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To: Senate Committee on Government Operations, Legal Review, and Consumer Protection
From: Toni Herkert, Government Affairs Director, League of Wisconsin Municipalities
Date: February 8, 2022
RE: Senate Bill 900, relating to Great Lakes and Commercial Rivers Historic Fill

Chairman Stroebel, Vice Chair Felzkowski and Committee Members,

My name is Toni Herkert and I am the League of Wisconsin Municipalities Government Affairs Director. The League represents nearly 600 municipalities, both large and small throughout the state including those communities on the coasts of Lake Michigan and Lake Superior.

You have heard comments from my colleagues on this bill, but I wanted to bring a municipal perspective for you all to think about as you listen to the remainder of the testimony today. Great Lakes coastal communities need this legislation to make it possible to redevelop dilapidated or underutilized waterfront property that hasn't been submerged for half a century. There are areas in our Great Lakes coastal communities where lands have been treated as private land and utilized for private industrial, commercial or residential development for decades. People are or have lived and conducted business on these parcels. They are or have paid property taxes on these parcels. Yet, redevelopment of these parcels may not be possible if they are considered lakebed property subject to the public trust doctrine. Issues often arise with historically filled lands when there is a change in use or a request for redevelopment.

This bill establishes a process for clarifying title to these formerly submerged lands and providing Great Lakes communities with opportunities to improve contaminated and blighted parcels along the shoreline. Under this bill, communities can turn an eye sore into a vibrant public-private partnership that combines private development with public amenities and creates a better and higher use of the property for residents and visitors alike. Creative municipal leaders envision a bustling waterfront welcoming the public with parks, concert venues, walking trails and increased lake access.

To accomplish the goal of revitalizing our Great Lakes' waterfronts requires private development that will help fund the public amenities and the remediation work associated with preparing sites. To secure financing for these projects, title companies and investors need certainty that a project can proceed. Even though it is apparent that historic fill prior to 1977 is not being removed and that the land will stay intact, unfortunately, the certainty necessary cannot be realized today. Creating a process to allow a property to be utilized to produce the best results for the overall community is in the public interest.

Wisconsin's leaders at the municipal level, mayors, city managers or administrators, and village presidents along with their councils and boards work tirelessly to balance competing needs in their communities every day. SB 900 creates a process for municipalities to determine the shoreline at

the current OHWM for single parcels or a group of parcels if it is in the public interest. This determination is voluntary by the landowner and subject to review by the DNR.

SB 900 only addresses parcels that have been filled since 1977 on or near Lake Michigan and Lake Superior and the 12 commercial/industrial rivers that are tributaries of the Great Lakes.

It is important to note that SB 900 does NOT address new fills, any inland lakes, rivers and streams other than the 12 enumerated in the bill, legislative lake bed grants or lake bed leases.

I would like to thank the authors for their work on this bill, the partners the League has worked with over the years to bring us to this point today, and the Department of Natural Resources for being involved in the original scoping of the approach that this bill takes. The legislation is very different than what was contemplated in the past and we believe the constructive conversations led to a better product. We realize there may be additional recommendations that will be discussed today and the League looks forward to working cooperatively to move this bill through the legislative process.

We ask the committee to advance SB 900. Thank you for your consideration. If you have any questions, please contact me at therkert@lwm-info.org.