

No. 825, A.]

[Published November 16, 1957.]

**CHAPTER 676**

AN ACT to repeal 61.185 and 62.07; and to create 66.021, 66.022 and 66.03 (11) of the statutes, relating to the annexation and detachment of municipal territory.

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

SECTION 1. 61.185 of the statutes is repealed.

SECTION 2. 62.07 of the statutes is repealed.

SECTION 3. 66.021 and 66.022 of the statutes are created to read:

**66.021 ANNEXATION OF TERRITORY. (1) DEFINITIONS.** In this section, unless the context clearly requires otherwise:

(a) "Owner" means the holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his interest.

(b) "Assessed value" means the value for general tax purposes as shown on the tax roll for the year next preceding the filing of any petition for annexation.

(c) "Real property" means land and the improvements thereon.

(d) "Petition" includes the original petition and any counterpart thereof.

(2) **METHODS OF ANNEXATION.** Territory contiguous to any city or village may be annexed thereto in the following ways:

(a) *Direct annexation.* A petition for direct annexation may be filed with the city or village clerk signed by:

1. A majority of the electors residing in such territory and either a. the owners of one-half of the land in area within such territory, or b. the owners of one-half of the real property in assessed value within such territory; or

2. If no electors reside in such territory, by a. the owners of one-half of the land in area within such territory, or b. the owners of one-half of the real property in assessed value within such territory.

(b) *Annexation by referendum.* A petition for a referendum on the question of annexation may be filed with the city or village clerk signed by 20 per cent of the electors residing in the territory and 50 per cent of the owners of the real property either in area or in assessed value.

(3) NOTICE. (a) The annexation shall be initiated by the publication of a notice of intention to circulate an annexation petition in a newspaper of general circulation in the territory proposed for annexation. The notice shall contain:

1. A statement of intention to circulate an annexation petition.

2. A description of the territory proposed to be annexed, sufficiently accurate to determine its location.

3. The name of the city or village to which the annexation is proposed.

4. The name of the town or towns from which the territory is proposed to be detached.

5. The name and post-office address of the person causing the notice to be published who shall be an elector or owner in the area proposed to be annexed.

(b) The person who causes the notice to be published shall serve a copy of such notice, together with a copy of the scale map required under sub. (4) (a), upon the clerk of each municipality affected within 5 days of the date of publication of the notice. Such service may be either by personal service or by registered mail with return receipt requested.

(4) PETITION. (a) The petition shall state the purpose of the petition and contain a description of the territory proposed to be annexed, sufficiently accurate to determine its location, and have attached thereto a scale map reasonably showing the boundaries of such territory and the relation of the territory to the municipalities involved.

(b) No person who has signed a petition shall be permitted to withdraw his name therefrom. No additional signatures shall be added after a petition is filed.

(c) The circulation of the petition shall commence not less than 10 days nor more than 20 days after the date of publication of the notice of intention to circulate. The annexation petition shall be void unless filed within 6 months of the date of publication of the notice.

(5) REFERENDUM. (a) *Notice.* Within 30 days after the filing of the petition, the common council or village board may reject the petition and if rejected no further action shall be taken thereon. Failure to reject the petition shall obligate the city or village to pay the cost of any referendum favorable to annexation. If the petition is not rejected the clerk of the city or village with whom the annexation petition is filed shall give written notice thereof by personal service or registered mail with return receipt requested to the clerk of any town from which territory is proposed to be detached and shall give like notice to any person who shall file a written request therefor with the clerk. Such notice shall indicate whether the petition is for direct annexation or whether it requests a referendum on the question of annexation. If the notice indicates that the petition is for a referendum on the question of annexation, the town clerk shall give notice as provided in par. (c) of a referendum of the electors residing in the area proposed for annexation to be held

within 30 days after the date of personal service or mailing of the notice required under this paragraph. If the notice indicates that the petition is for direct annexation, no referendum shall be held unless within 30 days after the date of personal service or mailing of the notice required under this paragraph, a petition requesting a referendum is filed with the town clerk signed by 20 per cent of the electors residing in the area proposed to be annexed. If such a petition is filed, the clerk shall give notice as provided in par. (c) of a referendum of the electors residing in the area proposed for annexation to be held within 30 days of the receipt of the petition and shall mail a copy of such notice to the clerk of the city or village to which the annexation is proposed. Any referendum shall be held at some convenient place within the town to be specified in the notice.

(b) *Clerk to act.* If more than one town is involved, the city or village clerk shall determine as nearly as is practicable which town contains the most electors in the area proposed to be annexed and shall indicate in the notice required under par. (a) such determination. The clerk of the town so designated shall perform the duties required hereunder and the election shall be conducted in such town as are other elections conducted therein.

(c) *Publication of notice.* The notice shall be published in a newspaper of general circulation in the area proposed to be annexed on the publication day next preceding the referendum election and one week prior to such publication.

(d) *How conducted.* The referendum shall be conducted by the town election officials but the town board may reduce the number of such officials for that election. The ballots shall contain the words "For annexation" and "Against annexation" and shall otherwise conform to the provisions of s. 6.23 (8). The election shall be conducted as are other town elections in accordance with ch. 6 insofar as applicable.

(e) *Canvas; statement to be filed.* The election inspectors shall make a statement of the holding of the election showing the whole number of votes cast, and the number cast for and against annexation, attach thereto their affidavit and immediately file it in the office of the town clerk. They shall file a certified statement of the results in the office of the clerk of each other municipality affected.

(f) *Costs.* If the referendum is against annexation, the costs of the election shall be borne by the towns involved in the proportion that the number of electors of each town within the territory proposed to be annexed, voting in the referendum, bears to the total number of electors in such territory, voting in the referendum.

(g) *Effect.* If the result of the referendum is against annexation, all previous proceedings shall be nullified. If the result of the referendum is for annexation, failure of any town official to perform literally any duty required by this section shall not invalidate the annexation.

(6) **QUALIFICATIONS.** Qualifications as to electors and owners shall be determined as of the date of filing any petition. All qualified electors residing in the territory proposed for annexation on the day of the conduct of a referendum election shall be entitled to vote therein.

(7) **ANNEXATION ORDINANCE.** (a) An ordinance for the annexation of the territory described in the annexation petition may be enacted by a two-thirds vote of the elected members of the governing body within 60 days after the date of filing with the city or village clerk of the petition for annexation or of the referendum election if favorable to annexation. Such ordinance may temporarily designate the classification of the annexed area for zoning purposes until the zoning ordinance is amended as prescribed in s. 62.23 (7) (d). Before introduction of an ordinance containing such temporary classification, the proposed classification shall be referred to and recommended by the plan commission. The authority to

make such temporary classification shall not be effective when the county ordinance prevails during litigation as provided in s. 59.97 (4a). (Ch. 64, laws of 1957)

(b) The ordinance may annex the territory to an existing ward or may create an additional ward.

(c) The annexation shall be effective upon enactment of the annexation ordinance. The board of school directors in any city of the first class shall not be required to administer the schools in any territory annexed to any such city until July 1 following such annexation.

(8) FILING REQUIREMENTS; SURVEYS. (a) The clerk of a city or village which has annexed territory shall file immediately with the secretary of state 4 certified copies of a certificate and plat and one such copy with the register of deeds, signed by the clerk, describing the territory which was annexed. Failure to file shall not invalidate the annexation but the duty to file shall be a continuing one. The clerk shall certify annually to the secretary of state and to the register of deeds a legal description of the total boundaries of the municipality as those boundaries existed on December 1, unless there has been no change in the 12 months preceding.

(b) The secretary of state shall forward 2 copies of the certificate and plat to the state highway commission and one copy to the department of taxation.

(c) Any city or village may direct a survey of its present boundaries to be made, and when properly attested the survey and plat may be filed in the office of the register of deeds in the county in which the city or village is located, whereupon the survey and plat shall be prima facie evidence of the facts therein set forth.

(9) VALIDITY OF PLATS. Where any annexation is declared invalid but prior to such declaration and subsequent to such annexation a plat has been submitted and has been approved as required in s. 236.10 (1) (a), such plat shall be deemed validly approved despite the invalidity of the annexation.

(10) ACTION. (a) No action may be commenced after 60 days from the effective date of any annexation to contest the validity thereof upon any grounds whatsoever, whether denominated procedural or jurisdictional. The validity of any annexation shall, 60 days after the effective date thereof, be conclusively established and may not be attacked collaterally or otherwise questioned.

(b) Any action contesting an annexation *except actions pending on the effective date of this paragraph* shall be placed at the head of the circuit court calendar for an early hearing. The time within which a writ of error may be issued or an appeal taken to obtain review by the supreme court of any judgment or order in any action or proceeding contesting an annexation is limited to 30 days from the date of notice of the entry of such judgment or order.

66.022 DETACHMENT OF TERRITORY. Territory may be detached from any city or village and be attached to any city, village or town, to which it is contiguous, in the following manner:

(1) A petition signed by a majority of the owners of three-fourths of the taxable land in area within such territory or, if there is no taxable land therein, by all owners of such land, shall be filed with the clerk of the city or village from which detachment is sought, within 120 days after the date of publication in a newspaper having general circulation in the area of a notice of intention to circulate a petition of detachment.

(2) An ordinance detaching such territory may be enacted within 60 days after the filing of such petition, by vote of three-fourths of all the members of the governing body of the detaching city or village and its terms accepted within 60 days after such enactment, by an ordinance

enacted by a vote of three-fourths of all the members of the governing body of the city, village or town to which such territory shall be annexed. The failure of any governing body to adopt the ordinance as provided herein shall be deemed a rejection of the petition and all proceedings thereunder shall be void.

(3) The governing body of any city, village or town involved may, or if a petition signed by 5 per cent of the electors thereof, as determined by the register of voters on the date of filing of such petition, demanding a referendum thereon, be presented to it within 30 days after the passage of either of the ordinances herein provided for, shall cause the question to be submitted to the electors of the city, village or town whose electors petitioned therefor, at a referendum election called for such purpose within 30 days after the filing of such petition, or after the enactment of either ordinance. The governing body of the municipality shall appoint 3 election inspectors who shall be resident electors to supervise the referendum. The ballots shall contain the words "For Detachment" and "Against Detachment." The inspectors shall certify the results of the election by their affidavits annexed thereto and file a copy with the clerk of each town, village or city involved, and none of the ordinances so provided for shall take effect nor be in force unless a majority of the electors shall approve the same. The referendum election shall be conducted in accordance with ch. 6 insofar as applicable.

SECTION 4. 66.03 (11) of the statutes is created to read:

**66.03 (11) TAXES AND ASSESSMENT.** (a) *General property taxes.* Whenever any territory is annexed, detached or incorporated after April 30 in any year, general property taxes levied against said territory shall be collected by the treasurer of the municipality in which the territory was located on May 1 of such year, and all moneys collected from the tax levied for local municipal purposes shall be allocated to each of the municipalities on the basis of the portion of the calendar year the territory was located in each of the municipalities, and paid accordingly. If the municipality in which the territory was located on May 1 is nonexistent, such taxes shall be collected by the treasurer of the municipality to which the territory has been transferred.

(b) *Special taxes and assessments.* Whenever territory is transferred from one municipality to another by annexation, detachment, consolidation or incorporation, or returns to its former status by reason of court determination, any special tax or assessment outstanding against any property in the territory shall be collected by the treasurer of the municipality wherein the property is located, according to the terms of the ordinance or resolution levying such tax or assessment. Such special tax or assessment, when collected, shall be paid to the treasurer of the municipality which levied the special tax or assessment, or if the municipality is nonexistent, the collecting treasurer shall apply the collected funds to any obligation for which purpose the tax or assessment was levied and which remains outstanding; provided that if no such obligation is outstanding, the collected funds shall be paid into the school fund of the school district in which the territory is located.

(c) The clerk of the municipality which assessed such special and general tax and special assessment shall certify to the clerk of the municipality to which the territory was attached or returned, a list of all the property located therein to which is charged any uncollected taxes and assessments. The certification shall be made within 30 days after the effective date of the transfer of the property, but failure to so certify shall not effect the validity of the claim.

**SECTION 6.** This act shall not apply to any annexation, incorporation, consolidation or detachment commenced prior to the effective date hereof. Such proceedings may be continued in accordance with any applicable statute repealed by this act notwithstanding its repeal.

Approved November 8, 1957.

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