

 **07hr_ab0118_AC-Ag_pt01**



Details:

(FORM UPDATED: 07/12/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2007-08

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on ... Agriculture (AC-Ag)

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**
- Record of Comm. Proceedings ... **RCP**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt**
- Clearinghouse Rules ... **CRule**
- Hearing Records ... bills and resolutions
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Vote Record Committee on Agriculture

Date: 1/10/08

Moved by: Ott

Seconded by: Vruwink

AB 118 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt LRB 0054/H
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Alvin Ott, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Lee Nerison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative John Murtha	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jeffrey Mursau	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Gary Tauchen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Barbara Gronemus	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Amy Sue Vruwink	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Louis Molepske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Phil Garthwaite	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Andy Jorgensen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>11</u>	<u>0</u>	_____	_____

Motion Carried

Motion Failed

Vote Record Committee on Agriculture

Date: 1/10/08

Moved by: Molepske

Seconded by: Vruwink

AB 118 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt LRB 1040 to A/S Sub Amdt LRB 0054/4
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

- Be recommended for:
- Passage Adoption Confirmation Concurrence Indefinite Postponement
 - Introduction Rejection Tabling Nonconcurrency

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Alvin Ott, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Lee Nerison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Representative Phil Garthwaite	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Andy Jorgensen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>11</u>	<u>0</u>	_____	_____

Motion Carried Motion Failed

Vote Record Committee on Agriculture

Date: 1/10/08

Moved by: Molepske

Seconded by: Vruwink

AB 118

SB _____

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt LRB 1043 to A/S Sub Amdt LRB 0054/4

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Alvin Ott, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Lee Nerison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Representative Jeffrey Mursau	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Representative Phil Garthwaite	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Andy Jorgensen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 11 0 _____

Motion Carried

Motion Failed

Vote Record Committee on Agriculture

Date: 1/10/08

Moved by: Molepske

Seconded by: Vruwink

AB 118 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt LRB 1044 to A/S Sub Amdt LRB 0054/4

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Alvin Ott, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Lee Nerison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Representative Gary Tauchen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Barbara Gronemus	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Representative Louis Molepske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Phil Garthwaite	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Andy Jorgensen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>11</u>	<u>0</u>	_____	_____

Motion Carried

Motion Failed

Vote Record Committee on Agriculture

Date: 1/10/08

Moved by: Garthwaite

Seconded by: Vruwink

AB 118 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt LRB 1040 to A/S Sub Amdt LRB 005414

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrency

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Alvin Ott, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Lee Nerison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative John Murtha	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jeffrey Mursau	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Gary Tauchen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Barbara Gronemus	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Amy Sue Vruwink	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Louis Molepske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Phil Garthwaite	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Andy Jorgensen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>11</u>	<u>0</u>	_____	_____

Motion Carried

Motion Failed

Vote Record Committee on Agriculture

Date: 1/10/08

Moved by: Tauchen

Seconded by: Vruwink

AB 118 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt LBB 1043 to A/S Sub Amdt LBB 0054/4

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Alvin Ott, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Lee Nerison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative John Murtha	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jeffrey Mursau	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Gary Tauchen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Barbara Gronemus	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Amy Sue Vruwink	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Louis Molepske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Phil Garthwaite	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Andy Jorgensen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>11</u>	<u>0</u>	_____	_____

Motion Carried

Motion Failed

Vote Record Committee on Agriculture

Date: 1/10/08

Moved by: Garthwaite

Seconded by: Vruwink

AB 118 SB _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt ^{LRB} 1044 to A/S Sub Amdt LRB 0054/4

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Alvin Ott, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Lee Nerison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative John Murtha	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jeffrey Mursau	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Gary Tauchen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Barbara Gronemus	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Amy Sue Vruwink	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Louis Molepske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Phil Garthwaite	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Andy Jorgensen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 11 0 _____

Motion Carried

Motion Failed

Vote Record Committee on Agriculture

Date: 1/10/08

Moved by: Williams

Seconded by: Garthwaite

AB 118

SB _____

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt LRB 0054 14

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrency

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Alvin Ott, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Lee Nerison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative John Murtha	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Jeffrey Mursau	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Mary Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Gary Tauchen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Representative Amy Sue Vruwink	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Louis Molepske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Phil Garthwaite	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Andy Jorgensen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 10 1 _____

Motion Carried

Motion Failed

Vote Record Committee on Agriculture

Date: 1/10/08

Moved by: Molepske

Seconded by: Vruwink

AB 118

SB _____

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment _____

AR _____

SR _____

Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage
 Adoption
 Confirmation
 Concurrence
 Indefinite Postponement
 Introduction
 Rejection
 Tabling
 Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Representative Alvin Ott, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Lee Nerison	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative John Murtha	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Representative Amy Sue Vruwink	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Louis Molepske	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Phil Garthwaite	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Representative Andy Jorgensen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Totals: 10 1 _____

Motion Carried

Motion Failed



PHONE CALL

FOR	DATE	TIME	A.M. P.M.
M	ROSAIE MURPHY		
OF	WI ASSOC of DRAINAGE		
PHONE/ MOBILE	920-834-3269		
MESSAGE	Please continue to support AB118		
SIGNED	1154		

- TELEPHONED
- RETURNED YOUR CALL
- PLEASE CALL
- WILL CALL AGAIN
- CAME TO SEE YOU
- WANTS TO SEE YOU





Wisconsin REALTORS® Association
e-mail: wra@wra.org | Web site: www.wra.org

Roger Rushman, Chairman
e-mail: rushman@firstweber.com
William Malkasian, CAE, President
e-mail: wem@wra.org

Memorandum

To: Members, Assembly Agriculture Committee
From: Tom Larson
Date: March 27, 2007
Re: Drainage District Bills (AB 115, AB118, AB 120)

The Wisconsin REALTORS® Association (WRA) opposes AB 115, AB 118 and AB 120 (“the Drainage District Bills”) as they are currently drafted. However, we are working with the authors of the bills to address our concerns and will hopefully find some mutually agreeable solutions. Accordingly, we respectfully request that the committee refrain from voting on these bills until a compromise can be reached.

Background

The WRA strongly supports providing buyers and sellers in real estate transactions with as much information as possible. More information helps to ensure that all parties are satisfied with the transaction and reduces the likelihood of lawsuits relating to information discovered after the transaction has closed.

Based upon our conversations with the authors, one of the primary goals of the Drainage District Bills is to make sure that buyers of property located in a drainage district are aware that (a) the property is located in a drainage district, and (b) such districts have the authority to impose special assessments upon that property. To accomplish this goal, the bills require a seller of property to disclosure whether the property is located in a drainage district. The bills take two different approaches to disclosure -- one bill requires this disclosure to be added to the real estate condition report (AB 120), while another bill requires the seller to make a separate written disclosure (AB 118).

Concerns with Bills

While requiring sellers to disclose whether a property is located in a drainage district sounds relatively harmless, it presents some practical difficulties for property owners, such as:



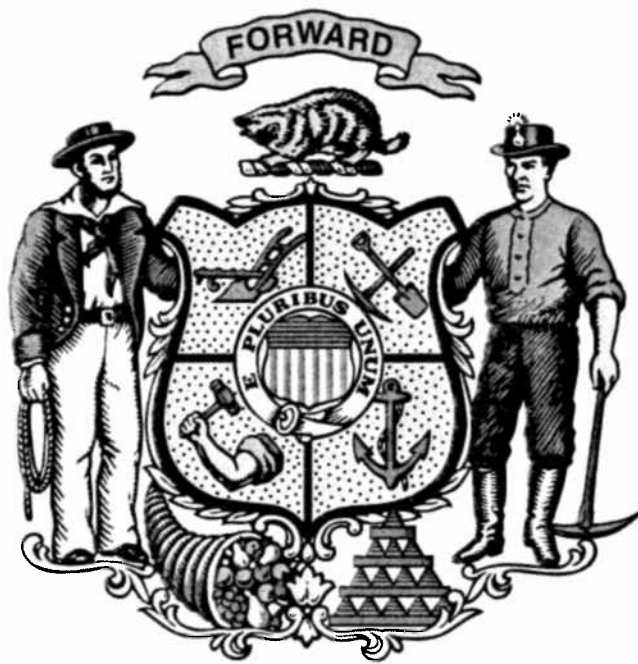
+ **Most property owners do not know whether they are located in a drainage district.** The only time property owners would know if they are located in a drainage district is if they have received notice of a special assessment. Additionally, because drainage districts are not part of local governments and do not have a full-time staff, most property owners don't know who to contact to gather this information. If a property owner is unaware that they are located in a drainage district, it is unreasonable to require them to disclose this information to prospective buyers.

+ **The real estate condition report (RECR) is not required in vacant land transactions.** Under current law, a RECR is required only in transactions involving 1 to 4 family dwellings. Because many of the transactions relating to drainage districts involve vacant land, the seller of such land is not required to use the RECR and, therefore, the buyer will not receive the disclosure.

+ **Requiring a separate written disclosure may create liability issues for sellers.** While the RECR is ineffective for vacant land transactions, a separate written disclosure buried in the Wisconsin Statutes will likely go unnoticed by sellers. Under the bills, failure to provide this notice could invalidate the transaction and may require the seller to compensate the buyer for any damages.

+ **Requiring the disclosure of a property's location within a drainage district will establish new precedent.** Wisconsin has numerous local taxing districts in Wisconsin including town utility districts, town sanitary districts, sewer utility districts, solid waste management board, and local professional baseball park district. However, sellers of property are not currently required to disclose that they are located within any of these districts. (Note – sellers are required to disclose any known pending special assessments.)

Again, we are working with the authors of the Drainage District Bills to address these and other concerns, and we are hopeful that a solution can be arrived at soon. If you have any questions, please feel free to contact us at (608) 241-2047.





Memorandum

Date: April 4, 2007
To: Members, Assembly Agriculture Committee
From: John Kisiel –Wisconsin Builders Association
RE: Proposed Legislation: AB 115, AB 118, AB 119, AB 120

The Wisconsin Builders Association® (WBA) and its nearly 9,300 members oppose AB 115, AB 118, AB 119 and AB 120 as they are currently drafted. We have met with the authors of these bills to address our concerns and they have assured us that they will continue to work with us in possibly finding some common ground. We respectfully ask that the committee forgo a vote on these bills while discussions continue.

Position

The members of the Wisconsin Builders Association are committed to fostering the dream of home ownership that is affordable for the people of Wisconsin. Our members know that a home represents the single most important purchase in a person's life. WBA supports attempts to ensure that buyers and sellers are well informed about all of conditions that may affect the transaction.

However, the members of this Association are concerned by any proposed legislation that creates additional layers of review that could potentially delay the approval process for a development or the issuance of a building permit. While our members recognize that some amount of delay is part of the overall process, these delays always translate to increased costs that often derail the dream of homeownership for those who are least able to pay any additional costs that additional delays can cause. These proposed pieces of legislation will potentially delay the regulatory approval process, add costs to the transaction, and give additional authority to a quasi- governmental body that is comprised of an unelected board. WBA is also concerned that adding either a separate standalone disclosure document related to the properties presence in the drainage district or rolling the disclosure into existing documents will dilute the significance and further complicate the existing disclosure document that is used in residential transactions.

Background

We have met with the authors and understand that their intent is to require any political subdivision to send a written notice to the drainage district prior to taking any action that would allow the development of any structure in the drainage district. The district would then be able to request a delay in the approval process. This would allow some undetermined period for the district to complete a technical analysis of the potential impacts to the drain related to the

construction. The authors have also expressed that they want to mandate the use of an additional disclosure provided by the seller that would inform the buyer that the property is in a drainage district. This would presumably be a way of informing the buyer of the potential that the property may be subject to a special assessment in the future to help maintain the drain.

Issues

The WBA is concerned about these bills for the following reasons:

- **Potential for Delay** – The proposed legislation requires any political subdivision to provide written notice to the drainage district prior to taking any action to allow the construction of a structure in the drainage district. The District could request that the subdivision delay the hearing process pending the receipt of an engineering study. There is no defined timeline for how long the drainage district has to make this request, how long the district has for securing the study, and who will be responsible for paying for the study. These all could add substantive time to the review process.
- **Additional Costs** – This legislation inserts the drainage district into the regulatory review process. It requires units of government to contact the drainage board whenever it is considering allowing “the development of any structure” within the drainage district or that may potentially impact the water flowing to the main drain. The board may request the approval process be delayed to conduct a study. There is no timeline defined for any of these actions. In any real estate transaction, time is money. Additional delays in an already lengthy regulatory process add to the cost of the transaction and impact the affordability of homes for the people of Wisconsin.
- **Additional Authority to Drainage Districts** – Drainage districts are not elected by the people who live in the district. They are an anomaly since they are purely the creation of the courts based upon a petition submitted to the court requesting creation of the district. The district is not defined by geographic boundaries and may contain all or some part of a property. Over 40% of the districts are currently inactive. There has been no justification provided as to why there is a necessity to give additional authority for reviewing permit requests, comprehensive plans, and zoning (AB 119) that will delay approvals for an undetermined period of time to an entity where nearly half of those currently in existence are currently listed as inactive.
- **Disclosure Dilution** – The proposed legislation requires the addition of language to the real estate condition report in one bill (AB 115) and a separate document under another (AB 118) that discloses the property is in a drainage district. The concern here is that since many of these districts are inactive or have not imposed special assessments, many sellers would not even know they are in a district. Requiring a seller to disclose a fact that even municipalities do not closely track puts the seller in the situation of unwittingly running the risk of liability for failing to disclose. This is patently unfair and a trap for the unwary that may result in litigation.

Our Association remains committed to working with the authors to try and address these concerns and have suggested ways in which the legislation could be changed to serve the authors’ original intent. We welcome the opportunity to provide input on this issue. If you have any questions or need additional clarification then please contact me at (608)242-5151.





State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection
Rod Nilsestuen, Secretary

Public Hearing Testimony of
David Jelinski, Director, Land and Water Resources
Agricultural Resource Management Division
Department of Agriculture, Trade and Consumer Protection

Assembly Committee on Agriculture
AB 115, 116, 117, 118, 119, 120

↗
April 5, 2007

Chairman Ott and Committee Members:

I am David Jelinski of the Department of Agriculture, Trade and Consumer Protection. The purpose of this testimony is to provide information related to the operation of county drainage boards and the maintenance of drainage districts. I believe this information is important as you consider the series of Assembly Bills before you regarding proposed changes to the related statutes.

The Department of Agriculture, Trade and Consumer Protection is required by law to assist county drainage boards with the supervision and operation of drainage districts under the provisions of Ch. 88, Stats, and ATCP 48, Wis. Adm. Code.

In order to understand the bills in front of you, it is also necessary to understand the role county drainage boards play in operating drainage districts in their county. Although in some cases, a county drainage board's jurisdiction may extend into another county because some drainage districts extend across more than one county. The county circuit court judge is responsible for appointing the members of the drainage boards, and delineating the boundaries of drainage districts. Beyond these well established court authorities, modern legislation enacted under ch. 88, Wis. Stats. has provided extensive authorities and responsibilities to county drainage boards to carry out their duties.

While only a circuit court can create or dissolve a drainage district, the county drainage board assists the court in creating new drainage districts. When a drainage district is created, the county drainage board is responsible for:

- operating and maintaining district drains and dams within district drains;
- levying assessments with landowners who benefit from the provided drainage;
- awarding damages, as appropriate, to landowners injured by the construction of district drains;
- inspecting the district drains and corridors;

Agriculture generates \$51.5 billion for Wisconsin

- making or recommending modifications to a drainage district; and
- resolving drainage disputes, subject to applicable law.

The drainage boards periodically meet with the landowners in the drainage district (at least once a year). If a drainage board determines that any work is needed in the district, the drainage board will send landowners in the district an assessment for costs. Some drainage boards wait many years to issue assessments to landowners; other drainage boards conduct annual assessments. In certain cases, small projects may be done by the landowners in the district with credits given to them for work they have performed. Assessment for costs may also be issued to individual landowners to pay for damages they have caused to district drains. This authority extends to landowners in or outside of the district boundary.

Drainage districts are special purpose units of government organized to drain land for agricultural and other purposes. While the districts are created through the court, they are formed following the filing of a petition with the court by land owners within the proposed district (Sec. 88.27, Wis. Stats.). There are approximately 200 drainage districts in 27 counties in Wisconsin. I have attached a map showing the counties with drainage districts. Some counties have only one district and others have over 30. The size of the districts varies from about 50 acres to over 55,000 acres. The number of landowners in each district can be a very few but some districts have thousands of land owners.

Land within a drainage district is drained by a system of ditches or tiles that cross individual property boundaries. Landowners pay the cost of constructing, maintaining, and repairing the district drains based on who benefits from drainage. The drainage board must conduct an assessment to determine who benefits from this drainage system. The greater the benefit, the greater amount paid. Any assessment that is needed to cover the cost of operating the drainage system must be based on these confirmed benefits.

Drainage issues can be very divisive. Drainage districts have major impacts on land use, and on rights of individual landowners. Drainage board actions (or inactions) may have serious long-term consequences. Actions by individual landowners may harm other landowners or the public at large. Developments outside a drainage district may also affect landowners in a district. For example, land use changes may increase storm runoff and flooding in district drains.

DATCP Testimony
AB 115, 116, 117, 118, 119, and 120
April 5, 2007
Page Three

Finally, it is important to note that lands in drainage districts are some of Wisconsin's most productive farmland. By the very nature of drainage districts, the effects of floods and droughts are minimized and optimal water levels are maintained to enhance this production. As you know, Wisconsin is ranked first in the nation in the production of cranberries, third in the nation in the production of potatoes, and we are currently ranked first in the production of cheese. Much, but not all, of this multi-billion dollar production occurs in drainage districts along side of other important mint, sod and more traditional crops.

Any changes to the law need to enhance this production as well as the responsibilities of the county drainage boards to ensure orderly drainage, and appropriately resolve drainage disputes.

Thank you for allowing me to testify today, and I would be happy to answer any questions you might have for me concerning our drainage program.

Department of Agriculture, Trade and Consumer Protection
April 5, 2007

AB-0115

Purpose

The seller of real property located in a drainage district must disclose that the property is in a drainage district.

Comment

For information purposes only: The Department believes that it is in everyone's best interest for the landowners in a drainage district to be well informed.

AB-0116

Purpose

The public contract minimum bid would be increased from \$10,000 to \$20,000.

Comment

Support: The cost of doing maintenance in a drainage district has increased since this bid amount was originally set in the statute. This change will help drainage boards run the drainage districts more efficiently.

AB-0117

Purpose

The installation or modification of a dam in a district or private drain would require the approval of all landowners affected.

Comment

Oppose: The department believes this bill applies to drains both in and outside of drainage districts. Currently, the drainage board already has the authority to set water levels, listen to the desires of landowners in the district, and establish a consensus on the procedures for installing, modifying, and operating dams affecting lands in the drainage district. The department believes this bill would negatively impact the ability of drainage boards to resolve conflicting land use requirements within a drainage district.

Department of Agriculture, Trade and Consumer Protection
April 5, 2007

AB-0118

Purpose

The seller of real property located in a drainage district must disclose that the property is in a drainage district and require local governments to consider relationships with drainage districts in comprehensive plans.

Comment

For informational purposes only: The department believes that it is in everyone's best interest for the landowners in a drainage district to be well informed. This right to know should extend to drainage districts and comprehensive plans prepared by other governmental agencies.

AB-0119

Purpose

The drainage boards are allowed to impose setbacks or no-build zones for maintenance along district ditches. It also provides for recording an order to impose the setback.

Comment

For informational purposes only: The department believes this bill establishes protections similar to those already codified under the provisions ATCP 48.24 (Wis. Adm. Code).

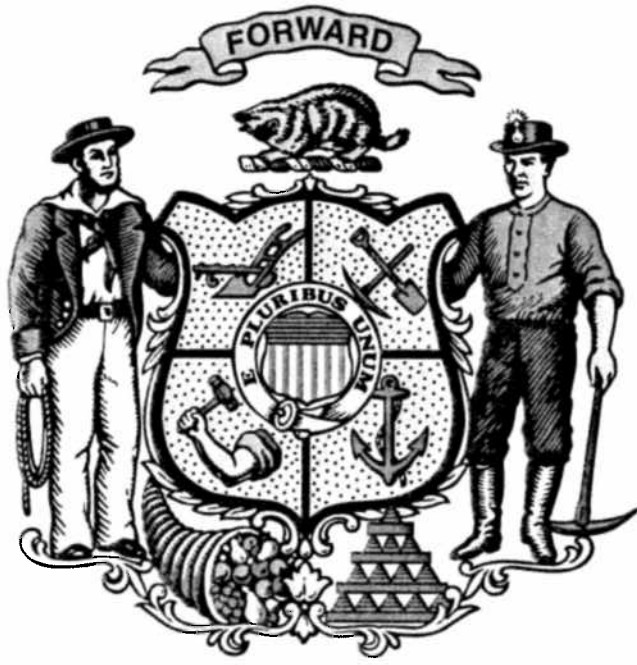
AB-0120

Purpose

The seller of real property located in a drainage district must disclose that the property is in a drainage district and require local governments to consider relationships with drainage districts in comprehensive plans.

Comments

For informational purposes only: The department believes it is in everyone's best interest for the landowners in a drainage district to be well informed. This right to know should extend to drainage districts and comprehensive plans prepared by other governmental agencies.





WISCONSIN STATE REPRESENTATIVE
Louis J. Molepske, Jr.
71ST ASSEMBLY DISTRICT

Date?

ASSEMBLY BILL 118
DRAIN BOARD DISCLOSURE/LAND USE PLANNING
PROVISIONS

- I.** Assembly Bill 118 as amended was introduced to address two specific concerns:
- A.** Requires disclosure of real estate's drain district status to potential buyers
 - B.** Requires intergovernmental cooperation between other governmental entities and drain board in land-use planning
- II.** This bill is about agriculture: drain districts were created for the purpose of draining land for agriculture and thereafter the drains were used as a means for controlling water flow
- III.** This bill is **not** meant to provide a means for drain district governing boards to impede, limit or restrict development, but rather to preserve the drain district's right to control the flow of water through a district in order to prevent flooding
- IV.** Current versions of bills are the product of consensus building between legislators, associations affected by the legislation and bill drafters
- V.** The disclosure requirements of AB 115, AB 118 and AB 120 will be combined into a revised and expanded AB 118 for efficiency's sake
- VI.** **Disclosure Provisions:** Many land owners are not learning until after the fact that the parcel of land they have purchased is situated within a drainage district
- A.** Potential land buyers should be made aware of drain district status at point of transaction so that they can make an informed decision about the purchase
 - B.** Certification of annual assessment on tax roll: drain board shall meet annually to determine an assessment amount

C. Drain district landowner notice obligations: a copy of a landowners annual tax bill (including the drain district assessment line) shall be included as part of any land transaction, even if the assessment amount is zero

D. All local planning/zoning offices shall incorporate drain district information into their records

E. Opt-out provisions: prospective land buyer/transfer recipient shall provide written notice of intent to opt-out within three business days

VII. Land Use Planning Provisions: Legislation encourages intergovernmental cooperation between local units of government and local drain districts in land-use planning

A. Drain districts and their governing boards have land planning jurisdiction. As such, other units of local government should recognize this authority and consider their planning interests.

B. All local planning/zoning offices shall consider drain district zoning practices/policies in their deliberations

C. Legislation is needed to insure that drain district planning policies are consistent with other planning laws

D. Local units of government shall provide written notice within ten business days to drain district of any development-related course of action that could conceivably cause an adverse impact on the functions of the drain district

E. Upon receipt of such notice, the drain board shall exercise one of two options:

1. Waive its right to conduct an engineering study

2. Exercise its right, by written notice, to conduct an engineering study

VIII. Bills sponsors are currently in the process of drafting additional amendments to address concerns expressed by several affected associations

IX. The provisions of AB 120 pertaining to military base planning have been eliminated





WISCONSIN STATE REPRESENTATIVE
Louis J. Molepske, Jr.
71ST ASSEMBLY DISTRICT

Date?

Written Testimony of Louis J. Molepske, Jr.
Assembly Bill 118
Drain Board Legislation

Good morning Chairperson Ott and Members of the Assembly Committee on Agriculture. I would like to begin this morning by thanking you for scheduling this important bill package for a hearing. By way of background, for the past two months the bills before you today have been extensively reviewed and revised by several of my colleagues as well as by a number of outside associations with interests pertinent to drain districts. By working together, we believe that we have developed legislation that is truly in the public's best interest. Although the mechanics of the bills before you today are somewhat technical in nature, their contents can be boiled down to two common sense provisions. First, property owners have a right to information regarding their property. Second, like any other governmental entity, drain districts have a right to be consulted when municipalities engage in land-use planning.

Drain boards are entities that play a critical role in our government at the local level, and yet most people know very little about them. In fact, a number of people currently *living* in drain districts are completely unaware of their property's unique status. As you have heard, drain districts were originally created to drain land for agricultural use as well as to control the flow of water through the district to prevent flooding. Although drain districts are no longer being created, maintenance of existing drain districts remains critical for both of the aforementioned purposes. In recent years, drain districts have been presented with several unique challenges that need to be addressed.

As self-funding units of local government, drain boards have the authority to impose assessments on property owners located within the district, a fact which is extremely important to any prospective property owner. Unfortunately, current law does not require this fact to be adequately disclosed when parcels of property located within drain districts are transferred, putting the drainage district at odds with property owners. In order to address this concern, the first provision of Assembly Bill 118 as amended would require owners of property located in active drain districts to disclose their property's drain district status to potential buyers. This straightforward requirement would be implemented by requiring sellers of property to include their annual tax bill as part of the real estate condition report. In order to make this process more feasible for both buyers and sellers, this legislation will also require drain boards to meet annually to determine an annual assessment amount to include on tax bills, even if that amount is zero. In situations in which a real estate condition report is not applicable (i.e., vacant lots), the potential buyer would be provided with a copy of the annual tax bill. In order to increase the general public's access to this information, local planning/zoning offices will be

required to maintain documents pertaining to drain district assessments in a central location. Lastly, in the event that drain district status *is not* disclosed to the purchaser at the time of transfer, the purchaser will have the right to "opt-out" of the transaction within a specified period of time.

This bill also takes a proactive approach to increasing the general public's awareness of drain districts by requiring drain boards to develop a plan to provide written notice to landowners to inform them that their property is situated in a drain district. This notice will be supplemented by an educational pamphlet (to be created by a Department of Agriculture, Trade and Consumer Protection Drain Engineer) which would include general drain district information. Drain districts will be required to update this pamphlet annually and make it available for distribution upon request. In addition, the drain board shall provide written notice to all property owners within a drain district reminding them of their drain district status annually.

The second main provision of Assembly Bill 118 as amended would add drain districts to Wisconsin's "Smart Growth" statute, meaning that local governmental entities would be required to consult drain districts when partaking in land-use planning. Drain districts are local units of government, and as such, common sense would dictate that they should have the right to partake in the land-use planning process. Should a political subdivision desire to take any course of action pertaining to development that could potentially impact a drain district, it would simply be required to give the drain board both adequate notice of the proposal as well as an opportunity to respond. Within ten days of receiving such notice, the drain board would be required to exercise one of two options: (1) either conduct an engineering study on the proposed course of action; or (2) waive its right to conduct an engineering study and permit the proposed course of action to proceed. In the event that a drain board chooses to exercise its right to conduct an engineering study, the drain board must complete the study within 90 business days and inform the municipality of its decision on assessment.

Thus, as you can see, these common sense revisions to current law will increase the public's access to information about drain districts and promote responsible land use planning. The drafters of this legislation believe that the revisions articulated will more than adequately address the various concerns of all impacted parties. Again, thank you all for your time and consideration of this important legislation. I would be happy to answer any questions that you might have. Thank you.



Revised and Expanded Disclosure Bill AB 118

Date?

Background Information

***This document has been developed as a means of outlining, illustrating, and articulating the intent of a revised and expanded disclosure bills. This proposal encompasses and addresses the priorities, interests, and concerns of the major parties involved/affected by proposed drainage legislation. This document lists the necessary components of change.

This document is structured with the intention of eliminating AB 115 and AB 120 and rolling all necessary components of change into a revised and expanded AB 118.

Drafting Instructions

Section 1: Notice to Drain District Landowners of Their Drain District Status

A. Require that *currently active Drain Boards* meet within 60 calendar days upon applicability of the law for meeting for the following purpose:

1. Develop a plan for written notice to landowners within a Drain District that is to be provided within 30 business days, such notice shall be accompanied by a DATCP-Drain Engineer educational pamphlet which includes appropriate contact information
2. Update and report contact information for Drain Board members and designated engineering firm (if approved) to local (County Clerk) and state (DATCP – drain engineer) authorities
-- *County Clerks should be encouraged to include the contact information as a part of a County's public directory*

B. Direct the DATCP Drain Engineer to develop and distribute to a Drain District a general educational pamphlet, such pamphlet is to be updated annually and available for distribution upon request

C. Upon expiration of *part A* requirements, the two provisions will sunset and be replaced by the following permanent *part A* provisions:

1. Once a year, active Drain Board's shall provide reasonable written notice to Drain District landowners reminding them of their Drain District status and will include contact information for appropriate officials and information should a landowner wish to inquire further upon request
2. Annually update and report contact information for Drain Board members and designated engineering firm (if approved) to local (i.e. city-planning office) and state (DATCP – drain engineer) authorities as a part of a Drain Board's annual report

***Preliminary notice to drain district landowners shall only apply to currently active drain districts. Why? It was the consensus of the people involved in the discussions of the bills, agreed that to require ALL drain districts to comply would require ALL drain districts to become active and therefore many districts would need to raise an assessment (a tax). At this point in the process no party involved thought that it would be a good idea.

Section 2: Certification of Annual Assessment to the Tax Roll

A. Annually a Drain Board shall meet to determine an annual assessment amount that shall be certified to the local tax roll for Drain District landowners

1. A Drain Board shall at a minimum certify a “zero” base annual assessment in accordance with current assessment procedures to be applied to the tax roll
2. A Drain board shall report the annual assessment amount in a timely manner to the applicable tax officials
3. If the annual tax assessment is greater than “zero,” then applicable certification procedures shall apply

B. A copy of a landowner’s annual tax bill shall be included as a required document as part of real estate purchase/transfer certification

***The intended purpose of inserting a Drain District line on the annual tax roll is to serve as a formal point of reference and as a means of disclosure that the taxing authority exists. Even if a Drain District’s annual assessment is “zero,” it needs to be listed on the tax roll. In proposing the annual tax line, we want to avoid disrupting the current procedures for collecting assessments - we merely want a standard line on the tax roll as other local units.

Section 3: Require Intergovernmental Cooperation and Notice

A. Affirm that Drain Districts and their governing boards have planning jurisdiction and that Drain District planning practices shall be consistent with local planning and zoning ordinances

B. ALL local planning/zoning offices (i.e. county, city, village, town) shall incorporate Drain District information (i.e. annual drain district report required by statute):

1. Shall update Drain District records
2. Shall consider Drain District zoning practices/policies in their processes deliberations (permitting consideration, planning meetings-as they do with other local units’ zoning practices/policies) - - - provide local ordinance template
3. Shall provide individual/entity seeking permit/inquiry with appropriate Drain District information (i.e. contact information so further inquiry may be made if desired)

***This part is intended to expand the notion of §88.24 (and apply to §88.19 and any other related section) to include not just the “county zoning administrator” but also their counterparts in cities, villages, and towns. Furthermore, the expansion is meant to require that zoning offices not only receive the information (i.e. annual drain board report) but also to consider it when they are deliberating.

C. Local units of government shall (i.e. city-planning office) provide written notice, within 10 business days to Drain Districts concerning development plans that may conceivably cause an adverse impact (i.e. increased water runoff and/or increased sediment deposits) on the function of the district drain:

1. Upon receipt of acceptable notice, a Drain Board shall exercise one of two options:
 - A. Waive its right to conduct an engineering study either by A1) in-action or A2) written notice
 - B. Exercise its right, by written notice, to conduct an engineering study

- C. Either option shall be exercised/expire within 10 business days
2. If a Drain Board exercises its right to an engineering study, the following must occur:
 - A. A Drain Board shall have the engineering study completed and a final determination made (i.e. assessment) within 90 business days after notice of intent to conduct study has been submitted to a municipality (i.e. city-planning office)
 - B. Once a determination (i.e. assessment) has been made by a Drain Board, it shall provide a responding written notice to the municipality (i.e. city-planning office) of its decision
3. Such decisions of Drain Boards shall be appealed in a manner consistent with other Drain Board decision appeals (i.e. filing suit in circuit court by parties with judicial standing)

Section 4: Drain District Landowner Notice Obligations

- A. A landowner selling real estate within a Drain District shall provide a copy of the annual tax bill, which includes the Drain District assessment line – even if “zero”, as an attachment to the real estate condition report; and where a real estate condition report is not applicable (i.e. vacant land transaction) the impending buyer shall be provided a copy of the annual tax bill, which includes the Drain District assessment line - even if “zero,” on or before the beginning of a real estate transaction closure
- C. A landowner selling real estate within a Drain District shall act in good-faith to inform an impending buyer or transferee of the Drain District status
- D. Drain District Landowner Notice Obligations shall be published, and updated as necessary, in the DATCP annual drain district educational pamphlet

Section 5: Impending Land Buyer or Land Transferee Rights

- A. Upon notice of a parcel’s Drain District status to an impending land buyer or land transferee, he or she reserves the right to opt-out of the transaction (i.e. including a signed “offer to purchase”) and re-coup any down payment or any other transaction-binding forms
- B. The impending land buyer or transfer recipient shall provide written notice that he/she is opting out (rescinding) of the transaction within 3 business days in order to receive a full refund (i.e. down payment refund)
- C. Impending Land Buyer or Land Transferee Rights shall be published, and updated as necessary, in the DATCP annual drain district educational pamphlet





Date?

WISCONSIN STATE REPRESENTATIVE
Louis J. Molepske, Jr.
71ST ASSEMBLY DISTRICT

ASSEMBLY BILL 118 SUBSTITUTE AMENDMENT

I. Background: In response to several concerns raised at the original public hearing held on this legislation in April, the disclosure requirements of Assembly Bill's 115, 118 and 120 were combined into this substitute amendment for efficiency's sake. In addition, for the past nine months we have been collaborating and meeting with the Wisconsin Drainage District Association, the Wisconsin Counties Association, the Wisconsin Towns Association and the Wisconsin Realtors Association to resolve issues pertaining to this package of legislation. The current version of the Substitute Amendment reflects a great deal of hard work and compromise by a number of interested parties to bring you the final bill language.

A. The mechanics of Assembly Bill 118, as amended, can be boiled down to two common sense provisions:

1. **Disclosure:** The Substitute Amendment requires the disclosure of a real estate parcel's drain district status to potential buyers in the Real Estate Condition Report required by Wisconsin Statute Section 709.03.

a. Property owners have a right to information regarding their property, particularly information relating to potential assessments.

2. **Intergovernmental Cooperation:** The Substitute Amendment requires intergovernmental cooperation in *major* land-use planning involving drain districts and water levels. Cooperation is needed to insure that drain district planning policies are consistent with other planning laws.

a. Like all other governmental entities, drain districts have a right to be consulted when municipalities engage in *major* land use planning actions affecting the amount of water that a drain district would have to accommodate due to new developments.

i. However, at the same time, we realize that requiring notice to be issued for every instance of development (i.e., installing a patio) would be cumbersome and unnecessary. Thus, AB 118 deals only with major developments.

II. Disclosure Provisions: Drain districts were created for the purpose of draining land for agriculture and thereafter the drains were used as a means of controlling water flow in these low-lying areas. Although drain districts are no longer being created, maintenance of existing drain districts remains critical for both of the aforementioned purposes.

DISTRICT:
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1557 Church Street
Stevens Point, WI 54481
Rep.Molepske@legis.wi.gov

STATE CAPITOL:
P.O. Box 8953
Madison, WI 53708
FAX: (608) 282-3671
Toll-free: (888) 534-0071 or (608) 267-9649

- A. As self-funding units of local government, drain boards have the *authority to impose assessments* on property owners located within the district, a fact which is extremely important to any prospective property buyer. Unfortunately, current law does not require this fact to be adequately disclosed when parcels of property located within drain districts are transferred, often times placing the drain district (as well as the county) at odds with current or future property owners.
- B. Potential land buyers should be made aware of drain district status at the point of transaction so that they can make an informed decision about the purchase.
- C. This goal is accomplished by including a property's drain district status in the Real Estate Condition Report form disclosures required under Wisconsin Statute Section 709.03.

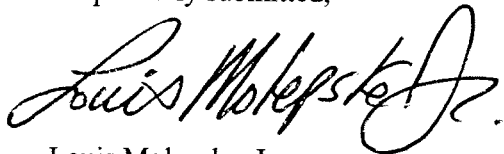
III. Educational Provisions: Due to the fact that very few citizens are aware of the existence and authority of drain districts, the responsibility to educate lies with a number of parties. The Substitute Amendment addresses this concern head-on.

- A. **Drain Boards:** Each drain board will be required to meet annually (this is current law though not uniformly done) to determine an assessment amount (if there is no need for an assessment or if the drain is inactive then the board will need to report this). The assessment will be disclosed on tax bills in drainage districts, *even if the assessed amount is zero* (this is not currently required, which is problematic due to the fact that drain districts can go years without any assessments, thus, a property owner may not know that he/she is in a district until he/she is assessed).
 - 1. This bill also takes a proactive approach to increasing the general public's awareness of drain districts by requiring drain boards to develop a plan to provide written notice to landowners to inform them that their property is situated in a drain district.
- B. **DATCP:** This notice referred to above will be supplemented by an educational pamphlet created by the Department of Agriculture, Trade and Consumer Protection's Drain Engineer. This pamphlet will include general drain district information and must be available to drainage boards and other interested parties.
- C. **Local Planning and Zoning Offices:** In addition, all local planning and zoning offices will be required to incorporate drain district information into their records. Clerks of every taxation district in which the district is located shall be provided with information about the amount of the drainage board's assessments in the last year. This assessment information must be included on the property tax bill that is currently mailed out in December.

IV. Land Use Planning Provisions: Assembly Bill 118 encourages intergovernmental cooperation between local units of government and local drain districts in land-use planning. This bill **is not** meant to provide a means for drain district governing boards to impede, limit or restrict development, but rather to preserve the drain district's right to control the flow of water through a district in order to prevent flooding and to grow crops.

- A. Drain districts and their governing boards have land planning jurisdiction. As such, other units of local government should consider their planning interests when engaging in major development actions that would affect the amount of water that a drain district would have to accommodate.
 - B. Pursuant to this legislation, local units of government will be required to provide written notice within ten business days to drain districts of any *major* development-related course of action that could conceivably affect the amount of water that a drain district would have to accommodate. This written notice must describe the proposed course of action as well as list the time and date of any public hearing at which the proposed action will be discussed.
 - 1. Upon receipt of such notice, the drain board shall exercise one of two options:
 - a. Exercise its right, by written notice, to conduct an engineering study; or
 - i. In the event that a drain board chooses to exercise its right to conduct an engineering study, the drain board must complete the study within 90 days and inform the municipality of its decision on an assessment
 - b. Waive its right to conduct an engineering study.
- V. **Conclusion:** AB Substitute 118 is the direct product of working with Wisconsin's Drain District Association, Wisconsin's Realtors Association, the Wisconsin Towns Association and the Wisconsin Counties Association in the overarching goals of simultaneously promoting intergovernmental cooperation, preserving valuable agriculture sensitive lands and promoting property rights in lands that are subject to drain district assessments.

Respectfully submitted,



Louis Molepske, Jr.
State Representative
71st Assembly District





**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2007 Assembly Bill 118

**Assembly Substitute
Amendment 1 and Assembly
Amendments 1, 2, and 3 to the
Substitute Amendment**

Memo published: January 22, 2008

Contact: Mark C. Patronsky, Senior Staff Attorney (266-9280)

The *current statutes* provide for the creation of drainage districts to provide drainage for agricultural land. The management of each drainage district within a county is provided by the drainage board for that county.

Assembly Bill 118 creates several new provisions regarding information about local land use decisions that may affect drainage districts and the information provided to purchasers of property within drainage districts.

Assembly Substitute Amendment 1 adds a number of similar provisions in addition to those in the bill. The substitute amendment includes the following provisions:

- Each local governmental unit that creates new zoning or amends current zoning must notify the drainage board if any drainage district is affected by the zoning decision. This notice applies to residential, commercial, or industrial property that either is located within the drainage district or may increase the amount of water in the main drain. The drainage board secretary must include the subject of the local government's zoning meeting in the agenda of the next drainage board meeting, which must be held within 10 days. The drainage board may request the local government's hearing on zoning to be delayed for 90 business days so that the drainage board can obtain an engineering analysis of the affect of the proposed action on the drainage district. The drainage board may submit this analysis to the local governmental unit and may object to the zoning.
- The substitute amendment amends the comprehensive planning statute to require each comprehensive plan to consider objectives, goals, and possible joint planning and decision-making with drainage districts. This requirement first applies to comprehensive plans that are created or amended after the effective date of the legislation.
- The property tax bill issued by the clerk of the taxation district must indicate the amount of assessment issued by a drainage board, using information supplied to the clerk by the

drainage board no later than December 1 in each year. If there is no assessment in any year, the property tax bill must indicate that.

- The Department of Agriculture, Trade and Consumer Protection (DATCP) is currently required to provide various kinds of assistance to drainage boards. The substitute amendment requires DATCP to prepare an educational pamphlet that describes drainage districts, costs that may be assessed, and information on contacting the state drainage engineer. Drainage boards may request copies of the pamphlet.
- The substitute amendment requires the drainage board, commencing in 2009, and every three years after that, to provide written notice to all owners of land within a drainage district informing them that the land is located in the drainage district.
- The substitute amendment requires the drainage board to provide annually to the state drainage engineer information on contacting every member of the drainage board. This information must also be provided to every clerk of the local governmental unit in which the drainage district is located.
- The substitute amendment requires the drainage board to file copies of its annual report with local units of government, and requires local units of government to consider the report before making any zoning or planning decisions that may affect a drainage district within its boundaries.
- The owner of real property located within a drainage district who sells that property must give written notice to the buyer that the land is in a drainage district and is subject to assessment. The notice must include a copy of the most recent property tax bill. The notice must be provided no later than 10 days after acceptance of the contract. A buyer may rescind the contract of sale upon receiving the notice after making the offer. If the buyer has written notice at the time the contract of sale was submitted to the owner that the property is located in a drainage district, the buyer may not rescind the contract.
- Each time the drainage board sends out an assessment, it must include a reminder of the requirement of notice to the buyer of land in the drainage district

Assembly Amendment 1 to Assembly Substitute Amendment 1

The substitute amendment requires the seller of land located in a drainage district to notify the buyer that the property is located in a drainage district. This requirement applies to all property. The amendment deletes these provisions and requires notice to buyers of land in a drainage district as part of the real estate condition report. This report applies only to residential property with four or fewer dwelling units.

Assembly Amendment 2 to Assembly Substitute Amendment 1)

The substitute amendment requires the drainage board to give the clerk of each taxation district information on assessments in drainage districts. The substitute amendment requires this information to be placed on the property tax bill. The amendment changes the deadline for submission of this information to the clerk of the taxation district from December 1 to November 1 of each year.

Assembly Amendment 3 to Assembly Substitute Amendment 1

The substitute amendment requires each local governmental unit to notify the drainage board of certain zoning decisions that may affect the drainage district. This will allow the drainage board to participate in zoning decision-making. By deleting the word “any,” the amendment suggests that minor zoning actions are not required to be reported to the drainage board. The amendment also deletes the requirement to give notice to the drainage board regarding zoning decisions that affect property that is located within the drainage district. The requirement continues to apply to property that may increase the amount of water in the district’s main drain.

Legislative History

Assembly Substitute Amendment 1 and the three amendments to it were offered by the Assembly Committee on Agriculture on January 10, 2007. The Assembly Committee on Agriculture recommended adoption of Assembly Amendments 1, 2, and 3 to Assembly Substitute Amendment 1, each by a vote of Ayes, 11; Noes, 0. The Assembly Committee on Agriculture, recommended adoption of Assembly Substitute Amendment 1 and passage of the bill, as amended, on January 10, 2007, each on a vote of Ayes, 10; Noes, 1.

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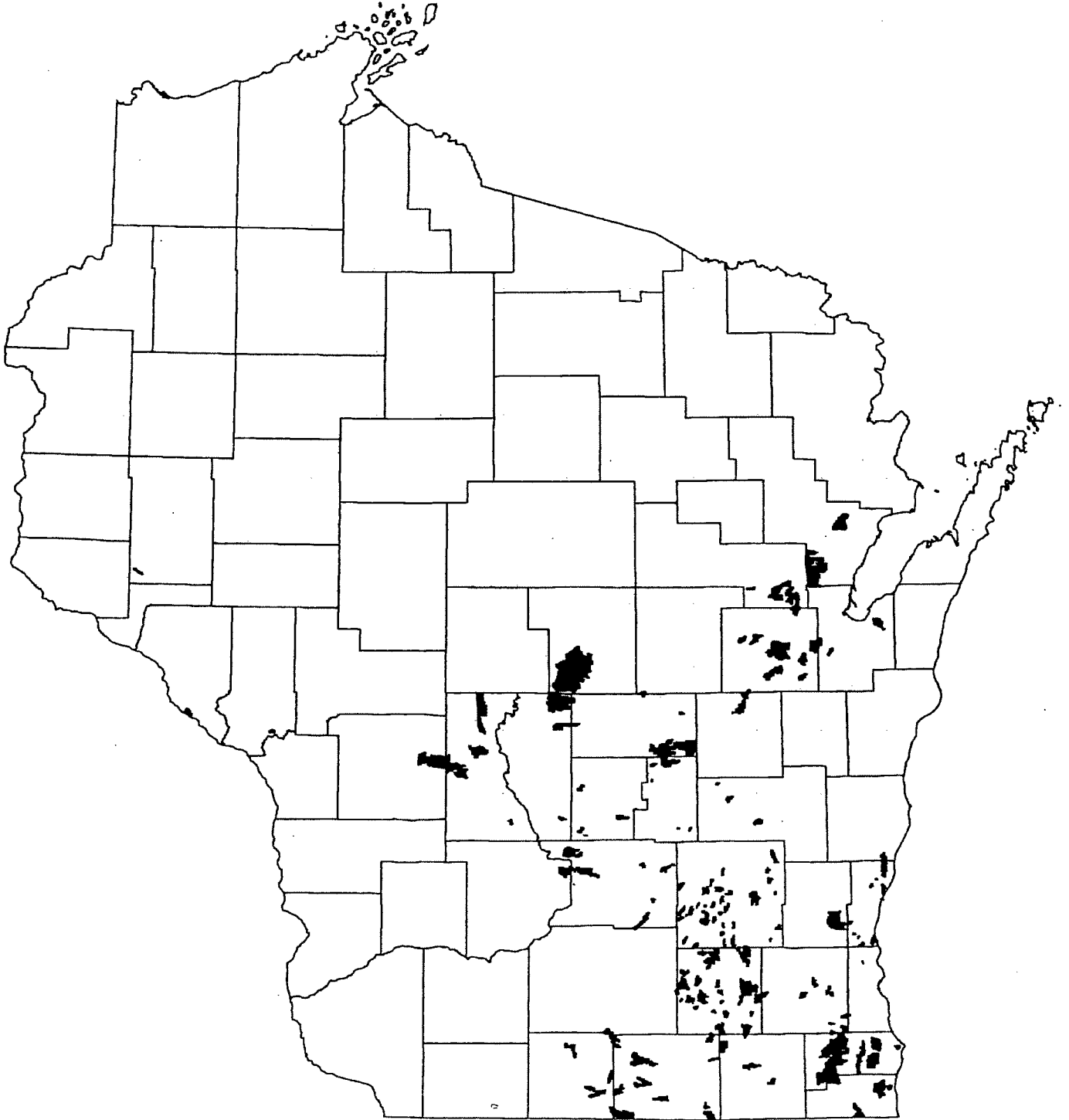
What is a Drainage District under Chapter 88?

1. Special local unit of government
2. Group of landowners come together to petition their local circuit court to authorize the creation of the special district
3. Original Purpose: to drain land for agricultural use and thereafter for the purpose of controlling the flow of the water through the district to avoid material injury to the land (i.e. flooding)
4. Funding Mechanism: the drain district's governing board assesses a fee to the landowners; individual landowners pay a share of the assessment according to their parcel's benefit of the drain
5. Funding Use: to maintain the drain (i.e. dredging), engineering studies, meeting costs, etc.

What are some of the major issues facing Drain Districts?

1. Drain Districts are not consistently recognized by other local units of government (i.e. cities) as having planning jurisdiction
2. Nearly all Drain Districts are situated in the eastern part of the state where developmental pressure is the greatest
3. Because of increasing developmental pressure, Drain Districts desire to affirm their interest in preserving drains and they want impending land buyers to be aware of real estate drain district status so an informed decision can be made
4. Drains need to be preserved in order to control the flow of water to avoid material injury to land (i.e. water back-up, flooding)
5. If the ability of Drain Districts to maintain their respective drain is limited or restricted, the land will be subject material injury (i.e. flooding), whereby threatening the use and value of the land for agricultural purposes (original intention) or for developmental use such as sub-divisions

Active and Stop Work / Suspended Drainage Districts in Wisconsin



Drainage Districts



Drainage District Program
Agricultural Resource Management Division
October 1999