



2003 ASSEMBLY BILL 85

February 20, 2003 - Introduced by Representatives HUEBSCH, JOHNSRUD, LADWIG, FREESE, ALBERS, MUSSER, SERATTI, KRAWCZYK, HINES, JESKEWITZ and TOWNSEND, cosponsored by Senators A. LASEE and SCHULTZ. Referred to Committee on Rural Affairs.

1 **AN ACT to amend** 59.692 (7) (ad) (intro.), 66.0231 and 66.1001 (3) (a); and **to**
2 **create** 66.0216 of the statutes; **relating to:** the incorporation of the town of
3 Campbell in LaCrosse County as a village.

Analysis by the Legislative Reference Bureau

Under current law, towns may incorporate as cities or villages by a number of methods if certain procedures are followed. Under one of the methods, the procedures include the following:

1. The circulation of an incorporation petition in the territory to be incorporated, and the filing of the petition with the circuit court.
2. A circuit court hearing on the petition at which the court determines whether a number of statutory standards are met, including resident population and population density.
3. If the court finds that the standards are met, a review of the petition by the Department of Administration (DOA) for a determination on whether a number of statutory standards are met, including the characteristics of the territory, the level of governmental services that are desired or needed by the residents compared to the level of services offered by the proposed city or village, the impact upon the remainder of the town from which the territory is to be incorporated, and the impact of the proposed incorporation on the metropolitan community.

If DOA dismisses the petition, the circuit court must issue an order dismissing the petition. If DOA grants the petition, the circuit court must order an incorporation referendum. If a majority of the votes in the referendum are cast in favor of a village or city, the secretary of state must issue and record a certificate of incorporation.

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Under another one of the methods, the incorporation as cities of certain towns that are adjacent to first class cities (presently only Milwaukee) may occur under an expedited process which does not require DOA review. With this method, the following procedures are required:

1. The circulation of an incorporation petition in the territory to be incorporated, and the filing of the petition with the town clerk. The petition must be signed by at least 100 persons who are electors and taxpayers in the town, and may be circulated only in towns that have the following characteristics: a resident population that exceeds 5,000; the town's equalized assessed value exceeds \$20,000,000; and the town is adjacent to a first class city.

2. At the next regular meeting of the town board following the filing of the petition, the board must adopt a resolution calling for a referendum by the electors on the question of the incorporation of the town as a city.

If a majority of the votes are cast in favor of a city, the clerk must certify the fact to the secretary of state, who shall then issue and record a certificate of incorporation.

This bill creates a new method for certain towns, which are located on a land area that is surrounded by navigable water, to incorporate as a village under an expedited process which does not require DOA review. Currently, the bill applies only to the town of Campbell in LaCrosse County. Under this bill, the following procedures are required:

1. The circulation of an incorporation petition in the territory to be incorporated, and the filing of the petition with the town clerk. The petition must be signed by at least 100 persons who are electors and taxpayers in the town, and may be circulated only in towns that have the following characteristics: a resident population that exceeds 4,000; the town's equalized assessed value exceeds \$125,000,000; the town is wholly contained within a land area not exceeding 15 square miles; and the land area is surrounded by navigable waterways. This procedure may be used only with respect to an area that constitutes an entire town.

2. At the next regular meeting of the town board following the filing of the petition, the board must adopt a resolution calling for a referendum by the electors on the question of the incorporation of the town as a village.

If a majority of the votes are cast in favor of a village, the clerk must certify the fact to the secretary of state, who shall then issue and record a certificate of incorporation.

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

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

- 1 **SECTION 1.** 59.692 (7) (ad) (intro.) of the statutes is amended to read:
- 2 59.692 (7) (ad) (intro.) Provisions of a county shoreland zoning ordinance that
- 3 are enacted under this section that were applicable, prior to incorporation, to any

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1 shoreland area that is part of a town that incorporates as a city or village under s.
2 66.0203, 66.0211, 66.0213 ~~or~~, 66.0215, or 66.0216 after April 30, 1994, shall continue
3 in effect and shall be enforced after incorporation by the incorporated city or village
4 unless any of the following occurs:

5 **SECTION 2.** 66.0216 of the statutes is created to read:

6 **66.0216 Incorporation of certain towns surrounded by navigable**
7 **waterways. (1) PETITION.** If the resident population of a town exceeds 4,000, as
8 shown by the most recent federal census or by a census under sub. (2), the town is
9 wholly contained within a land area not exceeding 15 square miles, the land area is
10 surrounded by navigable waterways, the equalized valuation of the town exceeds
11 \$125,000,000, and a petition signed by at least 100 persons, each of whom is an
12 elector and taxpayer of the town, requesting submission of the question to the
13 electors of the town, is filed with the town clerk, the procedure for becoming a village
14 under this section is initiated. The procedure under this section may be used only
15 with respect to an area that constitutes an entire town. If at the time of the filing
16 of the incorporation petition any portion of the town is subject to a prior annexation
17 proceeding by an incorporated municipality, that portion of the town shall be
18 detached from the town if the annexation is determined to be valid either as a result
19 of the failure of the town, or a resident of the town, to have filed a valid legal objection
20 or by final judgment. If the annexation is determined by final judgment to be invalid,
21 the territory that is subject to the annexation shall become part of the village formed
22 under this section.

23 **(2) REFERENDUM.** At the next regular meeting of the town board following the
24 filing of the petition under sub. (1), the town board by resolution shall provide for a
25 referendum by the electors of the town. The resolution shall conform to the

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1 requirements of s. 5.15 (1) and (2) and shall determine the numbers and boundaries
2 of each ward of the proposed village and the time of voting, which may not be earlier
3 than 6 weeks after the adoption of the resolution. The resolution may direct that a
4 census be taken of the resident population of the territory on a day not more than 10
5 weeks before the date of the election, exhibiting the name of every head of a family
6 and the name of every person who is a resident in good faith of the territory on that
7 day, and the lot or quarter section of land on which that person resides, which shall
8 be verified by the affixed affidavit of the person taking the census.

9 **(3) NOTICE OF REFERENDUM.** The town clerk shall publish the resolution adopted
10 under sub. (2) in a newspaper published in the town. If no newspaper is published
11 in the town, the town clerk shall publish the resolution in a newspaper designated
12 in the resolution. The town clerk shall publish the resolution once a week for 4
13 successive weeks, the first publication to be not more than 4 weeks before the
14 referendum.

15 **(4) VOTING PROCEDURE.** The referendum shall be conducted in the same manner
16 as elections for town board supervisors. The question appearing on the ballot shall
17 be "Shall the town of become a village?" Below the question shall appear 2
18 squares. To the left of one square shall appear the words "For a village" and to the
19 left of the other square shall appear the words "Against a village." The inspectors
20 shall make a return to the town clerk.

21 **(5) CERTIFICATE OF INCORPORATION.** If a majority of the votes are cast in favor
22 of a village, the town clerk shall certify that fact to the secretary of state, together
23 with the result of the census under sub. (2), if any, 4 copies of a description of the legal
24 boundaries of the town, and 4 copies of a plat of the town. The secretary of state shall
25 issue a certificate of incorporation and record the certificate in a book kept for that

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1 purpose. The secretary of state shall provide 2 copies of the description and plat to
2 the department of transportation and one copy to the department of revenue.

3 **(6) VILLAGE POWERS.** A village incorporated under this section is a body
4 corporate and politic, with the powers and privileges of a municipal corporation at
5 common law and conferred by ch. 61.

6 **(7) EXISTING ORDINANCES.** (a) Ordinances in force in the territory or any part
7 of the territory, to the extent not inconsistent with ch. 61, continue in force until
8 altered or repealed.

9 (b) A county shoreland zoning ordinance enacted under s. 59.692 that is in force
10 in any part of the territory continues in force until altered under s. 59.692 (7) (ad).

11 **(8) INTERIM OFFICERS, FIRST VILLAGE ELECTION.** Section 66.0215 (8) and (9), as it
12 applies to a town that is incorporated as a city under s. 66.0215, applies to a town that
13 is incorporated as a village under this section.

14 **SECTION 3.** 66.0231 of the statutes is amended to read:

15 **66.0231 Notice of certain litigation affecting municipal status or**
16 **boundaries.** If a proceeding under ss. 61.187, 61.189, 61.74, 62.075, 66.0201 to
17 66.0213, 66.0215, 66.0216, 66.0217, 66.0221, 66.0223, 66.0227 or 66.0307 or other
18 sections relating to an incorporation, annexation, consolidation, dissolution or
19 detachment of territory of a city or village is contested by instigation of legal
20 proceedings, the clerk of the city or village involved in the proceedings shall file with
21 the secretary of state 4 copies of a notice of the commencement of the action. The
22 clerk shall file with the secretary of state 4 copies of any judgments rendered or
23 appeals taken in such cases. The notices or copies of judgments that are required
24 under this section may also be filed by an officer or attorney of any party of interest.
25 The secretary of state shall forward to the department of transportation 2 copies and

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1 to the department of revenue and the department of administration one copy each
2 of any notice of action or judgment filed with the secretary of state under this section.

3 **SECTION 4.** 66.1001 (3) (a) of the statutes is amended to read:

4 66.1001 (3) (a) Municipal incorporation procedures under s. 66.0201, 66.0203
5 ~~or~~, 66.0215, or 66.0216.

6 (END)