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(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2011-12

(session year)

Assembly

(Assembly, Senate or Joint)

Committee on Natural Resources...

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

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

* Contents organized for archiving by: Stefanie Rose (LRB) (August 2013)

Assembly

Record of Committee Proceedings

Committee on Natural Resources

Assembly Bill 231

Relating to: civil actions and zoning conditions related to noise that are applicable to bird hunting preserves.

By Representatives Kleefisch and Mursau; cosponsored by Senator Schultz.

August 29, 2011 Referred to Committee on Natural Resources.

September 28, 2011 **PUBLIC HEARING HELD**

Present: (14) Representatives Mursau, Williams, Kleefisch, Nerison, Severson, Steineke, Tiffany, Stroebel, Mason, Molepske Jr, Danou, Clark, Milroy and Hulsey.

Absent: (2) Representatives Rivard and Litjens.

Excused: (0) None.

Appearances For

- Joel Kleefisch, Madison — Representative, 38th Assembly District
- William McFarlane, Edgerton — Wisconsin Game Preserve Association
- Ken Dragotta, Hartland
- James Chatterton, Fond du Lac
- Todd Cardinal, Oakfield — Hunters Point
- Angie Cardinal, Oakfield — Hunters Point
- Lloyd Marks, Johnson Creek — Milford Hills Hunt Club

Appearances Against

- Robert Hungerford, Oakfield
- Betty Hungerford, Oakfield
- Ronald Boda, Fond du Lac — Happy Trails
- Joseph Tevaarwenk, Fond du Lac

Appearances for Information Only

- None.

Registrations For

- Jeff Geitner, Arlington
- Bob Welch, Madison — Wisconsin Bio Industry Alliance - Wisconsin Corn growers Association

Registrations Against

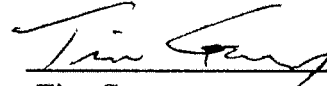
- Jolene Plautz, Madison — Wisconsin Towns Association

Registrations for Information Only

- None.

March 15, 2012

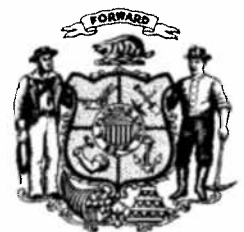
Failed to pass pursuant to Senate Joint Resolution 1.



Tim Gary
Committee Clerk



WISCONSIN STATE LEGISLATURE



Gary, Tim

From: Rep.Kleefisch
Sent: Thursday, August 04, 2011 2:59 PM
To: *Legislative All Assembly; *Legislative All Senate
Subject: Co-Sponsorship of LRB-0729/1: Urban Bow Hunting

Attachments: 11-07291.pdf; Co-Sponsor Memo_LRB 0729.doc

I am re-introducing legislation that would prevent a local governmental unit from enacting or enforcing a local law that prohibits hunting with a bow and arrow within the jurisdiction of that local governmental unit. An exception included within the bill would allow a local governmental unit to prohibit hunting with a bow and arrow within 150 yards of an occupied building. Please find the LRB Analysis below. Thank you.

Rep. Kleefisch

CO-SPONSORSHIP MEMORANDUM

DATE: August 4, 2011

TO: All Legislators

FROM: Representative Joel Kleefisch

RE: Co-sponsorship of LRB 0729/1 – Ordinances, regulations, resolutions, or other restrictions of local governmental units that restrict hunting with a bow and arrow.

DEADLINE: August 11, 2011 at 5:00pm

Analysis by the Legislative Reference Bureau

Current statutes generally prohibit a local governmental unit from enacting any ordinance or adopting any regulation, resolution, or other restriction (local law) that regulates hunting, fishing, trapping, or management of wild animals except on land that the local governmental unit owns or leases or unless state law specifically authorizes the local governmental unit to enact or adopt such a local law. Current statutes also specify that a local governmental unit may enact or adopt a local law that has an incidental effect on hunting, fishing, or trapping, but only if the primary purpose is to further public health or safety.

The bill provides, with an exception, that a local governmental unit may not enact or enforce a local law that prohibits hunting with a bow and arrow within the jurisdiction of that local governmental unit. Under the exception provided in the bill, a local governmental unit may prohibit hunting with a bow and arrow within 150 yards of an occupied building.

Should you wish to co-sponsor LRB 0729/1 or if you have any questions regarding this legislation, please contact my office at 266-8551 prior to 5:00pm on August 11, 2011.

Thank you.



11-07291.pdf (28
KB)



Co-Sponsor
emo_LRB 0729.doc



Gary, Tim

From: Rep.Kleefisch
Sent: Wednesday, August 10, 2011 12:36 PM
To: *Legislative All Assembly; *Legislative All Senate
Subject: Co-Sponsorship of LRB 2477/1: Zoning conditions relating to bird hunting preserves

Follow Up Flag: Follow up
Flag Status: Completed

Attachments: 11-24771.pdf; Co-Sponsor Memo_LRB 2477.1.doc

Please find below and attached the co-sponsorship memo and LRB analysis for legislation I am introducing that would allow bird hunting preserves licensed by the DNR to be considered as sport shooting ranges for liability, nuisance and zoning purposes. Thank you.

Rep. Kleefisch

CO-SPONSORSHIP MEMORANDUM

DATE: August 10, 2011

TO: All Legislators

FROM: Representative Joel Kleefisch

RE: Co-sponsorship of LRB 2477/1 – Civil actions and zoning conditions related to noise that are applicable to bird hunting preserves.

DEADLINE: August 17, 2011 at 5:00pm

Analysis by the Legislative Reference Bureau

Under current law, a person who owns or operates a sport shooting range is immune from civil liability relating to noise and is not subject to an action for nuisance related to noise or to zoning conditions related to noise.

Under this bill, bird hunting preserves licensed by the Department of Natural Resources are considered to be sport shooting ranges for purposes of these liability, nuisance, and zoning provisions.

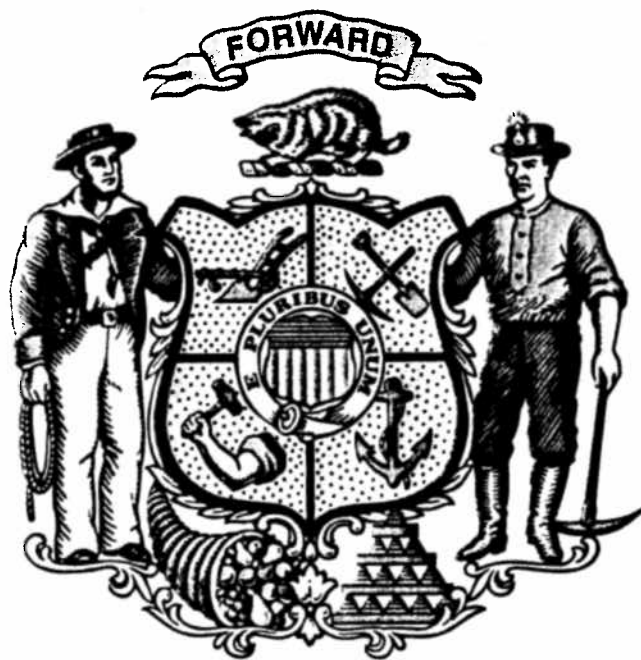
Should you wish to co-sponsor LRB 2477/1 or if you have any questions regarding this legislation, please contact my office at 266-8551 prior to 5:00pm on August 17, 2011. Thank you.



11-24771.pdf (26
KB)



Co-Sponsor
:mo_LRB 2477.1.dc



Robert Hungerford

From: "Robert Hungerford" <hungfrfd@dotnet.com>
To: "Robert Hungerford" <hungfrfd@dotnet.com>; <rep.thiesfeldt@legis.wisconsin.gov>;
 "Rep.Spanbauer" <Rep.Spanbauer@legis.wisconsin.gov>; <sen.king@legis.wisconsin.gov>;
 <rep.hulsey@legis.wisconsin.gov>; <rep.milroy@legis.wisconsin.gov>;
 <rep.clark@legis.wisconsin.gov>; <rep.danou@legis.wisconsin.gov>;
 <rep.molepske@legis.wisconsin.gov>; <rep.mason@legis.wisconsin.gov>;
 <rep.litjens@legis.wisconsin.gov>; <rep.stroebel@legis.wisconsin.gov>;
 <rep.tiffany@legis.wisconsin.gov>; <rep.steineke@legis.wisconsin.gov>;
 <rep.severson@legis.wisconsin.gov>; <rep.nerison@legis.wisconsin.gov>;
 <rep.kleefisch@legis.wisconsin.gov>; <rep.rivard@legis.wisconsin.gov>;
 <rep.mursau@legis.wisconsin.gov>; <rep.williamsm@legis.wisconsin.gov>
Sent: Sunday, September 18, 2011 3:44 PM
Attach: ATT00018.htm
Subject: Re: 2011AMENDMENT 231- 2nd copy with contacts
 Representative Mursau

The Assembly Bill 231 introduced by you and Representative Kleefisch is a disguise to put bird hunting preserves{game farms} to be considered sport shooting ranges under 169.19. This is an attempt again to take control away from Town Boards who are protecting their citizens. There are 400 plus bird hunting preserves in Wi. If you allow the change in wordage every game farm{bird hunting preserve}{ live birds only} would be allowed to install sporting clays, skeet and trap shooting ranges. It would also allow rifle, pistols and assault weapons a shooting range. Many of the preserves are in residential areas. The Town of Byron has been sued by Todd Cardinal owner of Hunters Point LLC and WI Bravo LLC in regards to sporting clays. Mr. Cardinal wants to install a sporting clays course of 10-13 stations with 5 posts at each. This would allow 2500-3500 shots being fired within 2 hours 5 days week all year long. This could be 15000-20000 shots a day. Hunters Point has been denied twice by the Byron Board of Appeals and denied by Judge Grimm in Fond du Lac Circuit Court. This case is still in the courts. We know Mr. Kleefisch, who is a hunter and sporting clays supporter, is trying to help the sport ranges but in the process is destroying other businesses and residential area values.

Thanks for your time and you may reach us at 920-960-2779 or email us at hungfrfd@dotnet.com.

Robert and Betty Hungerford
 N3783 River Road
 Oakfield Wi 53065



Gary, Tim

From: Francis Ferguson [ffergie32@yahoo.com]

Sent: Tuesday, September 20, 2011 11:33 AM

To: Rep.Barca; Rep.Mursau

Subject: Bill - AB231

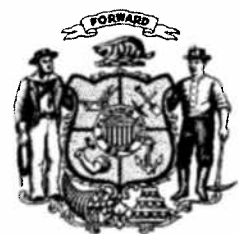
Attachments: letter to natural resources.docx

Attached is a letter that has been sent to members of the Natural resources committee and to other legislators as well express my concern regarding taking away our right to say what is good for our communities.

Francis Ferguson



WISCONSIN STATE LEGISLATURE



Gary, Tim

From: Loomans, Scott D - DNR [Scott.Loomans@wisconsin.gov]
Sent: Thursday, September 22, 2011 2:01 PM
To: Kanable, Penny J - DNR; Gary, Tim
Subject: RE: Bird Hunting Preserves.xls

Thank you Penny.

Tim, these are annual licenses that expire every May 30. Do you want us to see if we have a spreadsheet of the people who were licensed in 2010? I don't think we would have a list that goes back to 1998 - the current shooting preserve license system was not created until 2002. Prior to that, they would have been called "game farms" with very different regulations and not necessarily what we think of as a shooting preserve today. For instance, stocking was not required in the past.

895.527 Sport shooting range activities; limitations on liability and restrictions on operation. (1)
 In this section, "sport shooting range" means an area designed and operated for the use and discharge of firearms.

(2) A person who owns or operates a sport shooting range is immune from civil liability related to noise resulting from the operation of the sport shooting range.

(3) A person who owns or operates a sport shooting range is not subject to an action for nuisance or to zoning conditions related to noise and no court may enjoin or restrain the operation or use of a sport shooting range on the basis of noise.

(4) Any sport shooting range that exists on June 18, 2010, may continue to operate as a sport shooting range at that location notwithstanding any zoning ordinance enacted under s. 59.69, 60.61, 60.62, 61.35 or 62.23 (7), if the sport shooting range is a lawful use or a legal nonconforming use under any zoning ordinance enacted under s. 59.69, 60.61, 60.62, 61.35 or 62.23 (7) that is in effect on June 18, 2010. The operation of the sport shooting range continues to be a lawful use or legal nonconforming use notwithstanding any expansion of, or enhancement or improvement to, the sport shooting range.

(5) Any sport shooting range that exists on June 18, 1998, may continue to operate as a sport shooting range at that location notwithstanding all of the following:

(a) Section 167.30 (1), 941.20 (1) (d) or 948.605 or any rule promulgated under those sections regulating or prohibiting the discharge of firearms.

<http://dnr.wi.gov/org/land/wildlife/captive/9400578.pdf>

 **Scott Loomans**

Wildlife Regulations Policy Specialist

Bureau of Wildlife Management

Wisconsin Department of Natural Resources

(☎) phone: (608) 267-2452

(☎) fax: (608) 267-7857

(✉) e-mail: scott.loomans@wisconsin.gov

From: Kanable, Penny J - DNR
Sent: Thursday, September 22, 2011 11:39 AM
To: Rep.Mursau - LEGIS
Cc: Loomans, Scott D - DNR
Subject: Bird Hunting Preserves.xls

9/28/2011

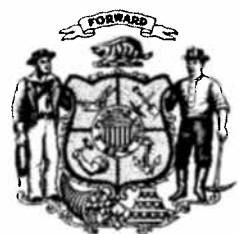
<< File: Bird Hunting Preserves.xls >>

Representative Mursau: Enclosed is the list of licensed bird hunting preserves that you requested of Scott Loomans, DNR-Wildlife Management.

Please contact me if I can provide any further information.



WISCONSIN STATE LEGISLATURE



Gary, Tim

From: Deb Simon [gopherndeb@gmail.com]
Sent: Thursday, September 22, 2011 7:09 PM
To: Rep.Mursau; Rep.Rivard; Rep.WilliamsM; Rep.Kleefisch; Rep.Nerison; Rep.Severson;
Rep.Steineke; Rep.Tiffany; Rep.Stroebel; Rep.Litjens; Rep.Mason; Rep.Molepske; Rep.Danou;
Rep.Clark; Rep.Milroy; Rep.Hulsey
Subject: [Possible SPAM] Assembly Bill 231
Importance: Low

To the Members on the Committee on Natural Resources:

My name is Bob Simon, I am the Chairman of the Town of Byron in Fond du Lac County.

I am writing in regards to AB 231, As some of you may be aware our township has recently fought a long, costly and exhausting battle about this very issue. The township has won the case and it is currently in Appeals Court scheduled for hearing October 2nd. Our lawyer feels confident that we will prevail in the appeal. If this bill passes all of our hard work to protect our public from this nuisance will be in vain.

We have many citizens who live near a hunting preserve in the township and these houses were there prior to that establishment opening. The residents of these homes, as well as a majority of townspeople are not in favor of allowing unlimited shooting of trap on this property. The current owner of the preserve was fully aware of the restriction on trap shooting prior to purchasing the property.

I do not see the benefit of this bill to the state and feel that it would in fact take away individual townships right to regulate.

Thank you for your consideration.

Respectfully,

Bob Simon
Chairman
Town of Byron



September 27, 2011, W6401 Church Road

Fond-du-Lac

Dear Sirs,

my name is Joseph Tevaarwerk and I live at W6401 Church Road in Byron, WI. My home is close to Hunters Point on County Hwy F. Hunters Point is a game farm where for a fee members from the public can hunt pheasants, chukars etc. This activity is currently limited to four months of the year.

For the last couple of years Hunters Point has been trying to get a special use permit from the Town of Byron to expand into Sporting Clays. They have applied for this twice and have twice been denied by the Byron Board of Appeals. The principal reason for the denials has been that this expanded activity would have a tremendous negative impact on the quality of life for the residents living around Hunters Point. At least 47 families living in close vicinity to Hunters Point would be affected by this activity with rapid gunshots fired during most evenings and weekends throughout the year. On both occasions most local residents signed petitions against the expansion by Hunters Point into Sporting Clays. There is very strong local opposition to this issue. The 100 signatures collected in 2009 regarding this issue are attached for your review.

My concern is with the 2011 Assembly Bill 231 which states that,

Section 1. 895.527 (1m) of the statutes is created to read;

895.527 (1m) For purposes of this section, a bird hunting preserve licensed under s.169.19 shall be considered a sport shooting range.

Under this proposed modification to Wisconsin Statue 895.527, Hunters Point would be allowed to expand, enhance or improve their property without interference from the town. Hence they could do whatever they please and completely ignore the democratic rights of local tax paying residents.

In fact, the proposed amendment would apply to any bird hunting preserve and game farm in Wisconsin. Any game farm could do as they please without regard to the local residents concern. Besides the Hunters Point issue there will likely be a lot of unintended consequences from the passage of this Assembly Bill 231.

Please do not allow Assembly Bill 231 to pass. Do the right thing for the many residents of Byron. Let the majority of local citizens decide these issues.

There is prior history with this matter when an attempt was made to include a similar amendment in the 2011 Budget Bill ABA40-ASA1 under section 2702p. Fortunately the wisdom of our elected representatives prevailed, and it was removed prior to the vote on the entire budget bill.

be well, Joseph Tevaarwerk

**NEIGHBORHOOD PETITION
OPPOSED TO INCREASED SHOOTING AT HUNTER'S POINT**

We, the undersigned, understand that Hunter's Point Hunt Club has come back to the Town of Byron Board of Appeals requesting reconsideration of the denial for sporting clay or trapshooting ranges. We object to the increased shooting resulting from sporting clay or trap shooting ranges. We don't believe that increased shooting in this area is compatible with the agricultural and residential uses surrounding Hunter's Point Hunt Club.

Name	Address	Date
Joseph Tewaarwerk	W6401 Church Road	2009.02.25
Mary Tewaarwerk	W6401 Church Rd	2009 02 25
Jane Christian	W6402 Church Rd	Feb 25, 2009
Bobbie Willis	W6367 Church Rd	2-25-09
Clair Reisel	N3702 Hickory Rd	2-25-09
Tim Shaffer	W6449 CTY F	2-25-09
Anna Shaffer	W6449 CTY F	2-25-09
Bahman Reincke	W6158 Church Rd	2-26-09
John Reincke	W6158 " " "	2-26-09
Ken Reincke	W6158 Church Rd	2-26-09
Allen Weinke	W6159 Church Rd	2-26-09
Armon Nuehl	N 3567 Hickory	2-27-09
Chris Nuehl	N3567 Hickory Rd	2-27-09
Arfredg. Smith	N3604 HICKORY RD	2-27-09
Bruce Kellie	W6367 Church Rd	2-27-09
Doug Bartlett	W6402 Church Rd	3-2-09
Gene Baier	W6626 Prairie Rd	3-2-09

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Name	Address	Date
Warren Bauer	W6426 Prairie Rd	3-2-09
Jon Kuechenberg	W5844 Church Rd	3-2-09
Dawn Kuechenberg	W5844 Church Rd.	3-2-09
Bellene Swast	N4763 Martin Rd	3-4-09
Janet DeMunn	W5822 Chorch Rd.	3-4-09
Nancy Beckley	N3738 Hwy 175	3-4-09
Mark Grestack	W6153 Church Rd	3/4/09
Mark Grestack	W6427 CHURCH RD	3/4/09
Mary Kuechenberg	N3712 Hwy 175	3/5/09
Samy / Brestack	N3738 Hwy 175	3/5/09
Lois Jovan	N4002 Hickory Rd FDI	3/5/09
Victor Janson	N4002 Hickory Rd FDI	3/5/09
Ervin W. Huft	N3924 River Rd Oakfield	3/5/09
Kathleen Krafft	N3924 River Rd. Oakfield	3/5/09
Ervin W. Huft	N3702 Hickory Rd	3/5/09
Mary Ellen Grestack	W6427 Church Rd	3-7-09

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Name	Address	Date
Robert Hungerford	N3783 River Rd, Oakfield, WI 53065	2-25-09
Jim Hungerford	N3751 River Rd Oakfield	2-25-09
Jack Hungerford	N3751 River Rd Oakfield	2-25-09
Chris Smith	N5506 Boyke Dr FDL	2/27/09 ^{Property owner}
Sue Smith	N5506 Boyke Dr. FDL	2/27/09 ^{Property owner}
Paty Hungerford	N3783 River Rd Oakfield	2/28/09
Alba Paudelm	N3859 River Road Oakfield	2/28/09
Kurt Paudelm	N3859 River Rd Oakfield	2-28-09
James A. Schmitt	N3581 RIVER RD OAKFIELD	2-28-09
James A. Schmitt	N3521 River Road Oakfield	2/28/09
James A. Schmitt	N3330 RIVER RD OAKFIELD	2/28/09
James A. Schmitt	N3550 River Rd Oakfield	2/28/09
Linda Jorgensen	N3696 River Rd Oak	2/28/09
Killey Hundtmark	N3512 W 6856 Hwy F Brownsville WI 53004	
John Marai	N 3512 River Road Oakfield	
Pet Marai	N 3512 River Road Oakfield WI.	
Georgene Antos	71 3704 River Rd Oakfield WI	

**NEIGHBORHOOD PETITION
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Name	Address	Date
Lisa Soboleske	W6927 Cty Tr Y Brownsville	3/2/09
Julie Kötterli	W6927 CTY TR Y BROWNVILLE	3/2/09
Kim Schaefer	N3092 Oaklane Rd Brownsville	3-2-09
Shelly Schaefer	N3092 Oaklane Rd. Brownsville	3/2/09
Harry Wunsch	W6976 ctY F Byron	3/3/09
Sharon Wunsch	" "	3-3-09
R. Kent	N3383 Millington Rd Oakfield	3-3-09
Jack Hangerford	N 4211 N Barbours Rd Oakfield	3-8-09
Steve Hangerford	N 3775 RIVER RD OAKFIELD 53065	

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Name	Address	Date
<i>Scott P. Skyles</i>	<i>N3291 Hickory Road, Brownsville</i>	<i>03-05-09</i>
<i>Matthew Skyles</i>	<i>N3291 Hickory Rd. Brownsville</i>	<i>03-07-09</i>
<i>Krista Skyles</i>	<i>N3291 Hickory Rd. Brownsville</i>	<i>03-05-09</i>
<i>Marion Skyles</i>	<i>W6449 Cty. RD F</i>	<i>03-09-09</i>
<i>July Skyles</i>	<i>W6449 Cty F</i>	<i>3/10/09</i>

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Name	Address	Date	
John Duell	114075 River Rd	3-1-09	
David Masterson	114075 River Rd	3-1-09	
Elizabeth Bragg	N3940 Hickory Rd	3-1-09	
Wayne W. Klein	1079 Grassy Plains, Alameda 54926	3-1-09	Property owner Town of Byron
John B. Kuntz	N 3865 River Road	3-1-09	
Devin C. Kuntz	N3865 River Rd	3-1-09	
David & Kenya	178 E Wagon St. Oakfield	3-1-09	Property owner - Town of Byron
Richard Reehl	N3770 River Rd	3-3-09	
Dandy Reehl	N3770 River Rd	3-3-09	
Kay Pfingst	6538 Bridge Ct Allenton, WI	3-4-09	PROPERTY OWNER Town of Byron
[Signature]	6538 BRIDGE CT ALLENTON, WI	3-4-09	
[Signature]	2919 WINDY CREEK LN OSHKOSH, WI 54902	3-5-2009	PROPERTY OWNER TOWN OF BYRON

**NEIGHBORHOOD PETITION
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Name	Address	Date
Curt Kindschuh	W6279 Hwy F Brownsville	03.01.09
Patsy Vaccuteren	W6224 W Byron Rd	3-1-09
Herby Meyer	W6249 Cty Rd Y 53006	3-1-9
Cheryl Meyer	W6249 Cty Rd Y 53006	3-1-09
Gaye Kindschuh	W6526 Cty Rd F 53006	3/1/09
Harry Denny	W6526 Cty Rd F 53006	3-1-09
Just Hansen	W6287 Hwy F 53006	3-1-09
Jackie Hansen	W6287 Hwy F 53006	3-1-09
Crecha Kindschuh	W6279 Hwy F Brownville	3/3/09
Teale Grayford	W6634 Cty Rd F Brownville	3/8/09
Carl Harmann	W6634 County Trk F Brownville	3/10/09
Pat Grayford	W6634 Hwy F Brownville	3/10/09

**NEIGHBORHOOD PETITION
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Name	Address	Date
BYRON DEGRAM	W6581 HWY F	2.27.09
BARBARA POSSEHL	W6478 HWY F	2-27-09
CHRISTOPHER POSSEHL	W6478 HWY F	2-27-09
GILL DEGRAM	W6581 HWY F	3/8/09

NEIGHBORHOOD PETITION OPPOSED TO INCREASED SHOOTING AT HUNTER'S POINT

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Name	Address	Date
<i>Francesca Trewon</i>	<i>N3551 Riverview ^{Oakfield} Wis.</i>	<i>3/4/09</i>
<i>Russell Jorgensen</i>	<i>N3696 River Rd Oakfield</i>	<i>3/4/09</i>
<i>[Illegible]</i>	<i>N3671 Mill Pond Rd</i>	<i>3/4/09</i>
<i>[Illegible]</i>	<i>N3671 Mill Pond Rd</i>	<i>3/4/09</i>
<i>George Trewon</i>	<i>N3551 River Rd Oakfield</i>	<i>3/4/09</i>
<i>A. McKillop</i>	<i>N3501 Riverview Oakfield</i>	<i>3/10/09</i>



Gary, Tim

From: Francis Ferguson [ffergie32@yahoo.com]
Sent: Tuesday, September 27, 2011 11:18 AM
To: Rep.Mursau; Rep.Rivard; Rep.WilliamsM; Rep.Nerison; Rep.Severson; Rep.Steineke; Rep.Tiffany;
Rep.Stroebel; Rep.Litjens; Rep.Mason; Rep.Molepske; Rep.Danou; Rep.Clark; Rep.Milroy;
Rep.Hulsey
Subject: [Possible SPAM] AB231
Importance: Low

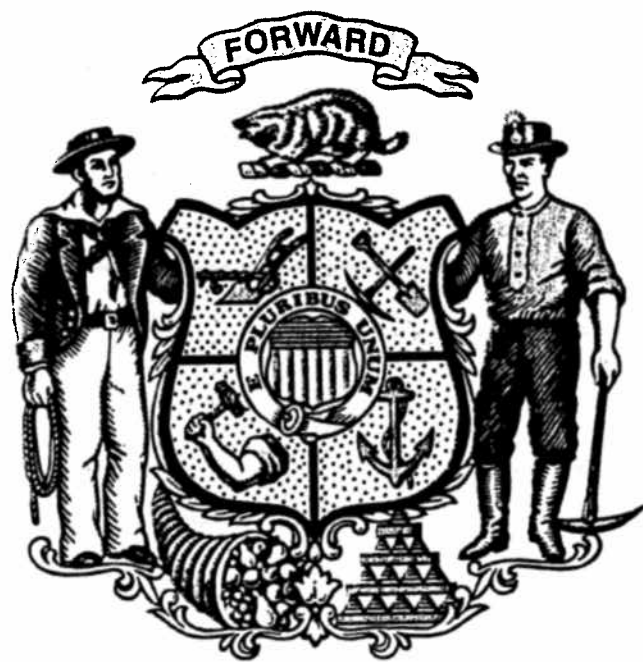
Members of the Natural Resources Committee:

I am e-mailing you to express my opposition to AB231, which would classify all Game Farms as sport shooting ranges.

Due to my limited mobility I would not be able to attend the public hearing on Wed. Sept. 28 to voice my opposition to this bill. As I indicated in a recent e-mail that was sent to all of you, this will take away the right of the local municipality to make the decisions of what is best for their community and their citizens that live adjacent to or near these approximately 400 HUNDRED licensed Game Farms all across the state. Let the Local Municipality not the State make these type of decisions.

Please allow this e-mail to be placed on record the same as my being there in person. As a retired Town of Byron Chair and Supervisor for 44 years, I have a very strong intrest in having local control over issues that directly affect our citizens, as well as all citizens that live near these Game Farms.

Francis Ferguson - N3576 hwy 175 - Fond du Lac, Wis. 54937 - E-mail
ffergie32@yahoo.com - Phone 920-922-1268



DEMPSEY LAW FIRM, LLP

A WISCONSIN LIMITED LIABILITY PARTNERSHIP

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OCT 24 11:00

October 20, 2011

Representative Jeffrey Mursau
Room 18 North
State Capitol
P.O. Box 8953
Madison, WI 53708

Re: 2011 Assembly Bill 231

Dear Representative Mursau:

Allow me to introduce myself. My name is Heath Mynsberge. I am an attorney at the Dempsey Law Firm, LLP, located in Oshkosh, Wisconsin. I write to you, as a member of the Committee on Natural Resources, to express my full support of 2011 Assembly Bill 231 ("AB-231"). Please allow me to provide some background.

The Dempsey Law Firm and I have represented Mr. Todd Cardinal and his wife in their attempt to enhance the shooting activities enjoyed on their property by adding a "sporting clay course." Mr. Cardinal and his wife are the owners of Hunter's Point Hunt Club (the "Club"), which is located in the Town of Byron (the "Town"). Since 1998, the Club and its predecessor has used its property as what is commonly referred to as a "game farm;" meaning the Club raises and purchases game birds, places them on its property, and then invites patrons to traverse the property and shoot the birds. In addition to shooting the birds, the Club also offers its patrons the ability to shoot clay targets from a thrower. This shooting is more similar to what is considered "trap shooting" in that the patrons fan out around the clay thrower and take turns shooting the artificial targets. These uses have always been a permitted use under the Town's zoning ordinances.

The Club utilizes its more than two hundred acres of land for only one purpose - shooting firearms. The Club's property consists of planned planting that includes food plots, grass, and feed piles that encourage the birds placed on the property to remain there so that the patrons may shoot the animals. The Club's property also includes paved walks to allow the patrons to traverse the property with ease. No other activities take place on the land outside of the clubhouse. The property is not farmed nor put to any other use when hunting is not occurring or possible. Instead, the property lies unused and generates no income.

Due to the nature of the Club's business, it can only operate its bird shooting activities

during certain times of the year. Specifically, hunts occur between the months of September 1st and April 15th. Hunts do not occur during the spring and summer months because it is not good for the health of the dogs needed for the hunt to run in the hot summer weather.

Mr. Cardinal bought the Club in April of 2007. Knowing that the property laid unused during the spring and summer months, Mr. Cardinal thought of new ways to bring patrons to the property and generate business revenue. One thought was to operate a "sporting clay course." A sporting clay course is like a golf course in some respects. There exists a number of stations which the patrons walk between. At each station the patrons stop and shoot at clay targets that are propelled in different directions. Each station is slightly different and requires a different shot. A patron travels, and shoots at, all of the stations in order to complete the course.

Mr. Cardinal saw the sporting clay course as a way to allow him to operate the Club profitably year round. At the time he bought the property, a sporting clay course, like trap and skeet shooting, was not included in the Town's zoning ordinances. Even though there was no prohibition against such a course, Mr. Cardinal prudently sought the approval of the Town prior to constructing the range and expanding the clay shooting that was already occurring upon the property. This is because Mr. Cardinal wanted to work with the Town and his neighbors to operate a sporting clay course in a way that caused minimal interference and annoyance.

In response to Mr. Cardinal approaching the Town and neighbors to construct this sporting clay range, the Town enacted a new ordinance. On April 10, 2008, the Town published an ordinance that required anyone seeking to construct skeet/trap shooting operations and sporting clay ranges first obtain a special use permit. This was the first ordinance which addressed these matters in the Town and was addressed specifically at Mr. Cardinal and the Club.

Mr. Cardinal again sought to work with the Town and his neighbors to construct the sporting clay range. Mr. Cardinal's first request for a permit was denied as he did not have support from the neighbors. Thereafter, Mr. Cardinal sought to obtain the support of the neighbors and thought he, in fact, had it. Therefore, he brought a second request for a permit. This permit was also denied as a number of neighbors still objected. Mr. Cardinal realized that the Town and the neighbors would not allow the construction of his sporting clay range. However, the Club's financial well-being required construction of the range so that he could attract patrons year round. Mr. Cardinal did not know where to turn.

Then, in June of 2010, the Legislature amended Wisconsin Statute § 895.527(4) in 2009

Wisconsin Act 371. Specifically, the Legislature added the following language to the statute:

The operation of the sport shooting range continues to be a lawful use or legal nonconforming use notwithstanding any expansion of, or enhancement or improvement to, the sport shooting range.

With this amendment, Mr. Cardinal believed that he was given rights he did not previously have. It was based upon this language that Mr. Cardinal believed he could expand his pre-existing operations and allow him to continue to operate his business.

The Legislature has always assigned a very broad definition of a "sport shooting range" under Wis. Stat. § 895.527(1), which defines the term as "an area designed and operated for the use and discharge of firearms." Mr Cardinal, and I, thought the Club fell squarely within that definition. Specifically, since 1998, the property, which consists of over 200 acres of very valuable land in Fond du Lac county, had not been farmed or used for any other use. Instead, the land was designed and operated solely for the use and discharge of shotguns at either live birds or clay targets. Further, the Club's operation had always been a lawful use and, therefore, was distinguishable from the operation in the Town of Avon v. Oliver case, 2002 WI App 97, 253 Wis. 2d 647, 644 N.W.2d 260. As the property was utilized only for shooting and was a permitted use under the ordinances, it seemed no further steps were necessary to satisfy the requirements of "sport shooting range" in order to receive the protections the Legislature had provided.

Thus, Mr. Cardinal retained Attorney John M. Kelly and myself, to assist him in working with the Town. We advised the Town of our opinion regarding the statute and asked to engage in interactive dialogue so that the sporting clay range could be allowed to operate in a way that was acceptable to everyone - so the neighbors were happy and our client could continue to meet the financial obligations of his business. The Town refused to allow Mr. Cardinal any rights to expand his operation. Accordingly, we commenced a declaratory action in Fond du Lac County Circuit Court to have a determination of whether the Club was a "sport shooting range" and, therefore, entitled to the statutory protections.

Judge Peter L. Grimm was assigned the case, and after argument by the parties, he determined that the Club's property was not a "sport shooting range" as defined in the statute. Specifically, he found that there needs to be berms or other indicia of a prototypical "range" that he found lacking here. Thus, he found no design or operation that he considered sufficient to be considered a "sport shooting range." This decision was made even though the only evidence in the

record was that Mr. Cardinal intentionally planted the fields the way he had to encourage shooting on his property. That decision is currently being appealed by myself on behalf of the Club and the Cardinals. Case No. 11-AP-1793.

Judge Grimm's decision has substantial implications that this Committee has an opportunity to rectify. Ignoring, for the moment, that Mr. Cardinal cannot expand his operations and, therefore, faces a very real question whether the Club will continue to be a going concern, Wis. Stat. § 895.527 provides numerous rights that Judge Grimm's decision operates to deny to all operations such as the Club's. Specifically, Mr. Cardinal has arguably lost immunity from civil liability related to noise resulting from the operation of the Club. Wis. Stat. § 895.527(2). He has arguably lost immunity from an action for nuisance and to zoning conditions related to noise. Wis. Stat. § 895.527(3). Further, a court may arguably enjoin or restrain the operation of the Club on the basis of noise. Wis. Stat. § 895.527(3). The Club also arguably lost the ability to continue to operate its activities in contravention of any ordinance or resolution under Wis. Stat. § 66.0409(3)(b)¹ and any zoning ordinance that is related to noise, contrary to Wis. Stat. § 895.527(5). Even the Club's patrons may be affected as they arguably no longer enjoy a presumption that they are not engaging in disorderly conduct because of the noise caused by shooting they are doing the Club's property. Wis. Stat. § 895.527(7). All of the protections which allow a business that relies on shooting, such as the Club, to continue to operate notwithstanding its neighbors and its municipality, have arguably been stripped from the Club by virtue of Judge Grimm's decision.

Should the Town want to, it could attempt to effectively shut down the Club. Should the neighbors want to, they could attempt to enjoin the Club's activities on a nuisance claim. The Legislature cannot have meant to except operations such as the Club's from the protections of Wis. Stat. 895.527. I am aware of the existence of approximately eighty seven to one hundred and six businesses that consider themselves "game farms."² Should other circuit courts rule as the Fond du Lac County Circuit has, each and every one of these businesses will operate at the mercy of its neighbors and the municipality in which it sits. Without the protections of Wis. Stat. § 895.527, each and every one of these businesses could potentially be shut down by legal action or changes to local ordinances. It cannot have been the intent of the Legislature to except the protections of Wis. Stat. § 895.527 from this specific type of operation. It seems illogical to protect rifle ranges and

¹Which deals with local regulation of firearms.

²Sources: Anything & Everything Wisconsin.com: <http://www.anythingwisconsin.com/gamefarms.htm>;
Wisconsin Outdoor.com: <http://www.wisconsinoutdoor.com/gamefarm.htm>.

the like, but exclude businesses such as the Club's. Clearly, by the broad definition of "sport shooting range," regardless of the weapon used or the type of target, the Legislature intended to protect all operations that relied upon, and were designed for, shooting.

In addition to the statutory protections that the Fond du Lac County circuit court stripped from the Club, it also denied to the Club the right to expand, enhance and improve the property. This protection, added in 2010, is important to operations such as the Club's. With a limited hunting season, the Club's property lies unused and generates no income for four-and-one-half months per year. Understandably, Mr. Cardinal looked for ways to generate income throughout the year. The simple conclusion was to expand the facilities offered by the Club and offer other activities that will attract patrons. In this case, the proposed expansion was a sporting clay range. With the Court's decision, Mr. Cardinal cannot expand without a permit from the Town; a permit the Town will never issue. Due to the high cost of the property and the continued expense of its maintenance, the Cardinals and the Club face financial ruin as the property lies unusable four-and-one-half months. The ability to expand the shooting activities on the property provides a way for the Club to continue to operate. Without it, the business seems certain to fail in the very near term.

The Legislature's addition to Wis. Stat. § 895.527(4) in 2010 appears to have been designed to allow businesses that rely upon shooting activities to expand when they felt it was necessary, even where the municipality in which they sit would not otherwise allow it. This right was also stripped from the Club by the Court's decision. The Legislature's purpose of allowing for expansion, enhancement or improvement to "sport shooting ranges" seems self-evident; you are not granting the owners the ability to shoot where there was not shooting previously, you are only allowing the shooting to continue and, possibly, expand where it already had been. Again, that is all that operations such as the Club request and desire.

In the case of the Club, and others similarly situated, the ability to expand operations is especially important. Few businesses, if any, can afford to lose their primary source of income for four-and-one-half months and continue to be a going concern in today's economy. These businesses need to find other ways to generate profits during the months when birds cannot be shot. A natural corollary for these businesses is the operation of trap, skeet or sporting clay courses on the property. These machine driven shooting activities can be operated year round and provide the business owner an alternative additional source of income. Yet, by its decision, the Court has denied that right to the Club, and placed it in financial peril. Though the Court of Appeals may reverse the Circuit Court's decision, the delay may be the death knell for the Club.

The Club and similar properties already are, and for some time have been, shooting on their property. Explicitly adding “game farms” to the “sport shooting range” definition is not going to lead to shooting where there previously had been none. Instead, it simply is going to make crystal clear that the rights extend to these game farm businesses; rights that these businesses need to survive.

In an influential article, David Cotter, professor at the Thomas M. Cooley Law School, wrote about the driving force behind “sport shooting range” protection statutes. David Cotter, Outdoor Sport Shooting Ranges: An Endangered Species Deserving of Protection, 16 Cooley L. Rev. 163 (1999). Specifically, he wrote that these laws were created as a response to urban sprawl. The laws were enacted in response to the “new neighbors [who] have come [to the rural areas] with stereotypical visions of quiet, serene country living that rarely include the sounds of shooting.” These laws were designed to prevent these new owners from bringing suit against “the shooting range owners and operators in hopes of stopping some or all of the shooting activity.”

These properties also needed protections from the municipalities in which they were located. These “sport shooting ranges” were forced to deal with municipalities that “reacting to changing community makeup [from rural to suburban], have passed noise-control laws that affect outdoor shooting ranges.” *Id.* These regulations are often “passed in hopes of closing shooting ranges or to substantially reduce shooting activities.” *Id.* The Legislature, and at least thirty-six others throughout the country, have sought to limit the effect that urban sprawl has upon “sport shooting ranges.” Through Wis. Stat. § 895.527, our Legislature has provided protection to many of these businesses. However, as the decision of Judge Grimm shows, not all properties that are designed and operated for shooting have been provided the statutory protections contained therein.

There is no logical reason for the disparate treatment between two businesses where one is shooting fixed targets and the other is shooting moving, live, targets. Both businesses rely on shooting to generate a profit and both need the protection of Wis. Stat. § 895.527 to continue in operation. The Circuit Court has unfairly shrunk the ambit of Wis. Stat. § 895.527 to exclude operations such as the Club’s. These businesses face possible extinction without the Legislature’s protection. The threat that “urban sprawl” created, and which necessitated the statutory protections of Wis. Stat. § 895.527, must now be borne by businesses such as the Club. This threat requires action by this body.

The most direct, and certain, way to protect these game farm businesses is for the Legislature to place them on an equal footing with other shooting operations as the Legislature had

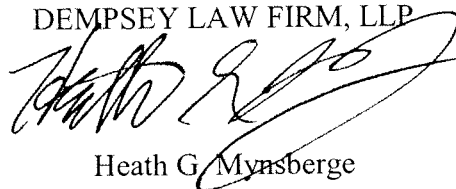
intended. The Legislature can clarify that it did, in fact, intend to cast a wide net when it defined "sport shooting range" as it has by explicitly adding "game farms" to the list of properties deserving of protection. Consequentially, approving of AB-231 will not provide new rights to business owners. It will not put guns and shooting in neighborhoods that did not previously have them. All it will do is protect land owners and businessmen who have been responsibly, safely, and lawfully operating their pre-existing shooting business on their land for a number of years by expressly providing protections against those who come to the noise and overly-restrictive municipalities.

This bill is not about one business alone. It is about protecting the numerous businesses throughout Wisconsin that require your protection to continue their responsible and lawful operations. This bill will allow for equal application of Wis. Stat. § 895.527 across the state and equal protection for various sorts of shooting businesses. It will serve to make clear what may otherwise be considered ambiguous and, therefore, open to differing interpretations: game farm operations are entitled to the ver same protection from urban sprawl that other shooting operations enjoy.

I would like to thank you for your consideration of this matter and your time in reading this letter. I hope that you agree with my position and continue support businesses throughout Wisconsin that need your help.

Sincerely,

DEMPSEY LAW FIRM, LLP

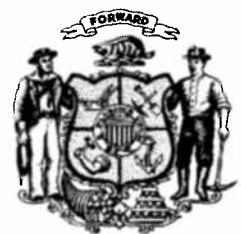


Heath G. Mynsberge

cc: Client
Committee on Natural Resources Members



WISCONSIN STATE LEGISLATURE





State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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January 12, 2012

MEMORANDUM

To: Stephanie Kundert, Office of Rep. Joel Kleefisch

From: Mary Gibson-Glass, Senior Legislative Attorney

Subject: 2011 AB-231

This is in response to your request for an analysis of 2011 Assembly Bill 231 (AB-231) as it relates to local zoning authority.

Under s. 895.527, as treated in AB-231, a bird hunting preserve licensed by DNR is to be treated in the same manner as a sport shooting range. This results in a bird hunting preserve being exempt from local "zoning conditions" related to noise. It also allows a city, village, town, or county to regulate the hours that an outdoor sport shooting range may operate. See s. 895.527 (3) and (6) under current law and the creation of s. 895.527 (1m) in the bill.

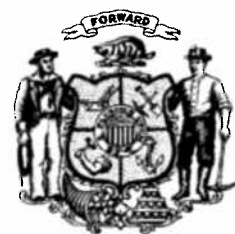
Under s. 66.0409 of the statutes, which deals with local regulation of firearms, s. 66.0409 (2) states: **Except as provided in subs. (3) and (4)**, no political subdivision may enact an ordinance or adopt a resolution that regulates the sale, purchase, purchase delay, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permitting, registration or taxation of any firearm or part of a firearm, including ammunition and reloader components, unless the ordinance or resolution is the same as or similar to, and no more stringent than, a state statute.

Subsection (3) (b) authorizes a city, village, or town, but not a county, to enact ordinances that restrict the discharge of firearms. Subsection (4) (c) authorizes a city, village, town, or county to enact a zoning ordinance that regulates the new construction of a sport shooting range or the expansion of an existing sport shooting range that would impact public health and safety. Subsection (4) (c) does not apply to bird hunting preserves because s. 66.0409 has not been amended to include bird hunting preserves. If you want the provision in s. 66.0409 (4) (c) to apply, an amendment to AB-231 would be required.

Besides the suggested amendment discussed above, in my opinion, AB-231 does not otherwise affect local zoning authority that is granted under existing statutes as it relates to sport shooting ranges.



WISCONSIN STATE LEGISLATURE



To: Members of the Natural resources committee.

It has been brought to our attention that a proposed bill, **AB231** is before your committee to allow a bird hunting preserve (game farms), to be considered "sport shooting ranges" which would take away local control of these activities. We understand this is supposed to prevent anyone from initiating civil action or zoning relating to noise or nuisance.

I can't believe that the Department of Natural Resources when issuing a Game Farm (Bird Hunting Preserve) license, would intend **for all Game Farm license holders to be considered a sport shooting range.** This would mean that about 400 game farms across the state would be able to conduct **Trap Shooting, Skeet shooting, Sporting Clays and other target shooting** without the local municipality having any control, regardless of their proximity next to residential or other businesses. **There are hundreds of Sportsman Clubs and Gun Clubs all across the State where they have the facilities where Trap shooting, Skeet shooting and Sporting Clays can take place along with other types of target shooting.** Our Township has at this date; I believe 3 or 4 licensed game farms one of which is a "Class A Game Farm" call Hunters Point. The local neighbors are not greatly bothered by the gun-shots from bird hunting, which could total as many as 100 – 200 shots being fired in one day during their bird hunting period between September and April. However if they were allowed to have trap, skeet, sporting clay and other target shooting this number would increase dramatically as stated by Hunters Point owners to be perhaps, a minimum of 2500 shots per day. Most likely this activity would occur on weekends and evenings and during summer months, when neighboring families would likely be outside to enjoy the peace and quiet of a summer evening and weekends outdoors on their properties. As of right now Hunters Point is quiet from April 15 to September, during this time they do not have bird hunting. How would this affect the property values of the neighbors, and the health and wellbeing of the families living in the area? It will most likely also cost the area businesses future growth.

Our municipality, the Town of Byron in Fond du Lac County, required a "Special Use Permit" for Trap, Skeet and Sporting Clays so the neighboring homes and businesses and the municipality would have some means to protect the neighboring properties. Our town was petitioned twice to grant a special use permit, and it was

turned down both times after public hearings were held with large turnout at both hearings, in favor of denial. We were then sued in court over these decisions. In their suit they contended that because they had hunters that shoot some clay targets, that this made this a sports shooting range and therefore they were a sport shooting facility. On June 3, 2011 Judge Grimm ruled in favor of the Town at 4:30 pm, stating **“that a game farm is not a sport shooting range”** Just because some hunter were allowed to shoot at some clay targets to warm up before proceeding to a hunt. Later that evening at approximately 10:30 p.m. on the same date, Rep. Kleefisch, slipped in item #23 of Motion 518 to be added to the Budget Repair Bill in an effort to help Hunters Point get what the courts would not allow them. Later this was removed when many people contacted Assembly members and Senate members to express their concerns, and now once again Rep. Kleefisch is trying to get this bill enacted without concern for our community or the many others that will be affected by this bill.

We as citizens of the Town of Byron believe it is being presented for the main benefit of one game farm owner, who wants to have sporting clays. Don't take away the right of the Local Municipalities to determine what is best for their community and deny the neighbors from peaceful enjoyment of their properties.

I was Town of Byron Chairperson for 30 years and before that I was a Town supervisor for 14 years, I decided this past April to step aside and let a younger person take over. But I have very deep feelings for my community and the citizens who call this their home, which is why I am very concerned how passage of this AB231 will affect our and other communities.

I would request that these comments be made part of the public hearing when held.

PLEASE DO NOT LET THIS BILL BE PASSED AND BECOME LAW.

A Very concerned citizen;

Francis Ferguson

N3576 Hwy 175 so.

Fond du Lac, WI 54937 - Phone 920-922-1268 - E-mail - ffergie32@yahoo.com



To whom it may concern:

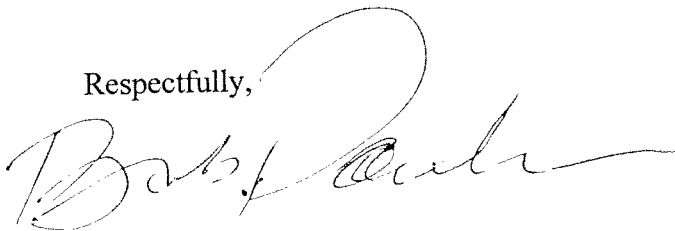
As business owners and sportsmen, it is a priority for our family to ensure a pro-business growth climate throughout the state while maintaining our heritage of hunting and fishing.

When sportsmen's clubs seek to expand, it not only creates jobs but nurtures the climate of outlets for children. Any time spent in a pheasant field is better than time spent in front of a video game.

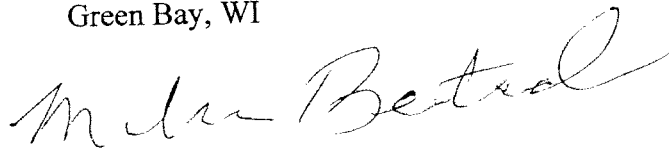
I urge this committee to support Assembly Bill 231 as it is another step towards showing that Wisconsin is open for business for the sporting community.

Thank you for the opportunity to express our thoughts.

Respectfully,



Robert Pulaski
Pulaski Financial Services
Green Bay, WI



Mike Bertrand
Bertrand's Point Comfort
Oconomowoc, WI