



## 2003 ASSEMBLY BILL 949

March 11, 2004 - Introduced by Representative WARD, cosponsored by Senator RISSER. Referred to Committee on Rules.

1     **AN ACT** *to amend* 59.69 (5) (d) and 79.095 (1) (bm); *to create* 13.94 (1) (r), 59.69  
2           (5) (dm) and 66.1002 of the statutes; and *to affect* 1999 Wisconsin Act 9, section  
3           9158 (8w) (e); **relating to:** creating the Dane County Council of Governments  
4           and authorizing Dane County to enact a comprehensive zoning ordinance.

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### *Analysis by the Legislative Reference Bureau*

Under current law, the Dane County Regional Planning Commission (DCRPC) will be dissolved on October 1, 2004. Its net outstanding debt will be assigned to Dane County, and, if it has no outstanding debt, any unexpended funds will be returned to the cities, villages, towns, and county that supplied them.

This bill creates the Dane County Council of Governments (council), which is a local unit of government that is separate and distinct from the state and from any other local unit of government. The jurisdiction of the council is Dane County, and all of the cities, villages, and towns that are located within the county.

The council consists of the following members, who must all be elected officials, who have the following weighted votes:

1. The mayor of the city of Madison, 35 votes.
2. The president of the common council of the city of Madison, five votes.
3. The president of the Dane County Towns Association, 20 votes.
4. The president of the Dane County Cities and Villages Association, 20 votes.
5. The vice president of the Dane County Cities and Villages Association, five votes.
6. The Dane County executive, 20 votes.

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7. The chairperson of the Dane County board, 5 votes.

The members of the council may not be represented by an alternate or designee. The council may not contract for professional services with any political subdivision in the state, but may hire its own employees. All decisions by the council to hire or terminate the executive director, or to retain a professional staff member at the end of a one year probationary period, require 70 affirmative votes. The council must create a merit system that applies to all employees other than the executive director.

The bill gives the council the authority to do a number of things, including the following:

1. To levy a property tax on the taxable property in the jurisdiction of the council, at a rate that may not exceed 0.002 percent.

2. If designated by the governor and approved by the federal Environmental Protection Agency, to act as the areawide water quality management agency (AWQMA) for Dane County. If the council is the designated AWQMA, it must adopt written criteria to expand or create sewer service areas before it may exercise such authority, and the exercise of this authority requires at least 70 affirmative votes.

3. To serve as a voluntary repository for adopted comprehensive plans and other land use plans.

4. To provide professional land use planning services under a contract with a political subdivision.

5. To develop and recommend for adoption a transfer of development rights program to limit scattered site low density development in rural areas.

6. To facilitate a forum for cooperation and information sharing among Dane County municipal engineers and planners, and public works officials, to better coordinate infrastructure development and growth within the county.

The bill requires the legislative audit bureau to conduct a financial audit of the council in August 2006.

Under the bill, upon the dissolution of the DCRPC, its net liabilities will become the responsibility of the council, and any remaining unexpended funds become the property of the council. The council sunsets on August 31, 2007, unless that date is extended by law, for all purposes, subject to one exception. Under the bill, if the council has any outstanding indebtedness on August 31, 2007, it may continue in existence only to impose a final tax levy in December 2007, to ensure that all of its outstanding liabilities are paid, and may receive the tax payments that result from that final levy. The Dane County treasurer is required to act as the council's agent to receive those tax payments and to pay the council's outstanding debts from the proceeds of that levy. The council dissolves for its remaining purpose, contained in the exception to its August 31, 2007, dissolution, no later than August 31, 2008, unless that date is extended by law. Any unexpended funds must be refunded to the taxpayers that supplied them.

Under current law, a county board may enact a comprehensive revision of its zoning ordinance. If a town board within the county that enacts such an ordinance fails to approve such a comprehensive ordinance within a year, neither the existing ordinance nor the comprehensive revision is in force in the town.

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This bill creates a new method of enacting a comprehensive revision of a zoning ordinance for Dane County. Under the bill, a Dane County comprehensive revision zoning ordinance may be prepared by a committee that consists of the following persons:

1. Five town supervisors or plan commission members selected by the Dane County Towns Association.
2. One resident of a town in Dane County who is selected by the Dane County executive.
3. The Dane County director of planning and development.
4. One person selected by the Dane County Cities and Villages Association.
5. One person selected by the mayor of the city of Madison.
6. One member of the Dane County Zoning and Natural Resources Committee who lives outside of Madison, selected by the Dane County Board chairperson.

Once a majority of the town boards in Dane County approve the ordinance, it applies in every town in the county unless, before it takes effect, a town board enacts an ordinance stating that the town remains subject to the existing ordinance and that the new comprehensive ordinance does not apply in the town.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 1           **SECTION 1.** 13.94 (1) (r) of the statutes is created to read:
- 2           13.94 (1) (r) Conduct a financial audit of the Dane County council of
- 3 governments in August 2006. The legislative audit bureau shall file a copy of the
- 4 audit report under this paragraph with the distributees specified under par. (b).
- 5           **SECTION 2.** 59.69 (5) (d) of the statutes is amended to read:
- 6           59.69 (5) (d) The board may by a single ordinance repeal an existing county
- 7 zoning ordinance and reenact a comprehensive revision thereto in accordance with
- 8 this section. "Comprehensive revision", in this paragraph, means a complete
- 9 rewriting of an existing zoning ordinance which changes numerous zoning
- 10 provisions and alters or adds zoning districts. The comprehensive revision may
- 11 provide that the existing ordinance shall remain in effect in a town for a period of up
- 12 to one year or until the comprehensive revision is approved by the town board,

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1 whichever period is shorter. If Except as provided in par. (dm), if the town board fails  
2 to approve the comprehensive revision within a year neither the existing ordinance  
3 nor the comprehensive revision shall be in force in that town. Any repeal and  
4 reenactment prior to November 12, 1965, which would be valid under this  
5 paragraph is hereby validated.

6 **SECTION 3.** 59.69 (5) (dm) of the statutes is created to read:

7 59.69 (5) (dm) 1. Notwithstanding par. (d), the Dane County board may by a  
8 single ordinance repeal an existing county zoning ordinance and reenact a  
9 comprehensive revision thereto in accordance with this section and subject to this  
10 paragraph. “Comprehensive revision”, in this paragraph, means a complete  
11 rewriting of an existing zoning ordinance which changes numerous zoning  
12 provisions and alters or adds zoning districts.

13 2. An ordinance under this paragraph shall be prepared by a committee that  
14 consists of the following members:

15 a. Five town supervisors or plan commission members selected by the Dane  
16 County Towns Association.

17 b. One resident of a town in Dane County who is selected by the Dane County  
18 executive.

19 c. The Dane County director of planning and development.

20 d. One person selected by the Dane County Cities and Villages Association.

21 e. One person selected by the mayor of the city of Madison.

22 f. One member of the Dane County Zoning and Natural Resources Committee  
23 who lives outside of the city of Madison, selected by the chairperson of the Dane  
24 County board.

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1           3. When the committee gives its final approval to the proposed ordinance that  
2 it prepares under subd. 2., it shall forward the proposed ordinance to the Dane  
3 County board. If the proposed ordinance is adopted by the board and approved by  
4 the county executive, it shall take effect in Dane County upon its approval by a  
5 majority of the town boards in Dane County and shall apply in every town in the  
6 county, except as provided in subd. 4.

7           4. Any town in Dane County may continue to be governed by the county zoning  
8 ordinance that is in effect on the date on which the committee gives its final approval  
9 to the proposed ordinance under subd. 3. if its town board enacts an ordinance, before  
10 the new comprehensive revision described in this paragraph takes effect, stating  
11 that the town remains subject to the existing ordinance and that the new  
12 comprehensive revision described in this paragraph does not apply in the town.

13           **SECTION 4.** 66.1002 of the statutes is created to read:

14           **66.1002 Dane County council of governments.** (1) CREATION AND  
15 ORGANIZATION. (a) In this section:

16           1. "Council" means the Dane County council of governments that is created  
17 under this section.

18           2. "Political subdivision" means Dane County and any city, village, or town,  
19 that is located in Dane County.

20           (b) There is created a special district that is a local governmental unit, that is  
21 a body corporate and politic, that is separate and distinct from, and independent of,  
22 the state, and any other political subdivision, that has the powers under sub. (2), and  
23 the name of which is the Dane County council of governments.

24           (c) The jurisdiction of the council is Dane County.

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1 (d) The council shall consist of the following members, who shall have the  
2 following weighted votes:

- 3 1. The mayor of the city of Madison, 35 votes.
- 4 2. The president of common council of the city of Madison, 5 votes.
- 5 3. The president of the Dane County Towns Association, 20 votes.
- 6 4. The president of the Dane County Cities and Villages Association, 20 votes.
- 7 5. The vice president of the Dane County Cities and Villages Association, 5  
8 votes.

9 6. The Dane County executive, 20 votes.

10 7. The chairperson of the Dane County board, 5 votes.

11 (e) 1. No member of the council may be represented by an alternate or designee.

12 2. Six members of the council constitute a quorum.

13 3. All members of the council shall be elected officials.

14 **(2) POWERS AND RESPONSIBILITIES.** The council has the powers necessary to carry  
15 out the purposes and provisions of this section. In addition to all other powers  
16 granted by this section, a council may do all of the following:

17 (a) Adopt bylaws to govern the council's proceedings and activities, subject to  
18 this section.

19 (b) Sue and be sued in its own name, plead and be impleaded.

20 (c) Maintain an office.

21 (d) 1. Employ personnel, and fix and regulate their compensation; and provide,  
22 either directly or subject to an agreement under s. 66.0301 as a participant in a  
23 benefit plan of another governmental entity, any employee benefits, including an  
24 employee pension plan.

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1           2. The council may not contract for professional services with a political  
2 subdivision or with any other city, village, town, or county in this state.

3           3. The employees shall be supervised by an executive director, who shall be  
4 selected by, and serve at the pleasure of, the council. The executive director may hire  
5 additional employees as authorized by the council. The council shall create a merit  
6 system that applies to all employees other than the executive director. All decisions  
7 by the council to hire or terminate the executive director require at least 70  
8 affirmative votes. The council shall hire a person, or elect one of its members, to serve  
9 as treasurer.

10          4. The council shall offer employment to all professional staff members of the  
11 Dane County Regional Planning Commission, except the executive director, who are  
12 employed by the commission on the effective date of this subdivision ... [revisor  
13 inserts date], in a professional position. This offer of employment is contingent upon  
14 the employee agreeing to waive any severance benefits if he or she is retained beyond  
15 the probationary period described under subd. 5. The council may hire the executive  
16 director of the Dane County Regional Planning Commission.

17          5. All professional staff shall serve a one-year probationary period, and a  
18 professional staff member may be retained at the end of the probationary period only  
19 if a resolution that is before the council on his or her continued employment receives  
20 at least 70 affirmative votes. If a professional staff member is not retained at the end  
21 of the probationary period he or she shall receive any contractual severance benefits  
22 to which he or she is entitled.

23           (e) Develop and modify a schedule of fees for the services that it provides.

24           (f) Levy a tax upon the taxable property in the jurisdiction of the council as  
25 equalized by the department of revenue for state purposes for the purpose of carrying

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1 out and performing duties under this section at a rate that may not exceed, in any  
2 one year, 0.002 percent of equalized value under its jurisdiction, as determined under  
3 s. 70.57. The tax levy shall be spread upon the respective real estate and personal  
4 property tax rolls of the city, village, and town areas included in the council taxes,  
5 and shall not be included within any limitation on county or municipality taxes. The  
6 moneys when collected shall be paid to the treasurer of the council.

7 (g) Contingent upon designation by the governor and approval by the federal  
8 environmental protection agency, act as the areawide water quality planning agency  
9 for Dane County under NR 121.06, Wis. Adm. Code, and carry out all responsibilities  
10 of such an agency. All decisions that the council makes with respect to sewer service  
11 areas require at least 70 affirmative votes.

12 (h) Serve as the demographic statistics center for the United States census.

13 (i) Serve as a repository for adopted comprehensive plans, as defined in s.  
14 66.1001 (1) (a), and other plans that impact land use decision making, that any  
15 political subdivision wishes to deliver to the council. This paragraph does not confer  
16 on the council any authority to approve, reject, alter, or amend any plan that is  
17 deposited with the council.

18 (j) Provide professional land use planning services for which a political  
19 subdivision contracts with the council under an intergovernmental cooperation  
20 agreement under s. 66.0301.

21 (k) To the extent possible, act consistently with the the comprehensive  
22 planning goals under s. 1.13 (2).

23 (L) Develop and recommend for review and adoption by political subdivisions  
24 a transfer of development rights program whose purpose is to limit scattered site low



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1 density development in rural areas by linking expansion of sewer service areas to the  
2 preservation of farmland or open space.

3 (m) Facilitate a forum for professional cooperation, interaction, and  
4 information sharing among the municipal planners, municipal engineers, and public  
5 works officials in Dane County to encourage better coordination of infrastructure  
6 development and growth among political subdivisions.

7 **(3) LIMITATIONS ON COUNCIL AUTHORITY.** If the council is designated as the  
8 areawide water quality planning agency under sub. (2) (g), the council may not  
9 exercise the authority to expand or create sewer service areas until the council  
10 adopts written criteria for exercising this authority. Not later than December 31,  
11 2004, the council shall hold a public hearing and adopt written criteria to govern the  
12 exercise of the authority described in this subsection. At, and before, the public  
13 hearing, the council shall solicit comments from individuals and organizations that  
14 have a demonstrated interest in area water quality and urban service areas. The  
15 council may adopt or amend written criteria only by a resolution that receives at least  
16 70 affirmative votes.

17 **(4) SUNSET, DISSOLUTION.** (a) This section does not apply on or after August 31,  
18 2007, unless that date is extended by law, and the council shall dissolve on that date  
19 for all purposes except as provided in par. (b) 2.

20 (b) 1. Upon dissolution, all unexpended funds of the council shall be applied to  
21 any outstanding indebtedness of the council.

22 2. If any outstanding indebtedness of the council remains after the application  
23 of the unexpended funds to such debts, the council may impose a final levy in  
24 December 2007, to ensure that all of its outstanding liabilities are paid, and may  
25 receive the tax payments that result from that levy. The Dane County treasurer shall

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1 serve as the agent to receive the tax payments that result from that final levy and  
2 to pay, from those proceeds, on behalf of the council, any remaining liabilities of the  
3 council. The council shall dissolve no later than August 31, 2008, unless that date  
4 is extended by law, for all purposes for which the council could continue under this  
5 subdivision.

6 3. If, upon its dissolution under par. (a) or subd. 2., the council has no  
7 outstanding indebtedness and has unexpended funds, such funds shall be refunded  
8 to the taxpayers who supplied them.

9 **SECTION 5.** 79.095 (1) (bm) of the statutes is amended to read:

10 79.095 (1) (bm) "Special purpose district" means a metropolitan sewerage  
11 district organized under subch. II of ch. 200, a town sanitary district organized under  
12 subch. IX of ch. 60, a metropolitan sewerage district created under s. 200.05, the  
13 Dane County council of governments under s. 66.1002, or a public inland lake  
14 protection and rehabilitation district organized under subch. IV of ch. 33.

15 **SECTION 6.** 1999 Wisconsin Act 9, section 9158 (8w) (e), as last affected by 2001  
16 Wisconsin Act 109, section 1157s, is amended to read:

17 [1999 Wisconsin Act 9] Section 9158 (8w) (e) Notwithstanding the procedures  
18 for dissolution of a regional planning commission that are specified under section  
19 66.945 (15) of the statutes, the Dane County regional planning commission shall be  
20 dissolved on October 1, 2004. All unexpended funds of the commission on that date  
21 shall be applied to any outstanding indebtedness of the commission. If any  
22 outstanding indebtedness of the commission remains after the application of the  
23 unexpended funds to such debts, the remaining indebtedness shall be assessed to  
24 Dane County become the responsibility of the Dane County council of governments.  
25 If the commission has no outstanding indebtedness and has unexpended funds, such

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1 funds shall be returned to the cities, villages, towns or county that supplied them  
2 become the property of the Dane County council of governments.

3 (END)