encourages you to co-sponsor AB 608, legislation that seeks to make some necessary clarifications to Wisconsin's comprehensive planning law (a.k.a. "Smart Growth") which will make the law more workable for local communities and property owners alike.

Over the last two years, numerous concerns have been raised regarding Smart Growth. Many of these concerns are based on misunderstandings about what the law says. However, some of these concerns are legitimate and reflect some ambiguities in the law that need to be clarified.

AB 608 attempts to clarify these ambiguities to better protect private property rights, reinforce the concept of local control, exempt some small rural towns from the comprehensive planning requirements, and avoid potential lawsuits regarding some of the provisions.

- **Clarifies which communities must have a comprehensive plan by January 1, 2010.** Under current law, any community that has ordinances, plans, and regulations relating to land use, must have a comprehensive plan January 1, 2010. The broad scope of this language has caused confusion, especially for towns that have such regulations as driveway ordinances or building permit requirements. Because these regulations arguably relate to land use, many towns that have no other form of land-use regulation (i.e., zoning and subdivision regulations) are now required to have a comprehensive plan by January 1, 2010. Under the bill, only communities that have zoning, subdivision regulations, shoreland zoning, or official maps would be required to have a comprehensive plan. In addition to providing much-needed clarity, this provision will exempt a significant number of towns from the comprehensive planning requirement.
- **Clarifies that comprehensive plans adopted by regional plan commissions ("RPCs") are advisory only.** Some people are confused as to whether the current Smart Growth law gives additional regulatory authority to comprehensive plans adopted by RPCs. They fear that comprehensive plans adopted by RPCs could control over comprehensive plans adopted by local governments. This bill clarifies that Smart Growth does not provide RPCs with any additional regulatory authority and that comprehensive plans adopted by RPCs do not control over comprehensive plans adopted by local governments.

Recognizing the importance of creating sound land-use policies to guide future economic growth and development, Wisconsin's law is a national model for balanced planning. Comprehensive planning is an effective tool for protecting the interests of communities, property owners, businesses, environmentalists, and farmers alike. Despite its benefits, the law can be improved. This bill does it.

If you have any questions, please feel free to contact us.



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**1000 FRIENDS  
OF WISCONSIN**

16 North Carroll Street Suite 810 Madison, WI 53703 phone:608.259.1000 fax:608.259.1621  
email:friends@1kfriends.org www.1kfriends.org www.PictureSmartGrowth.org

**Hearing Testimony in Support of AB 608  
A Proposal to Clarify the Smart Growth Comprehensive Planning Law**

**Senate Committee on Economic Development, Job Creation and Housing  
February 18, 2004**

**Lisa M. MacKinnon  
Policy Director, 1000 Friends of Wisconsin**

Thank you, Chairperson Stepp and Committee members for this opportunity to testify today. 1000 Friends of Wisconsin is a statewide nonprofit organization that educates citizens and policy makers about the benefits of responsible land use. We advocate for healthy rural and urban communities and the protection of our economic, cultural and natural resources statewide. 1000 Friends of Wisconsin is a member of the broad coalition of diverse groups that advocated for the creation and passage of Wisconsin's comprehensive planning law and continues to strongly support the law. This coalition includes the Wisconsin Towns Association, the Wisconsin Realtors, the Wisconsin Builders, the League of Wisconsin Municipalities, and the Wisconsin Counties Association, among others.

**1000 Friends of Wisconsin supports AB 608 and commends Senator Stepp and the bill's other co-sponsors for a common sense and constructive response to specific concerns expressed by citizens regarding the Smart Growth Comprehensive Planning law.**

AB 608 is a genuine attempt to respond to a set of repeated concerns on the part of citizens regarding certain ambiguities within the law. In particular, this draft accomplishes a number of things:

- 1) It clarifies the relationship of regional planning commissions with respect to other governmental bodies and reasserts current state law, which holds that regional planning commission plans are advisory;
- 2) It clarifies the list of actions that must be consistent with a local governmental unit's comprehensive plan; and
- 3) It simplifies the list of actions that must be consistent with a local governmental unit's comprehensive plan.

Each of the aforementioned issues was raised as a criticism of the law and was functioning as a "road block" to communities—particularly rural towns—that have been wary of engaging in the planning process as long as such ambiguities persisted. Certain elements of the consistency clause, in particular, had been misconstrued in several ways that were never intended.

-- over --



While there are certain people who will not be satisfied with this law no matter how many amendments are made to it, we believe that these proposed changes will not only put these criticisms and concerns to rest for a majority of citizens, but that they strengthen the comprehensive planning law by leaving less doubt as to its requirements and effect.

The sponsors of this bill understand the many benefits of comprehensive planning. Our expectation is that these changes will allow communities across the state to move forward with the comprehensive planning process as it was intended—as a locally driven process with strong public participation—in order to reap those benefits.

Thank you for your consideration. Please do not hesitate to contact me if you have questions or comments regarding this testimony.