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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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**2017 Assembly Bill 109**

**Assembly  
Amendments 2, 3, 4, and 8**

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### **2017 ASSEMBLY BILL 109**

Under current law, a Dane County town may withdraw from the Dane County zoning ordinance and comprehensive plan, if certain requirements are met, and may also adopt a town zoning ordinance under certain conditions. Withdrawal may occur only during a one-year period every three years. 2017 Assembly Bill 109 (“the bill”):

- Modifies the timeline for the necessary steps in the withdrawal process;
- Removes the current requirement that the town send copies of an official town map to the county clerk prior to withdrawal;
- Removes the current requirement that the town zoning ordinance and the town ordinance withdrawing from county zoning are subject to approval by the town meeting or a referendum of the town’s electors; and
- Modifies the effective date of the withdrawal.

### **ASSEMBLY AMENDMENT 2**

**Under current law**, if a town is located in a county that has enacted a county zoning ordinance, the following criteria apply to a town board’s zoning authority: (a) the town board may not enact town zoning unless it is granted village powers; and (b) the town zoning ordinance is subject to approval by the town meeting or a referendum vote of the town electors. These requirements currently apply regardless of the county’s population. [s. 60.10 (2) (h), Stats.] Under **Assembly Amendment 2**, these requirements apply only if the county has a population of fewer than 485,000. The specific requirements for enactment of town zoning in a Dane County town, which withdraws from Dane County zoning, are identified in other sections of the statutes. [ss. 60.23 (34) and 60.62 (2), Stats.]

### **ASSEMBLY AMENDMENT 3**

Among other requirements that apply to a town's withdrawal from Dane County zoning, the town must enact an ordinance withdrawing the town from Dane County zoning, and must also enact a town zoning ordinance. The bill and Assembly Amendment 3 modify current law with respect to whether and how these ordinances must be approved, if enacted by the town board.

#### **Approval of an Ordinance Withdrawing a Town from Dane County Zoning**

**Under current law**, an ordinance withdrawing a town from Dane County zoning is subject to approval either at the annual town meeting or in a referendum called by the town board for that purpose at the next spring or general election, to be held not sooner than 70 days after the referendum is called by the town board. [s. 60.23 (34) (b) 3., Stats.]

**The bill** repeals this requirement. Under the bill, a town board's ordinance withdrawing a town from Dane County's zoning is not subject to approval.

**Assembly Amendment 3** requires that an ordinance withdrawing a town from Dane County zoning must be approved either at a special town meeting or in a referendum called by the town board for that purpose. The following criteria apply:

- If the vote is by special town meeting, the meeting must be called by the town board not later than 30 days after the date on which the town board must send certified copies of documents to a county clerk, as required for withdrawal under s. 60.23 (34) (b) 2., Stats. A Class 2 notice of the special town meeting must also be published not later than 30 days before the meeting.
- If the vote is by referendum, the referendum must be held at the time of any regular or special election.

#### **Approval of a Town Zoning Ordinance**

**Under current law**, if a town is located in a county that has enacted a county zoning ordinance, any town zoning ordinance is subject to approval by an annual or special town meeting, or by a referendum vote of the electors of the town held at the time of any regular or special election. This requirement applies regardless of the county's population. [s. 60.62 (2), Stats.]

**Under the bill**, a town zoning ordinance is not subject to such approval, if the town is located in a county with a population of 485,000 or greater.

**Under Assembly Amendment 3**, town zoning ordinance approval requirements are as follows. If the county's population is less than 485,000, current law continues to apply, and the town zoning ordinance must be approved by an annual or special town meeting, or by referendum. If the county's population is 485,000 or greater, the town zoning ordinance must be approved either at a special town meeting or in a referendum called by the town board for that purpose, subject to the same criteria that are described in the bullet-pointed list above.

#### **ASSEMBLY AMENDMENT 4**

Assembly Amendment 4 specifies how levy limits are affected when a town withdraws from county zoning. **Current law** creates several exceptions to local levy limits. In particular, when a political subdivision transfers responsibility for providing a service to another political subdivision, the levy that would have been incurred to provide that service, as determined by the Department of Revenue, also transfers to the new political subdivision. [s. 66.0602 (2) and (3), Stats.]

Neither current law nor the bill specifically state whether a town's withdrawal from county zoning triggers this exception. **Assembly Amendment 4** provides that if a town withdraws from county zoning, the withdrawal must be considered a transfer of zoning services from the county to the town, thus triggering a transfer of the corresponding levy from the county to the town.

#### **ASSEMBLY AMENDMENT 8**

Under the bill, the effective date of the act would be the day after publication. Assembly Amendment 8 changes the act's effective date to June 1, 2017, or on the day after publication, whichever is later.

#### **BILL HISTORY**

On March 20, 2017, Representative Ripp offered Assembly Amendments 2, 3, and 4. On March 28, 2017, the Assembly Committee on Local Government recommended adoption of Assembly Amendments 2 and 4, each on a vote of Ayes, 6; Noes, 3. The committee recommended adoption of Assembly Amendment 3 on a vote of Ayes, 9; Noes, 0. The committee then recommended passage of the bill, as amended, on a vote of Ayes, 6; Noes, 3. Representative Subeck offered Assembly Amendment 8 on the Assembly Floor on April 4, 2017.

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