

14
1983 Assembly Bill 1094

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1983 Wisconsin Act 532

AN ACT *to repeal* 5.25 (2), 59.07 (36), 60.05 (6) (title) and 213.09; *to renumber* 60.05 (6) and 60.81; *to renumber and amend* 59.07 (22) and 60.555; *to amend* 5.25 (1), 17.13 (intro.), (1) and (3), 19.21 (4) (a), 62.03 (1), 66.19 (2), 66.615 (10) (intro.), (a) and (b), 66.62 (1), 66.625, 66.635 (2), 67.04 (5) (j), 70.23 (1), 70.65 (1), 81.05, 81.12 (1), 81.38 (3), 236.02 (9), 893.73 (2) (a) and 985.05 (1); *to repeal and recreate* chapter 60 (exc.60.05 (6), 60.555 and 60.81), 61.29, 66.072 (1), 157.50 (5) and 893.73 (1) (b); and *to create* 62.09 (15) and 62.16 (2) (d) of the statutes, *relating to* a recodification and revision of town laws and providing penalties.

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

PREFATORY NOTE: This draft was developed by the legislative council's special committee on revision of town laws. The special committee was appointed by the legislative council on May 27, 1982, and was directed "to revise and recodify the statutes relating to town government to bring together scattered provisions, to remove archaic and obsolete language, to resolve ambiguities in the statutes, to deal with the special needs of urban towns and to recognize the modern problems faced by town government". In developing the bill, the special committee met 16 times during the period from July 20, 1982 to January 5, 1984.

Current statutory law relating to towns reflects, in large measure, the initial body of Wisconsin town law enacted in 1849. The nature of towns has changed since 1849. The changed nature of towns results from many factors, including: (a) significant changes in transportation, communication and patterns of development and population settlement; (b) changes in the expectations of town residents as to the role and function of town government; and (c) the greatly increased population of many towns, which has made some towns urban, rather than rural, in character. In addition, there is currently wide disparity among towns in population, industry, commerce and level of government services.

Under Wisconsin's system of local government, towns (and counties) possess only those powers specifically delegated to them. This is in contrast to cities and villages, which have home rule authority under article XI, section 3, of the Wisconsin constitution. The absence of home rule powers means that the language of the statutes, and what can necessarily be implied therefrom, determines the structure, method and scope of town government.

The legislature does not enjoy unlimited discretion when addressing the differing characteristics of towns. Article IV, section 23, of the Wisconsin constitution, provides: "The legislature shall establish but one system of town government, which shall be as nearly uniform as practicable." This constitutional provision, commonly referred to as the "uniformity requirement", means that laws affecting towns may not provide for differences in the basic organizational scheme, or system, of town government. [*State ex rel. Wolf v. Town of Lisbon*, 75 Wis. 2d 152, 248 N.W. 2d 450 (1977).] However, the law may provide for variations in the way the details of town government affect different towns, to the extent that it is impractical for details to be uniform.

The special committee on revision of town laws initially determined to maintain the essential features of current town government. Within the confines of this general decision, the special committee's goals were:

1. To recodify existing town laws to make them more understandable and useful. This entailed, among other things, reorganizing the laws, using modern statutory language, resolving ambiguities, reconciling conflicts, filling gaps in the law and eliminating archaic and anachronistic provisions.
2. To make substantive changes in town laws that reflect the changed character of towns and the wide diversity among towns.
3. To make other necessary or desirable substantive changes.

This draft recodifies ch. 60, stats., relating to towns. While laws relating to towns appear throughout the Wisconsin statutes, the special committee's primary focus was on ch. 60 because the essential features of town government are contained in that chapter. Because the draft comprehensively recodifies ch. 60, the entire chapter is repealed and recreated (with the exception of 3 sections which are renumbered for more appropriate placement in statutes outside of ch. 60).

Revised ch. 60 is divided, for convenience, into 10 subchapters. The organizational outline of revised ch. 60 is set forth in the NOTE at the beginning of new ch. 60. A conversion table, identifying provisions of current ch. 60, stats., and their location or treatment in the draft, is contained at the end of the draft. More specific information regarding the treatment of current law and the creation of new law is found in the NOTES contained throughout the draft.

During its deliberations on the draft, the assembly adopted 10 amendments, which were concurred in by the senate. Provisions added by the amendments are identified in the NOTES.

Below is a summary of the major changes to current law made in the draft, organized by subject matter:

Town Meeting

The powers of the town meeting have been clarified by organizing them into 3 general types:

1. Powers reserved exclusively to the town meeting;
2. Town meeting powers to authorize or direct the town board to exercise specified powers; and
3. Powers to authorize the town board to appropriate money for specified purposes.

Directives or grants of authority to the town board by the town meeting may be general and continuing or limited as to purpose, effect or duration (except authorization to exercise village powers, which is general and continuing).

The town meeting is given authority, under the draft, to delegate its general tax levy authority to the town board. In addition, the town meeting may delegate to the board its authority to set the compensation of elected town officials, except the compensation of the town board supervisors themselves. The town meeting is also given general authority to authorize the town board to purchase land within the town for present or anticipated town purposes. This is an extension of the town meeting's current authority over the purchase of land by the town.

The time for holding the annual town meeting is changed from the first Tuesday of April to the 2nd Tuesday of April, but the town meeting may provide for a different meeting date if the date is within 10 days after the 2nd Tuesday.

Town Officers

Under the draft, terms of elected town officers, except assessors, commence on the 2nd Tuesday of April in the year of their election. Currently, there is no standard time for the commencement of the terms. The term of an elected town assessor under the draft begins on June 1 of the year of election.

The town meeting may delegate its authority to the town board to establish compensation for elective town offices, other than the office of town board supervisor.

The ability of the town meeting or town board to change the compensation of an elective town office during the term of the office is clarified. Changes in compensation are permitted if established prior to the latest date and time for filing nomination papers for the office.

The town board chairperson is given a number of general executive powers and duties, including: signing various town documents; supervising the administration of statutes relating to the town; acting on behalf of the town board to see that town orders and ordinances are obeyed and that peace and order are maintained; and obtaining assistance in case of emergency. If authorized by

the town board, the chairperson may direct the solicitation of bids for the purchase of equipment, materials and services and represent the town before governmental bodies.

Under the draft, the town board is given express authority to create the position of town administrator. The administrator would perform all lawful duties assigned by the board which do not conflict with powers and duties conferred on other town officers by law.

Finance

The respective roles of the town meeting and town board in budget matters are clarified. The town board is given explicit authority and responsibility to prepare and adopt a town budget. The general tax levy authority is retained by the town meeting, but the town meeting is authorized to delegate that authority to the town board.

An alternative claims procedure is authorized for processing routine bills and vouchers. The procedure permits the town clerk to review and approve bills and vouchers and requires the clerk to submit a monthly list of approved claims to the town board.

The competitive bidding provisions that apply to public contracts entered into by towns are revised to cure the defects which the attorney general has concluded make the current requirements legally ineffective. In addition, the term "responsible bidder" is defined and the dollar threshold for triggering the competitive bidding requirements is raised from \$2,500 to \$5,000.

Police and Fire Protection

Under the draft, the town board is required to provide for fire protection. Currently, providing for fire protection is optional but, if not provided, a town is liable for the cost of the service of any fire department that responds to a request to extinguish a fire in the town.

The draft also requires towns to provide or contract for ambulance service unless the service is provided by another entity. Under current law, it is unclear whether this is a requirement or an option.

The town board is given broad authority to provide for law enforcement. In addition, the town board is given the option of establishing a board of police and fire commissioners, consistent with portions of s. 62.13, stats., relating to the boards of police and fire commissioners in cities.

The draft repeals the current statutory duties of the town constable and requires the town board to determine the jurisdiction and duties of the constable.

SECTION 1. 5.25 (1) of the statutes is amended to read:

5.25 (1) In 1st class cities, polling shall be at the places established by the board of election commissioners at any public schools and other public buildings which shall be made available without charge and at any fully or partially tax exempt nonsectarian private buildings offered without charge. In all other cities and in villages and towns, polling shall be at the places ordered by the governing body, at least 30 days before the election.

NOTE: Amended to reflect current practice. See, also, SECTION 2.

SECTION 2. 5.25 (2) of the statutes is repealed.

NOTE: This subsection, providing that the polling place in towns is where the last town meeting was held unless the location is changed by the town meeting or unless the town board designates the places when there is more than one ward, is repealed as unnecessary. See SECTION 1.

SECTION 3. 17.13 (intro.), (1) and (3) of the statutes are amended to read:

- 2115 -

83 WisACT 532

17.13 (title) Removal of village, town, town sanitary district, school district and vocational officers. (intro.) Officers of towns, ~~and of town sanitary districts,~~ villages, school districts and vocational, technical and adult education districts may be removed as follows:

(1) **APPOINTIVE OFFICERS.** Any appointive village, town, town sanitary district, school district and vocational, technical and adult education district officer, by the officer or body that appointed him or her, at pleasure. Removal of any such officer by a body shall be by a majority vote of all the members thereof.

(3) **ALL OFFICERS.** Any village, town, town sanitary district, school district or vocational, technical and adult education district officer, elective or appointive, including those embraced within subs. (1) and (2), by the judge of the circuit court of the circuit wherein the village, town, town sanitary district, school district or vocational, technical and adult education district is situated, for cause.

NOTE: Amended to provide a method for removing officers of a town sanitary district. Currently, there is no statutory procedure for removing these officers.

SECTION 4. 19.21 (4) (a) of the statutes is amended to read:

19.21 (4) (a) Any city council ~~or,~~ village board ~~and any or~~ town board, ~~subject to s. 60.756,~~ may provide by ordinance for the destruction of obsolete public records. Prior to the destruction at least 60 days' notice in writing of such destruction shall be given the historical society which shall preserve any such records it determines to be of historical interest. The historical society may, upon application, waive such notice. No assessment roll containing forest crop acreage may be destroyed without prior approval of the secretary of revenue.

NOTE: Amended to reflect the repeal of s. 60.756. See the NOTE to new s. 60.83.

SECTION 5. 59.07 (22) of the statutes is renumbered 59.07 (22) (a) and amended to read:

59.07 (22) (a) Organize, name, vacate and change the boundaries and names of the towns in their respective counties, ~~fix the time and place of holding the first town meeting~~ and make orders for the preservation of the records and papers of any vacated town. A copy of every order or ordinance changing the boundary or name of any town, duly certified by the county clerk, shall be promptly filed by him or her in the office of the register of deeds, who shall duly record and index the same without charge, and no such order or ordinance shall take effect until so recorded and indexed. No town shall be vacated unless a majority of all the members of the board so decide and a proceeding is taken under s. ~~60.05~~ 60.03. No board, except in the counties of Ashland, Barron, Bayfield, Burnett, Douglas, Juneau, Marathon, Oconto, Polk and Shawano, and except as provided in s. ~~60.05~~ 60.03, shall organize any town that at the time of being organized does not contain at least 125 inhabitants, at least 25 of whom shall have been actual electors of this state and resident within the proposed new town for 6 months prior to the time the organization takes effect.

NOTE: See the NOTE to SECTION 9.

SECTION 6. 59.07 (36) of the statutes is repealed.

SECTION 7. Chapter 60 (exc. 60.05 (6), 60.555 and 60.81) of the statutes, as affected by 1983 Wisconsin Acts 24, 27 and 36, is repealed and recreated to read:

NOTE: The following is a table of contents to new chapter 60.

Table of contents to chapter 60

SUBCHAPTER I — DEFINITIONS
60.001 Definitions

SUBCHAPTER II — LEGAL STATUS; ORGANIZATION

- 60.01 Legal status; general powers
- 60.03 Division and dissolution of towns generally
- 60.05 Organization of towns in special cases
- 60.06 Validity of attachment or detachment
- 60.07 Delivery of papers to clerk of new town
- 60.09 When a county constitutes a town

SUBCHAPTER III — TOWN MEETING

- 60.10 Powers of town meeting
- 60.11 Annual town meeting
- 60.12 Special town meetings
- 60.13 Presiding officer
- 60.14 Procedure
- 60.15 Clerk
- 60.16 First town meeting in new towns

SUBCHAPTER IV — TOWN BOARD

- 60.20 Town board
- 60.21 Town board, increased size authorized
- 60.22 General powers and duties
- 60.23 Miscellaneous powers
- 60.24 Powers and duties of town board chairperson

SUBCHAPTER V — TOWN OFFICERS AND EMPLOYEES

- 60.30 Election of town officers; general provisions
- 60.305 Combined and part-time offices
- 60.307 Appointment of town assessors
- 60.31 Official oath and bond
- 60.32 Compensation of elective town offices
- 60.321 Reimbursement of expenses
- 60.323 Compensation when acting in more than one official capacity
- 60.33 Duties of town clerk
- 60.331 Deputy town clerk
- 60.34 Duties of town treasurer
- 60.341 Deputy town treasurer
- 60.35 Duties of town constable
- 60.351 Constable fees
- 60.36 Municipal judge
- 60.37 Town employes

SUBCHAPTER VI — FINANCE

- 60.40 Preparation and adoption of budget
- 60.41 Annual financial statement
- 60.42 Finance book
- 60.43 Financial audits
- 60.44 Claims against town
- 60.45 Disbursements from town treasury
- 60.46 Public depository
- 60.47 Public contracts and competitive bidding

SUBCHAPTER VII — PUBLIC WORKS AND PUBLIC SAFETY

- 60.50 Public works
- 60.51 Payment for public works; special assessments
- 60.52 Sewer and water systems of adjoining municipality
- 60.53 Service pipes and laterals
- 60.54 Solid waste transportation
- 60.55 Fire protection
- 60.555 Fire safety regulations
- 60.557 Reimbursement for fire calls on highways
- 60.56 Law enforcement
- 60.565 Ambulance service
- 60.57 Police and fire commission

SUBCHAPTER VIII — LAND USE AND PLANNING

- 60.61 General zoning authority
- 60.62 Zoning authority if exercising village powers

- 60.63 Community living arrangements
- 60.64 Historic preservation
- 60.65 Board of adjustment
- 60.66 Town park commission

SUBCHAPTER IX — TOWN SANITARY DISTRICTS

- 60.70 Definitions
- 60.71 Creation of town sanitary district by town board order
- 60.72 Creation of town sanitary district by order of the department of natural resources
- 60.73 Review of orders creating town sanitary districts
- 60.74 Commissioners; method of selection
- 60.75 Commissioners; requirements
- 60.76 Organization of the commission
- 60.77 Powers and duties
- 60.78 Powers to borrow money and issue bonds
- 60.785 Additions; consolidation; dissolution
- 60.79 Alteration of town sanitary districts

SUBCHAPTER X — MISCELLANEOUS

- 60.80 Publication or posting of ordinances and resolutions
- 60.81 Population; use of federal census
- 60.82 Regional planning programs
- 60.83 Destruction of obsolete town records
- 60.84 Monuments

CHAPTER 60

TOWNS

SUBCHAPTER I

DEFINITIONS

60.001 Definitions. In this chapter:

- (1) “Annual town meeting” means the town meeting held under s. 60.11.
- (2) “Special town meeting” means a town meeting, other than the annual town meeting, held under s. 60.12.
- (3) “Town meeting” means the annual town meeting or a special town meeting.

NOTE: New. Definitions of “annual town meeting”, “special town meeting” and “town meeting” are provided for use in ch. 60. The terminology of current law — “annual” and “special” town meeting — is continued because of long-standing use and widespread familiarity.

SUBCHAPTER II

LEGAL STATUS; ORGANIZATION

60.01 Legal status; general powers. (1) A town is a body corporate and politic, with those powers granted by law. A town shall be designated in all actions and proceedings by its name, as “Town of”.

- (2) A town may:
 - (a) Sue and be sued.
 - (b) Acquire and hold real and personal property for public use and convey and dispose of the property.
 - (c) Enter into contracts necessary for the exercise of its corporate powers.

NOTE: Restates s. 60.01. The legal status of towns is rephrased. Simply designating towns a “body corporate”, as under current law, seems incomplete and potentially confusing. First, it ignores the governmental function of towns; hence, the addition of the phrase “and [body] politic”. Second, confusion may arise because, in strict legal parlance, towns are not “full” municipal corporations but, rather, “quasi-municipal” corporations with only those pow-

ers granted by statute; hence, the addition of the phrase, "with those powers granted by law".

The provision of current s. 60.01, providing that towns may make "any order for the sale or disposal of its corporate property which the inhabitants thereof deem expedient", is eliminated as unnecessary. The substance of the provision is included within new sub. (2) (b).

60.03 division and dissolution of towns generally. (1) GENERAL RULE. Subject to sub. (7), a town may be divided or dissolved under subs. (2) to (6).

(2) PETITION. If at least 20% of the residents of a town who have a freehold interest in real property located in the town and who constitute at least one-third of the electors of the town petition the county board to divide or dissolve the town and file the petition with the town clerk at least 60 days before the next annual town meeting, a referendum shall be held at the annual town meeting on the question of division or dissolution.

(3) NOTICE OF REFERENDUM. A town clerk who receives a petition under sub. (2) shall, at least 30 days before the annual town meeting, give notice that a referendum on the question of division or dissolution will be held at the annual town meeting. The notice shall describe any proposed division. Notice of a division or dissolution shall be published as a class 2 notice under ch. 985. Notice of a division referendum shall also be made by posting the notice in 3 public places in each subdivision of the town proposed by the petition under sub. (2). Notice of a dissolution referendum shall also be made by posting the notice in 3 public places in the town.

(4) BALLOT QUESTION. In a referendum under this section, the ballot on the question of division shall pose the question as "For Division" and "Against Division" and describe the proposed division. The ballot on the question of dissolution shall pose the question as "For Dissolution" and "Against Dissolution".

(5) REFERENDUM VOTE; AUTHORITY OF COUNTY BOARD. (a) *Division*. The electors of each subdivision proposed under sub. (2) shall vote separately. If a majority of the electors voting in either subdivision favors division, the town clerk shall certify the result to the county board of the county in which the town is located. Upon receipt of the certified result, the county board may divide the town accordingly. If the county board does not divide the town within 180 days after the board receives the certified result of the referendum, the board's authority to divide the town, based on that referendum, lapses.

(b) *Dissolution*. If a majority of the electors votes in favor of dissolution, the town clerk shall certify the result to the county board of the county in which the town is located. Upon receipt of the certified result, the county board may dissolve the town. If the county board does not dissolve the town within 180 days after the board receives the certified result of the referendum, the board's authority to dissolve the town, based on that referendum, lapses.

(6) VALIDITY OF PROCEEDING. Any person aggrieved may have the validity of proceedings under this section reviewed by commencing an action in circuit court. An action brought under this subsection shall be brought within the time provided under s. 893.73 (1) (b). A town which has exercised the powers and functions of a town for one year is conclusively presumed to have been duly organized.

(7) DIVISION NOT PERMITTED. No town may be divided if division results in a town of less than 36 sections in area unless each resulting town of less than 36 sections contains 75 electors and real estate valued, at the last preceding assessment, at at least 40% of the equalized value of real estate in the town before division.

NOTE: Revises s. 60.05, except sub. (6), which is moved to ch. 59. See the NOTE TO SECTION 9. Subsection (3) (b), referencing s. 60.065, is repealed to reflect the repeal of the latter section.

The following revisions are made:

1. In sub. (2), the requirement that at least 50 resident freeholders of a town petition for division or dissolution is revised to require that at least 20% of the resident freeholders petition. The 50-freeholder requirement was last revised in 1925 [chapter 298, laws of 1925]. The special committee concluded that a percentage requirement for the number of petitioners, rather than a numerical one, is preferable because it more realistically reflects the current diversity in town populations and will automatically reflect population changes in towns. The subsection also clarifies that the required percentage of freeholders must also constitute at least one-third of the electors of the town. Under current law, it is unclear if the latter requirement is in addition to the former requirement or part of the requirement.

2. A division or dissolution referendum may be held only at the annual town meeting [currently, such referenda may be held at either the annual or special town meeting; 66 OAG 257, 259 (1977)]. The special committee concluded that, given the importance of a division or dissolution referendum, a deliberative process is desirable. Restricting the holding of such a referendum to the annual town meeting will add an additional deliberative aspect to the referendum. In addition, deliberation will be aided by the requirement that a division or dissolution petition be filed at least 60, rather than 20, days before the referendum and that the town clerk give at least 30, rather than 10, days' notice of a division or dissolution referendum. Finally, publication of notice of a referendum is required in addition to posting.

3. The county board is given 180 days within which to exercise its discretion on the question of division or dissolution. The special committee concluded that a specified period for exercising the discretion is desirable and that 180 days is a reasonable period.

4. The class of persons who may seek court review of the validity of proceedings under the section is expanded to "any person aggrieved".

5. The prohibition against dividing a town into an area of less than 36 sections unless the resulting town has at least 75 electors and real estate valued at greater than \$200,000 is revised. A percentage requirement, at least 40% of the equalized value of real estate in the town before division, replaces the \$200,000 requirement. The percentage requirement reflects the diversity in the tax bases of towns. Reference to "equalized value" comports with modern practice.

60.05 Organization of towns in special cases. (1) APPLICATION. (a) In this subsection, "area" means any government township or any contiguous territory which is part of one or more towns, which is equal in area to more than one government township but not more than 2 government townships and which is within one county.

(b) Any area which has at least 300 residents who have a freehold interest in real property located in the area, at least 150 of whom are electors who have resided in the area for at least one year prior to verification of the petition under sub. (2), and which has an equalized valuation of at least \$5,000,000, according to the last preceding assessment, may be organized into a town if the remaining territory of any town of which the newly organized town was formerly a part is not less than 36 square miles and has not less than 75 electors and real estate valued at at least 40% of the equalized value of real estate in the town before division, according to the last preceding assessment.

(2) PETITION. To initiate a proceeding to organize a town under this section a petition, signed by a majority of the electors of the proposed town, shall be filed with the circuit court of the county in which the area is located. The petition shall demonstrate that the area is entitled to be organized as a town under sub. (1) and shall contain an accurate description of the proposed area of the town, the name of the town of which the area is currently a part, the names of the electors of the proposed town and the proposed name

of the new town. The petition shall be verified by at least 3 signers. Upon receipt of a petition, the court shall establish the time and place for a hearing on the petition and direct that a copy of the petition and order be served upon the clerk of the town of which the proposed town is currently a part. The petition and order shall be served upon the clerk at least 20 days before the hearing. The court shall order that a notice of the hearing be published in the area of the proposed town as a class 3 notice under ch. 985.

(3) **HEARING.** The court shall conduct a hearing on the petition and shall permit any elector or taxpayer of the area of the proposed town, or of any town of which the proposed area is currently a part, to be heard. The court may adjourn the hearing from time to time and refer any issue of fact to a referee. The fees and expenses of the referee shall be established and apportioned by the court after the trial of any issue and paid by any town of which the area of the proposed town is a part.

(4) **COURT ORDER.** If, after the hearing under sub. (3), the court finds that the area of the proposed town meets the requirements of sub. (1), the court shall enter an order establishing a new town under the name proposed in the petition and shall designate the location of the first town meeting of the new town. The clerk of court shall immediately file certified copies of the order with the secretary of state and the county clerk.

(5) **APPORTIONMENT OF DEBTS.** Assets and liabilities of the newly organized town and any town or towns of which it was a part shall be apportioned under s. 66.03.

(6) **ATTACHMENT OF REMAINDER OF OLD TOWN.** If the remaining territory of any town from which a new town is organized is divided into 2 detached parts by the organization of the new town, the detached portion with the least number of electors shall be attached to and become part of the new town.

NOTE: Revises s. 60.06:

1. The requirement of sub. (1) (b) that the newly organized town contain real estate with an assessed valuation of at least \$200,000 is amended to require an equalized valuation of at least \$5,000,000. The required valuation is increased to reflect the increase in property values since the requirement was last changed (1925).

2. The requirement of sub. (1) (b) that the remaining town area contain real estate assessed at not less than \$200,000 is replaced by a percentage requirement — at least 40% of the equalized value of real estate in the town before division. The percentage requirement reflects the diversity in the tax bases of towns.

3. The requirement of sub. (2) that the petition be signed by a majority of the residents of the proposed town, in addition to a majority of the electors of the proposed town, is repealed as unnecessary, given the latter requirement.

60.06 Validity of attachment or detachment. The town board may bring an action to test the validity of an ordinance attaching or detaching all or part of the territory of the town to or from any town, village or city. Any expense incurred by the town board and its agents, attorneys and representatives in the action shall be paid by the town.

NOTE: Restates s. 60.29 (31).

60.07 Delivery of papers to clerk of new town. If a new town is organized, the town clerk of the town from which the new town was organized shall deliver, if removable, all of his or her official papers and files pertaining to the new town and a certified copy of all relevant official records, papers and files not removable to the office of the clerk of the new town. Any record, paper or file delivered to the office of the clerk of a new town under this section shall have the same effect as if originally filed there.

NOTE: Restates s. 60.46.

60.09 When a county constitutes a town. (1) **GENERALLY.** If a county is not divided into towns, it shall, for purposes of town government, be considered one town.

(2) **MENOMINEE COUNTY.** The county of Menominee consists of one town, known as the town of Menominee.

NOTE: Subsection (1) restates s. 60.02 but eliminates as unnecessary the language relating to electing officers and the powers of such officers.

Subsection (2) restates s. 60.025.

**SUBCHAPTER III
TOWN MEETING**

60.10 Powers of town meeting. (1) **DIRECT POWERS.** The town meeting may:

(a) *Raise money.* Raise money, including levying taxes, to pay for expenses of the town, unless the authority has been delegated to the town board under sub. (2) (a).

(b) *Town offices and officers.* 1. Fix the compensation of elective town offices under s. 60.32, unless the authority has been delegated to the town board under sub. (2) (k).

2. Combine the offices of town clerk and town treasurer under s. 60.305 (1).

3. Combine the offices of town assessor and town clerk under s. 60.305 (2).

4. Establish or abolish the office of town constable and establish the number of constables. Abolition of the office is effective at the end of the term of the person serving in the office.

5. Designate the office of town clerk, town treasurer or the combined office of clerk and treasurer as part-time under s. 60.305 (1) (b).

(c) *Election of town officers.* 1. Adopt a plan under s. 5.60 (6) to elect town board supervisors to numbered seats.

2. Provide under s. 8.05 (3) (a) for the nomination of candidates for elective town offices at a nonpartisan primary election.

(d) *Public waterways.* Appropriate money for the improvement and maintenance of a public waterway under s. 81.05.

(e) *Cemeteries.* Authorize the acquisition and conveyance of cemeteries under s. 157.50 (1) and (3).

(f) *Administrator agreements.* Approve agreements to employ an administrator for more than 3 years under s. 60.37 (3) (d).

(2) **DIRECTIVES OR GRANTS OF AUTHORITY TO TOWN BOARD.** Except as provided under par. (c), directives or grants of authority to the town board under this subsection may be general and continuing or may be limited as to purpose, effect or duration. A resolution adopted under this subsection shall specify whether the directive or grant is general and continuing or whether it is limited as to purpose, effect or duration. A resolution that is continuing remains in effect until rescinded at a subsequent town meeting by a number of electors equal to or greater than the number of electors who voted for the original resolution. This subsection does not limit any authority otherwise conferred on the town board by law. By resolution, the town meeting may:

(a) *Raise money.* Authorize the town board to raise money, including levying taxes, to pay for expenses of the town.

(b) *Membership of town board in populous towns.* In a town with a population of 2,500 or more, direct the town board to increase the membership of the board under s. 60.21 (2).

(c) *Exercise of village powers.* Authorize the town board to exercise powers of a village board under s. 60.22 (3). A resolution adopted under this paragraph is general and continuing.

(d) *General obligation bonds.* Authorize the town board to issue general obligation bonds in the manner and for the purposes provided by law.

(e) *Purchase of land.* Authorize the town board to purchase any land within the town for present or anticipated town purposes.

(f) *Town buildings.* Authorize the town board to purchase, lease or construct buildings for the use of the town, to combine for this purpose the town's funds with those of a society or corporation doing business or located in the town and to accept contributions of money, labor or space for this purpose.

(g) *Disposal of property.* Authorize the town board to dispose of town property, real or personal, other than property donated to and required to be held by the town for a special purpose.

(h) *Exercise of certain zoning authority.* In a town located in a county which has adopted a zoning ordinance under s. 59.97, authorize, under s. 60.62 (2), the town board to adopt town zoning ordinances under s. 61.35.

(i) *Watershed protection and soil and water conservation.* Authorize the town board to engage in watershed protection, soil conservation or water conservation activities beneficial to the town.

(j) *Appointed assessors.* Authorize the town board to select assessors by appointment under s. 60.307 (2).

(k) *Compensation of elective town offices.* Authorize the town board to fix the compensation of elective town offices under s. 60.32 (1) (b).

(3) AUTHORIZATION TO TOWN BOARD TO APPROPRIATE MONEY. The town meeting may authorize the town board to appropriate money in the next annual budget for:

(a) *Conservation of natural resources.* The conservation of natural resources by the town or by a bona fide nonprofit organization under s. 60.23 (6).

(b) *Civic functions.* Civic and other functions under s. 60.23 (3).

(c) *Insects, weeds and animal diseases.* The control of insect pests, weeds or plant or animal diseases within the town.

(d) *Rural numbering systems.* Posting signs and otherwise cooperating with the county in the establishment of a rural numbering system under s. 59.07 (65).

(e) *Cemetery improvements.* The improvement of the town cemetery under s. 157.50 (5).

NOTE: Subsection (1) (intro.) revises s. 60.18 (intro.). That part of s. 60.18 (intro.) concerning when the town meeting may act, who may vote and stating that decisions are made by vote is moved to new s. 60.14.

Town meeting powers are organized under this section into 3 categories:

1. Powers reserved exclusively to the town meeting [sub. (1)];
2. Powers consisting of a grant of authority or direction to the town board to exercise specified powers [sub. (2)]; and
3. Powers consisting of authorization to the town board to appropriate money for specified purposes [sub. (3)].

The introductory clauses of subs. (1), (2) and (3) reflect this organization of town meeting powers.

Subsection (1) (a) revises s. 60.18 (1) (intro.). New par. (a) substantively continues the provision that the annual town meeting may "raise money for...defraying all...charges and expenses of the town..." but recognizes that the town meeting may now delegate this authority to the town board under new sub. (2) (a). The authority to levy taxes is specifically articulated, since it is an important means of raising money. The phrase "to pay for expenses of the town" is substituted for the phrase "for...defraying all...charges and expenses of the town..."; no substantive change is intended.

The provisions of current s. 60.18 (1) establishing aggregate limits on the amount of taxes the town meeting may levy are repealed. The special committee concluded that the limits are no longer of practical use. It is unclear to what extent towns have followed the limits; information to make this determination is not collected and there is no state agency responsible for compliance. The specific provisions authorizing the raising of funds to pay for roads, bridges and support of the poor are repealed as duplicative, since their cost also constitutes "expenses of the town".

Subsection (1) (b) restates, combines and consolidates various related provisions setting forth the powers of the annual meeting with regard to town officers.

Subsection (1) (b) 1 cross-references the authority of the town meeting to fix the compensation of elective town offices under new s. 60.32. See the NOTE to that section. It also reflects the authority of the town meeting to delegate this authority to the town board under sub. (2) (k).

Subsection (1) (b) 2 cross-references the authority of the town meeting to combine the offices of town clerk and town treasurer under new s. 60.305 (1). See the NOTE to that section.

Subsection (1) (b) 3 cross-references the authority of the town meeting to combine the offices of assessor and clerk. See the NOTE to s. 60.305 (2).

Subsection (1) (b) 4 restates s. 60.18 (10m), relating to the town meeting's power to abolish and recreate the office of town constable.

Subsection (1) (b) 5 cross-references the authority of the town meeting to designate as part-time the offices of town clerk and treasurer under s. 60.305 (1) (b). See the NOTE to s. 60.305 (1) (b).

Subsection (1) (c) cross-references the town meeting's powers under s. 5.60 (6), relating to the election of town board supervisors to numbered seats, and s. 8.05 (3) (a), relating to selection of candidates for elective town offices at a nonpartisan primary election.

Subsection (1) (d) cross-references s. 81.05, which provides, as amended by this draft, that no amount in excess of \$500 may be expended annually on improving or maintaining a public waterway in a town, except in pursuance of a special appropriation voted at the town's annual meeting. See the NOTE to SECTION 25.

Subsection (1) (e) cross-references the town meeting's powers under s. 157.50 (1) and (3), relating to acquisition and conveyance of cemeteries.

Subsection (1) (f) cross-references the town meeting's authority under s. 60.37 (3) (d) to approve agreements with other municipalities to employ an administrator for more than 3 years.

Subsection (2) (intro.) revises s. 60.18 (intro.). See the NOTE to sub. (1) (intro.) Town meeting powers under this subsection consist of grants of authority or direction to the town board to exercise specified powers. Except with regard to authorization to exercise village powers, which must be a general and continuing grant, the grant or direction may be general and continuing or may be limited in purpose, effect or duration or any combination of the latter. Under current law, the general nature of such town meeting powers is usually not expressly stated.

Subsection (2) (a) is new. Currently, the town meeting has the general authority to raise money, including by means of a tax levy, to cover town expenses. That authority is continued under new sub. (1) (a).

Under sub. (2) (a), the town meeting may delegate its general revenue raising power to the town board, in whole or in part. See sub. (2) (intro.) regarding the nature and extent of authority the town meeting may grant under this subsection.

The special committee concluded that, within the confines of the constitutional stricture that there be “but one system of town government...as nearly uniform as practicable”, allowing the town meeting to delegate its general revenue-raising authority to the town board is the most efficacious way to recognize the varying circumstances of towns in relation to the role of the town meeting in the budget process. These varying circumstances include the amount of detail included in the town budget, the complexity of financing town operations, the amount of time town officials have to devote to budget-related matters and the participation of electors in the town meeting. Thus, while the general revenue-raising authority is sufficiently important to retain in the town meeting, the town meeting may relinquish that authority when circumstances are such that the town meeting concludes it would be more desirable for the town board to exercise the authority.

Subsection (2) (b) revises s. 60.19 (1) (c) (second clause of second sentence) and cross-references new s. 60.21 (2), which governs the size of the town board. See the NOTE to that section. The use of the phrase “direct the town board” explicitly sets forth the tacit view of the statute by the Wisconsin supreme court as mandatory in nature (although the court has not expressly held that that statute may not be used in a directory manner). See *State ex rel. Wolf v. Town of Lisbon*, 75 Wis. 2d 152, 248 N.W. 2d 450 at 457 (1977).

Subsection (2) (c) restates part of s. 60.18 (12). The scope of the authority granted to the town board under this paragraph is set forth in s. 60.22 (3). The action of the town meeting is stated as “authorizing” the town board to exercise village powers, rather than “directing” the exercise of such powers, as under current law. This reflects current practice and interpretation. The statement that a resolution adopted under this provision remains in force until rescinded is set forth in sub. (2) (intro.) of this section.

Subsection (2) (d) revises s. 60.18 (7). The provision is revised to clarify that the town meeting’s authorization applies solely to general obligation bonds, rather than other instruments such as revenue bonds or industrial revenue bonds. Also, see SECTION 34 (1) and its accompanying NOTE regarding this paragraph’s effect on past general obligation bond issues and present proceedings concerning general obligation bond issues.

Subsection (2) (e) is based on s. 60.18 (14). The provision is extensively revised to expand the town meeting’s general power to authorize the purchase of land for town purposes. Under current s. 60.18 (14), the town meeting may authorize the purchase of land by the town if the cost of providing access to such land will exceed the purchase price of the land in the near future. The town meeting also determines the manner in which money to purchase the land will be raised.

New sub. (2) (e) gives authority to the town meeting to authorize the town board to purchase land within the town for present or anticipated town purposes. The town meeting’s authority is thus extended to the purchase of any land within the town, not just to land of “costly accessibility”. It appears that this is a change in current law; presently, the town board appears to have authority, with certain exceptions, to purchase land for the town without authorization of the town meeting. See, also, the NOTE to s. 60.50 (1).

Note that s. 60.18 (15), relating to authorizing the town board to acquire land for waterfronts, groves, outlooks, historic sites and woodlots, is repealed. The special committee concluded that this authority is contained in the general authority to acquire land for town purposes under sub. (2) (e) and is, therefore, unnecessary.

Subsection (2) (f) is based on s. 60.18 (9). Currently, the town meeting's authority in connection with town buildings is stated in terms of raising money for purchase, lease or construction (including combining the money with that of a corporation or society doing business in the town). Before the town meeting may act, at least 12 freeholders of the town must submit a written request for a vote on the question at least 20 days before the meeting is to be held. The contents of the written request are prescribed by statute. In addition, the town clerk is required to give notice that the question will be before the town meeting.

New sub. (2) (f) revises s. 60.18 (9) by making the town meeting's power in connection with town buildings a grant of authority to the town board. Thus, the town board may purchase, lease or construct buildings for the town if it has received authorization from the town meeting under this paragraph.

The special procedural requirements of current law relating to action by the town meeting in connection with buildings are repealed.

Provisions of current s. 60.18 (9) relating to combining the town's funds with those of a society or corporation and permitting the town board to accept contributions of money, labor or space for a town building are also stated as grants of authority to the town board.

Subsection (2) (g) revises s. 60.18 (10). The term "dispose of" is substituted for "sell and convey". There has been no formal legal interpretation of the term "sell and convey" in the context of s. 60.18 (10). If "sell and convey" is taken in its narrow sense — "to sell" — substitution of "dispose of" expands the town meeting's powers. If "sell and convey" is interpreted in a broad sense, then "dispose of" merely restates current law.

Subsection (2) (h) cross-references the town meeting's power under s. 60.62 (2) to authorize the town board to exercise zoning powers under the village zoning statute where a county zoning ordinance has already been adopted. See the NOTE to s. 60.62 (2).

Subsection (2) (i) is based on s. 60.18 (21) and (22). Currently, the town meeting may raise money for these activities and authorize the town board to expend the money or transfer the money to another governmental entity to be used for these purposes. These provisions are consolidated and revised to simply give the town meeting general authority to allow the town board to engage in watershed protection and soil and water conservation activities.

Subsection (2) (j) restates part of ss. 60.18 (24) and 60.19 (5). It cross-references s. 60.307 (2), relating to implementation of the town meeting's authorization to the town board to select assessors by appointment.

Subsection (2) (k) is new. It states the town meeting's authority to delegate to the town board the power to establish the compensation of elective town offices under s. 60.32. See the NOTE to that section.

Subsection (3) (intro.) revises s. 60.18 (intro.). See the NOTE to sub. (1) (intro.). The approval of the town meeting is required under this subsection each time it is desired to appropriate money for the specified purposes. Thus, unlike grants of authority to the town board under sub. (2), authorizations under this subsection may *not* be one-time general grants of authority.

Subsection (3) (a) cross-references the town meeting's authority under s. 60.23 (6) to authorize the town board to appropriate money for conservation of natural resources.

Subsection (3) (b) restates s. 60.80 (second clause). It cross-references new s. 60.23 (3) which requires the authorization of the annual town meeting before the town board is permitted to appropriate money for gifts or donations for civic functions and other specified purposes.

Subsection (3) (c) restates part of s. 60.18 (16). The requirement in current s. 60.18 (16) that the town clerk notify the department of agriculture, trade and consumer protection of the appropriation is repealed as unnecessary.

Subsection (3) (d) revises s. 60.18 (23). The town meeting's authority in connection with establishing a rural numbering system with the county for fire protection services is stated as authorization to the town board to appropriate money for this purpose. Currently, the town meeting may "raise money" for this purpose. However, this is redundant, since the town meeting may raise money to pay for "expenses of the town". See the NOTE to sub. (1) (a).

Subsection (3) (e) cross-references the town meeting's authority under s. 157.50 (5), relating to authorizing the town board to appropriate money for improvement of the town cemetery. See the NOTE to SECTION 28.

60.11 Annual town meeting. (1) **REQUIREMENT.** Each town shall hold an annual town meeting, as provided in this section.

(2) **WHEN HELD.** (a) Except as provided in par. (b), the annual town meeting shall be held on the 2nd Tuesday of April.

(b) The annual town meeting may set a date different than provided under par. (a) for the next annual town meeting if the date is within 10 days after the 2nd Tuesday of April.

(3) **WHERE HELD.** (a) The annual town meeting may be held in the town or in any village or city within or adjoining the town.

(b) The annual town meeting shall be held at the location of the last annual town meeting unless the location is changed by the town board. If the town board changes the location, it shall publish a class 2 notice under ch. 985 stating the location of the meeting, not more than 20 nor less than 15 days before the date of the meeting.

(4) **ADJOURNMENT.** The annual town meeting may be recessed to a time and date certain if the resumed meeting is held within 30 days after the date of the meeting originally scheduled under sub. (2).

(5) **NOTICE.** No public notice of an annual town meeting is required if held as provided under sub. (2) (a). If held as provided under sub. (2) (b), notice of the time and date of the meeting shall be given under s. 60.12 (3).

(6) **JURISDICTION.** An annual town meeting may transact any business over which a town meeting has jurisdiction.

(7) **POLL LIST.** An annual town meeting may require the clerk of the town meeting to keep a poll list with the name and address of every elector voting at the meeting.

NOTE: Subsection (1) restates part of s. 60.07 (1).

Subsection (2) (a) revises part of the first sentence of s. 60.07 (1). Subsection (2) (b) revises part of the first sentence of s. 60.07 (2).

The effect of the revisions is to change the general date of the annual town meeting from the first Tuesday of April to the 2nd Tuesday of April. The meeting may be held on other than the 2nd Tuesday if held within 10 days after that date.

The special committee concluded that practical problems associated with holding the annual town meeting on the first Tuesday of April (also the day of the spring election) make it desirable to change the general date to the 2nd Tuesday of April.

Subsection (3) (a) restates part of the last sentence of s. 60.07 (1).

Subsection (3) (b) is new. Under the provision, the town board may change the location of the annual town meeting if sufficient notice is given. This provision replaces the 2 methods under current law for changing the location of the annual town meeting. Under current law:

1. The annual town meeting itself may change the location of the next annual town meeting if the town board puts the question before the meeting or if a sufficient number of electors petition to put the question to a vote [s. 60.07 (3)]; or
2. The town board of inspectors may change the location if it is impossible or inconvenient to hold the meeting where scheduled [s. 60.08].

The special committee concluded that the first method is unduly cumbersome, the 2nd obsolete.

Subsection (4) is based on s. 60.09, which permits the annual town meeting to be adjourned from time-to-time without limitation, except that the election of town officers may not be held at a resumed meeting.

The new subsection imposes a 30-day limit on recessing the annual town meeting. Any business remaining after the 30-day period must be transacted at a special town meeting or at the next annual town meeting.

The 30-day limit is intended to prevent the practice in some towns of adjourning the annual town meeting for several months, usually for budget adoption purposes. The special committee concluded that it would be more consistent with the annual and special town meeting distinction to limit recessing of the annual town meeting to a 30-day period; town meetings after that period and before the next annual town meeting should be special town meetings, for which public notice is required. Under new s. 60.12 (1), a town meeting may call a special town meeting, which should aid compliance with the adjournment limitation.

Subsection (5) restates part of s. 60.07 (1) and revises part of s. 60.07 (2). The pertinent part of s. 60.07 (2) has been revised to provide that, when the annual town meeting is held on a date other than the 2nd Tuesday of April, only notice of the time and date of the meeting must be given. Current law references the notice requirements of s. 60.13, relating to notice of special town meetings. In addition to notice of the date of the meeting, that section requires notice of the purpose and place of the meeting. Because an annual town meeting held on the 2nd Tuesday of April requires no notice at all, it appears inconsistent to require notice of anything other than the time and date of an annual town meeting held within 10 days after the 2nd Tuesday of April.

Subsection (6) restates part of s. 60.07 (1).

Subsection (7), inserted by assembly amendment 10, revises current s. 60.16, which requires the town clerk to keep "a correct poll list containing the names of all persons voting" at the town meeting.

60.12 Special town meetings. (1) WHO MAY CONVENE. A special town meeting may be convened if:

- (a) Called by a town meeting.

(b) A written request, signed by a number of electors equal to not less than 10% of the votes cast in the town for governor at the last general election, is filed with the town clerk.

(c) Called by the town board.

(2) TIME, DATE AND PURPOSE TO BE STATED. If a special town meeting is requested or called under sub. (1), the time, date and purpose of the meeting shall be stated in the request or as part of the call.

(3) NOTICE. The town clerk shall, not more than 20 nor less than 15 days before the date of a special town meeting, publish a class 2 notice of the meeting under ch. 985. The notice shall state the purpose, date, time and location of the meeting. If notice is posted, the same time and content requirements apply.

(4) LOCATION. (a) A special town meeting may be held in the town or in any village or city within or adjoining the town.

(b) A special town meeting shall be held where the preceding annual town meeting was held, unless the location is changed by the town board.

(5) ADJOURNMENT. A special town meeting may be recessed to a time and date certain if the resumed meeting is held within 30 days after the date of the originally scheduled meeting.

(6) JURISDICTION. Any business which may be transacted at an annual town meeting may be transacted at a special town meeting.

NOTE: Subsection (1) (a) is new. Subsection (1) (b) and (c) restates part of s. 60.12. Paragraph (a) is intended to take the place of current s. 60.09, which permits the special town meeting to be adjourned to any other day. It is more straightforward to provide that, rather than adjourning a special town meeting for a significant period of time, the town meeting may simply provide for another, different meeting in the future. See the NOTE to s. 60.11 (4).

Subsection (2) is based on part of s. 60.12, which requires that a request by the town electors or action by the town board to call a special town meeting specify the purpose of the meeting. The requirement is expanded to include the time and date of the meeting as well. Currently, under s. 60.13, the town clerk sets the date of the meeting. No provision is made under current law for the time of the meeting.

Subsection (3) restates part of s. 60.13. That portion of s. 60.13 which provides that the town clerk set the date and place of the meeting is repealed. Instead, the date (and time) of the meeting is, more appropriately, set under sub. (2) by whoever calls the meeting and the location of the meeting is as provided under sub. (4).

Subsection (4) (a) restates part of the last sentence of s. 60.07 (1). Subsection (4) (b) is new. Currently, the town clerk determines the location of a special town meeting. See the NOTE to sub. (3).

Subsection (5) is based on s. 60.09, which permits a special town meeting to be adjourned from time-to-time, without limitation. The new subsection imposes a 30-day limit on recessing a special town meeting. See the NOTES to sub. (1) (a), above, and to new s. 60.11 (4).

Subsection (6) restates part of s. 60.12.

60.13 Presiding officer. (1) WHO PRESIDES. (a) If present, the town board chairperson shall chair the town meeting. If the town board chairperson is absent, another town board supervisor shall chair the town meeting. If no town board supervisor is present, the town meeting shall elect the chairperson of the meeting.

(b) If the annual town meeting is held in a year when the office of town board chairperson is filled by election, the person holding the office on the day prior to the date of the election to fill the office shall preside at the annual town meeting and is entitled to receive the per diem which is ordinarily paid to the presiding officer. If such person is absent or refuses to serve as the presiding officer, the presiding officer shall be chosen under par. (a).

(2) **DUTIES.** The town meeting chairperson shall conduct the meeting's proceedings in accordance with accepted parliamentary procedure.

(3) **ENFORCEMENT AUTHORITY.** The town meeting chairperson shall maintain order and decorum, and may order any person to leave a town meeting if the person has conducted himself or herself in a disorderly manner and persisted in such conduct after being directed by the chairperson to cease the conduct. If the person refuses the chairperson's order to withdraw, the town meeting chairperson may order a constable or other law enforcement officer to take the person into custody until the meeting is adjourned.

NOTE: Subsection (1) (a) restates current s. 60.14. Subsection (1) (b) restates the material in s. 60.07 (2) following the first sentence.

Subsection (2) is based on the first clause of s. 60.15. The detail of current law regarding the chairperson's duties in conducting the town meeting is repealed. In its place is substituted the simple requirement that the chairperson conduct the town meeting in accordance with accepted parliamentary procedure. The special committee concluded that this general requirement will permit necessary flexibility in conducting the town meeting while assuring orderly town meeting procedure.

Subsection (3) revises that part of s. 60.15 following the first semicolon. The references to possessing the authority of election inspectors is repealed as duplicative. The power of election inspectors under s. 7.37 (3) parallels the explicit powers set out in this subsection. In addition, the town meeting chairperson under the revised provision may order a constable or "other law enforcement officer" to take a disorderly person into custody until the town meeting is adjourned. The term "law enforcement officer" is substituted for "any other individual" to avoid the possible adverse legal consequences which may result if a person other than a law enforcement officer takes a person into custody.

60.14 Procedure. (1) **QUALIFIED VOTERS.** Any qualified elector of the town, as defined under ch. 6, may vote at a town meeting.

(2) **METHOD OF ACTION; NECESSARY VOTES.** All actions of a town meeting shall be by vote. All questions shall be decided by a majority of the electors voting.

(3) **ORDER OF BUSINESS.** At the beginning of the town meeting, the town meeting chairperson shall state the business to be transacted and the order in which the business will be considered. No proposal to levy a tax, except a tax for defraying necessary town expenses, may be acted on out of the order stated by the town meeting chairperson.

(4) **RECONSIDERATION OF ACTIONS.** (a) A vote of the town meeting may be reconsidered at the same meeting at which the vote was taken if the town meeting votes to reconsider within one hour after the initial vote was taken.

(b) No action of a town meeting may be reconsidered at a subsequent town meeting held prior to the next annual town meeting unless a special town meeting is convened under s. 60.12 (1) (b) or (c) and the written request or the call for the meeting states that a purpose of the meeting is reconsideration of the action.

NOTE: Subsection (1) restates part of s. 60.18 (intro.). See ch. 6, stats., and art. III, ss. 1 and 2, Wis. const., regarding who is a qualified elector.

Subsection (2) restates part of s. 60.18 (intro.) and the last sentence of s. 60.17.

Subsection (3) restates the first half of the first sentence of s. 60.17. The reference to "voting a tax for relief of the poor" is not continued, since this is a necessary expense of the town under new s. 60.10.

Subsection (4) (a) restates part of s. 60.17.

Subsection (4) (b) is new. It provides a method of reconsidering actions of a town meeting, annual or special, at a subsequent meeting held prior to the next annual town meeting. It ties into s. 60.12 (1) (b), which provides that a special town meeting may be convened if a written request, signed by a number of electors equal to not less than 10% of the votes cast in the town for governor at the last general election, is filed with the clerk. If the meeting request also asks for reconsideration of a town meeting action, that action may be reconsidered before the next annual town meeting. In addition, as provided under assembly amendment 7, the town board may call a special town meeting to reconsider an action of a previous town meeting if the board states in the call that a purpose of the meeting is reconsideration of the action.

The provision recognizes both the occasional need for reconsideration before the next annual town meeting and the possible mischief that could result in the absence of limitations on reconsideration. It also reflects the repeal in this draft of 2 provisions of current law:

1. Part of s. 60.12, which prohibits actions of a special town meeting from being reconsidered until the next annual town meeting; and
2. Part of s. 60.17, which permits reconsideration of town meeting actions more than one hour after the original vote if the reconsideration motion is passed by a majority of those who have voted up to the time the reconsideration motion is made.

The latter provision is repealed because the clerk is no longer required to keep a list of those who vote at the town meeting. See s. 60.15. The former is repealed because it is inconsistent with new sub. (4) (b).

60.15 Clerk. The town clerk shall serve as clerk of the town meeting. If the town clerk is absent, the deputy town clerk shall serve as town meeting clerk. If the deputy clerk is absent, the town meeting chairperson shall appoint a clerk for the meeting. The clerk of the town meeting shall keep minutes of the proceedings. The clerk of the town meeting shall keep a poll list if required by the annual town meeting under s. 60.11 (7). The town meeting minutes shall be signed by the clerk of the town meeting and filed in the office of the town clerk within 5 days after the meeting.

NOTE: Revises s. 60.16.

The provision of current law that the election inspectors appoint a clerk for the town meeting in the absence of the town clerk is repealed as obsolete. Instead, the deputy clerk is designated as the town meeting clerk when the town clerk is absent. If the deputy clerk is absent (or, if there is no deputy clerk), the town meeting chairperson appoints a clerk for the meeting.

60.16 First town meeting in new towns. (1) **WHEN HELD.** The first town meeting in a newly organized town shall be held at 8 p.m. on the 2nd Tuesday of the first April after the town is organized. If the 2nd Tuesday of the first April after a town is organized has passed and the first town meeting has not been held, 3 qualified electors of the town may call the first town meeting any time thereafter by posting notice of the town meeting in at least 3 public places at least 10 days prior to the date of the meeting.

(2) **WHERE HELD.** The first town meeting shall be held at the location designated in the documents which established the town. The location may be within the town or, if convenient, within a city or village in the county in which the town is located.

(3) **OFFICERS.** The qualified electors present at the first town meeting shall choose one elector as chairperson of the town meeting, 2 electors as inspectors and one elector as clerk. The inspectors and clerks shall take and sign the oath required of inspectors and clerks of general elections under s. 7.30 (5). The oath may be administered to the inspectors and clerk by the chairperson and either inspector may then administer the oath to the chairperson. After they have signed the oath, the chairperson, clerk and inspectors shall conduct the first town meeting.

(4) **JURISDICTION.** The first town meeting may conduct any business that a town meeting may conduct under ss. 60.11 and 60.12.

NOTE: Subsection (1) revises s. 60.10. A time certain is provided for the first meeting and the date of the meeting is changed from the first Tuesday of April to the 2nd Tuesday. The latter is consistent with the revised date for annual town meetings generally. See the **NOTE** to s. 60.11 (2).

Subsection (2) restates part of s. 60.07 (3).

Subsection (3) restates most of s. 60.11. The provision that those electors present between "9 a.m. and 10 a.m." choose the meeting officers is repealed because of the revisions made in sub. (1).

Subsection (4) restates the last clause of s. 60.11.

SUBCHAPTER IV TOWN BOARD

60.20 Town board. (1) **MEMBERSHIP.** The town board consists of the supervisors of the town. The board shall be designated "Town Board of".

(2) **QUORUM.** Two supervisors constitute a quorum of a 3-member town board, 3 supervisors constitute a quorum of a 4-member or 5-member town board, and 4 supervisors constitute a quorum of a 7-member town board under s. 60.21 (3).

(3) **MEETINGS.** Meetings of the town board may be held in the town or in any town, city or village within or adjoining the town, subject to subch. IV of ch. 19.

NOTE: Subsection (1) restates part of the first sentence of s. 60.29 (intro.).

Subsection (2) restates part of the first sentence of s. 60.29 (intro.), the 2nd sentence of s. 60.19 (1) (b) and the last sentence of s. 60.19 (1) (c). [Note that a 7-member board is authorized only if the town is the sole town in the county.] The provision designating 3 supervisors as a quorum of 4-member town boards is new. Current law is silent on the issue.

Subsection (3) restates the 2nd sentence of s. 60.29 (intro.), cross-references the open meetings law, which applies to town board meetings, and newly permits the town board to meet in adjoining towns, as well as adjoining cities or villages.

60.21 Town board, increased size authorized. (1) **IN TOWNS WHERE BOARD HAS VILLAGE POWERS.** Any town board authorized to exercise village powers may, by ordinance, increase the number of supervisors to no more than 5. If the number of supervisors is increased to 4, the town shall elect 2 supervisors each year. If the number is increased to 5, the town shall elect 3 supervisors in odd-numbered years and 2 supervisors in even-numbered years. An increase in the number of town board supervisors under this subsection does not create a vacancy on the town board.

(2) **WHERE TOWN OF CERTAIN POPULATION.** (a) If directed by the town meeting under s. 60.10 (2) (b), a town board of 5 members, elected at-large, shall be established in towns having a population of 2,500 or more.

(b) If a 5-member board is established and the seats of the board are numbered, the board may, by ordinance, stagger the terms of its supervisors so that the chairperson and 2 supervisors running for even-numbered seats on the town board serve 2-year terms and

the other 2 supervisors serve one-year terms, with each subsequent election to be for 2-year terms so that elections occur in both odd-numbered and even-numbered years.

(c) If a 5-member board is established and the seats of the board are not numbered, the board may, by ordinance, stagger the terms of its members so that the chairperson and 2 supervisors receiving the highest number of votes in the next election serve 2-year terms and the other 2 supervisors serve one-year terms, with each subsequent election to be for 2-year terms so that elections occur in both odd-numbered and even-numbered years.

(d) An ordinance to stagger the terms of supervisors may be adopted to apply to the initial election of 5 supervisors or to any subsequent election.

(e) An increase or reduction in the membership of a town board under this subsection take effect on January 1 of the first odd-numbered year following the most recent federal decennial or special census, but does not create any vacancy on a town board prior to the spring election.

(3) IN A COUNTY CONTAINING ONE TOWN. (a) The town board of a town in any county containing only one town may consist of not more than 7 members. One or more members shall be elected from the town at-large and one member shall be elected from each town board ward, of which there shall be not less than 2 nor more than 5. The member elected from the town at-large who has the highest number of votes shall be the town board chairperson.

(b) The number and boundaries of the town board wards and the number of town board members to be elected from the town at-large shall be designated by the legislature when the town is first established. Thereafter, the number of wards shall be subject to reapportionment and increase or decrease and the number of town board members elected at-large shall be subject to increase or decrease by majority vote of the town board. In order to provide that all inhabitants are adequately represented, each ward shall have substantially the same number of inhabitants, shall, insofar as practicable, consist of contiguous territory and shall be in compact form. The total number of town board members may not be changed from the number initially fixed by the legislature.

NOTE: Subsection (1) restates s. 60.19 (1) (am) and clarifies that an increase in the number of supervisors does not create a vacancy.

Subsection (2) restates all but the last sentence of s. 60.19 (1) (c).

Subsection (3) (a) and (b) restates the first 5 sentences in s. 60.19 (1) (b). The remainder of s. 60.19 (1) (b) is included in the general provisions in new s. 60.30, relating to town elections, and is not continued as a separate statute.

Section 60.195, specifying the initial ward boundaries for the town of Menominee, is repealed as obsolete.

60.22 General powers and duties. The town board:

(1) CHARGE OF TOWN AFFAIRS. Has charge of all affairs of the town not committed by law to another body or officer or to a town employe.

(2) CHARGE OF ACTIONS. Has charge of any action or legal proceeding to which the town is a party.

(3) VILLAGE POWERS. If authorized under s. 60.10 (2) (c), may exercise powers relating to villages and conferred on village boards under ch. 61, except those powers which conflict with statutes relating to towns and town boards.

(4) JURISDICTION OF CONSTABLE. Shall determine the jurisdiction and duties of the town constable.

(5) **PURSUE CERTAIN CLAIMS OF TOWN.** Shall demand payment of penalties and forfeitures recoverable by the town and damages incurred by the town due to breach of official bond, injury to property or other injury. If, following demand, payment is not made, the board shall pursue appropriate legal action to recover the penalty, forfeiture or damages.

NOTE: The (intro.) clause is based on the last sentence of s. 60.29 (intro.). See the NOTE to s. 60.23 (intro.). This section contains the general powers of the town board.

Subsection (1) restates s. 60.29 (1), adding, for clarity, reference to town affairs not committed by law to another body or to a town employe.

Subsection (2) restates s. 60.29 (4). The phrase "legal proceeding" is added to encompass those proceedings that technically might not be considered an "action".

Subsection (3) restates part of ss. 60.18 (12) and 60.29 (13).

Subsection (4) is new. The special committee concluded that, in order for the town board to exercise adequate control over town law enforcement, it is necessary that the board be able to define the jurisdiction and duties of the town constable. Since the office may be established or abolished by the town meeting [see s. 60.10 (1) (b) 4], it seems appropriate to require the town to establish the jurisdiction and duties of the office, if provided for, particularly since the only qualification for the office is that the constable be an elector of the town. It is recognized that, if the town board fails to define the jurisdiction and duties of the constable, the latter will have virtually no duties because of the repeal of s. 60.54, defining the general duties of the town constable; it is assumed that, if a town has a constable and the town board fails to establish the jurisdiction and duties of the constable, the town board intends, albeit tacitly, that the office be virtually powerless.

Subsection (5) restates s. 60.29 (5).

60.23 Miscellaneous powers. The town board may:

(1) **JOINT PARTICIPATION.** Cooperate with the state, counties and other units of government under s. 66.30, including cooperative arrangements involving the acquisition, development, remodeling, construction, equipping, operation and maintenance of land, buildings and facilities for regional projects, whether or not located in the town.

(2) **UTILITY DISTRICTS.** Establish utility districts under s. 66.072 and provide that any convenience or public improvement in the district be paid for under that section.

(3) **APPROPRIATIONS FOR CIVIC AND OTHER FUNCTIONS.** If authorized under s. 60.10 (3) (b), appropriate reasonable amounts of money for gifts or donations to be used to:

(a) Further civic functions and agricultural societies.

(b) Advertise the attractions, advantages and natural resources of the town.

(c) Attract industry.

(d) Establish industrial complexes.

(e) Establish, maintain and repair ecological areas.

(f) Provide for the organization, equipment and maintenance of a municipal band or for the employment of other bands to give concerts and municipal entertainment in the town.

(4) **TOWN INDUSTRIAL DEVELOPMENT AGENCY.** In order to promote and develop the resources of the town, appropriate money for and create a town industrial development agency or appoint an executive officer and provide staff and facilities for a nonprofit organization organized to act under this subsection. A town industrial development agency created under this subsection may:

- (a) Develop data regarding the industrial needs of, advantages of and sites in the town.
 - (b) Engage in promotional activities to acquaint prospective purchasers with industrial products manufactured in the town.
 - (c) Coordinate its activities with the county planning commission, the department of development and private credit development organizations.
 - (d) Engage in any other activity necessary for the continued improvement of the town's industrial climate.
- (5) COOPERATION IN COUNTY PLANNING. Cooperate with the county in rural planning under ss. 27.015, 59.07 (65) and 59.97.
- (6) CONSERVATION OF NATURAL RESOURCES. If authorized by the town meeting under s. 60.10 (3) (a), appropriate money for the conservation of natural resources or for payment to a bona fide nonprofit organization for the conservation of natural resources within the town or beneficial to the town. No payment may be made to a nonprofit organization unless the organization submits and the town board approves a detailed plan of the work to be done. The plan shall include the name of the owner of any property on which work is to be performed.
- (7) OBSTRUCTIONS IN NONNAVIGABLE WATERS. Remove, at the expense of the town, any obstruction located in the town which prevents the natural flow of water in a non-navigable stream. One or more town board supervisors, or a designee of the board, may enter upon any land if necessary to remove the obstruction.
- (8) EMERGENCY PEST AND DISEASE CONTROL. Appropriate money for the control of insects, weeds or plant or animal diseases if:
- (a) An emergency arises within the town due to insects, weeds or plant or animal diseases; and
 - (b) The board determines that any delay resulting from calling a special town meeting to authorize the town board to appropriate money for this purpose under s. 60.10 (3) (c) would result in serious harm to the general welfare of the town.
- (9) RESIDENT PHYSICIANS, PHYSICIAN'S ASSISTANTS AND NURSES IN CERTAIN TOWNS. In a town comprised entirely of one or more islands, annually appropriate money to retain a physician or, if no physician is available, a physician's assistant or nurse practitioner, as a resident within the town.
- (10) BOWLING ALLEYS, POOL TABLES AND AMUSEMENT DEVICES. Regulate, including the licensing of, bowling alleys, billiard and pool tables and other amusement devices maintained in commercial facilities. If a license is required, the board shall establish the term of the license, not to exceed one year, and the license fee. The board may suspend or revoke, for cause, a license issued under this subsection. Any person violating a regulation adopted under this subsection shall forfeit to the town an amount established by the town board.
- (11) LIBRARY THEFT. Adopt an ordinance to prohibit conduct which is the same or similar to that prohibited by s. 943.61 and impose a forfeiture for violation of the ordinance.
- (12) REIMBURSEMENT OF SCHOOL DISTRICTS FOR PROVIDING TRANSPORTATION IN HAZARDOUS AREAS. Reimburse a school district for costs incurred by the district under s. 121.54 (9) in transporting pupils who reside in the town.
- (13) EXCHANGE TAX CREDIT FOR COUNTY LAND. Authorize the town treasurer to exchange any credit the town has with the county, arising from delinquent real estate taxes, for county-owned land.

(14) ASSOCIATIONS OF TOWNS. Appropriate money to purchase membership in any association of town boards for the protection of town interests and improvement of town government.

(15) VACATION OF ALLEYS. Vacate any alley in the town under s. 66.296. The town board may not vacate, under this subsection, an alley adjacent to land fronting a state or county trunk highway.

(16) CEMETERIES. Provide for cemeteries under ch. 157.

(17) CHANGE STREET NAMES. Name, or change the name of, any street in the town under s. 81.01 (11).

(18) USE OF FIREARMS. Regulate the careless use of firearms and impose forfeitures for violation of the regulations.

(19) FENCES IN SUBDIVISIONS. If authorized under s. 60.10 (2) (c) to exercise village powers, by ordinance require a subdivider to construct a fence under s. 90.02 on the boundary of a subdivision, as defined under s. 236.02 (8), as a condition of plat approval by the town. The fence shall be maintained under s. 90.05 (2) and repaired under ss. 90.10 and 90.11.

(20) DISPOSITION OF DEAD ANIMALS. Notwithstanding ss. 59.07 (84) and 95.50 (3), dispose of any dead animal within the town or contract for the removal and disposition with any private disposal facility. A town may enter into a contract with any other governmental unit under s. 66.30 to provide for the removal and disposition. A town may recover its costs under this subsection by levying a special assessment under s. 66.345.

NOTE: The (intro.) clause is based on the last sentence of s. 60.29 (intro.), which introduces the list of town board powers and duties under s. 60.29 as follows: "Such board is empowered and required:". The clause is ambiguous as it relates to certain provisions in s. 60.29; i.e., is the provision discretionary or mandatory? Further, many of the powers and duties under s. 60.29 appear to have been drafted as though the introductory clause did not exist. There appear to be no reported court decisions or attorney general opinions concerning the general interpretation of the introductory clause.

The phrase "empowered and required" is, therefore, not continued in this draft. Instead, the provisions of s. 60.29 are organized under the town board subchapter as general powers and duties [s. 60.22] and miscellaneous specific powers (this section). In addition, some of the s. 60.29 powers and duties are included in other subchapters of ch. 60.

Subsection (1) restates s. 60.29 (38).

Subsection (2) is based on ss. 60.29 (6) and (30) and 66.072.

Section 60.29 (30) authorizes town boards with village powers to provide "any convenience or public improvement" to an unincorporated village and to pay for the cost of the convenience or improvement by levying a tax against the property within the unincorporated village.

Section 66.072 authorizes the town board to establish "utility districts" in which the cost of highways (excluding bridges), sewers, sidewalks, street lighting and water for fire protection is paid by a tax levy against the property in the district.

The special committee reviewed the history, meaning and current use of the term "unincorporated village". While the term appears in several sections of the statutes, the special committee concluded that its primary utility lies in the ability of town boards, under s. 60.29 (30), to provide conveniences or public improvements in unincorporated villages and to have the cost of the conven-

ience or public improvement paid for by taxing the residents of the unincorporated village.

The term “unincorporated village” is not statutorily defined. Strictly interpreted, the phrase refers to a community within a town which meets the requirements for incorporation as a village but which has not been incorporated. See *Handlos v. Town of State Line*, 23 Wis. 145, 288 N.W. 748 (1939). Under current Wisconsin incorporation law, a strict interpretation of “unincorporated village” would limit the number of areas within towns which may be designated as unincorporated villages.

In addition to possible problems of interpretation, the term “unincorporated village” is inherently contradictory and, therefore, potentially confusing.

Following its review of statutes relating to “unincorporated villages”, the special committee concluded that there is no reason to continue the terminology in town law and that the value of the concept may be continued by expanding the town’s authority in relation to utility districts. Subsection (2) expands the authority of a town board to use a utility district by permitting provision for any convenience or public improvement within a utility district. In addition, any town board may use a utility district for this purpose, not just town boards that have been granted authority to exercise village powers. See, also, SECTION 16.

Subsection (3) (a) to (e) restates s. 60.80. Subsection (3) (f) revises s. 60.18 (18). Under current law, the authority is a direct power of the town meeting; in this draft, the authority of the town meeting is amended to authorize the town board to appropriate money for the purpose.

Subsection (4) restates s. 60.29 (45).

Subsection (5) restates s. 60.29 (43).

Subsection (6) restates the first sentence of s. 60.29 (44) (a). The 2nd sentence of s. 60.29 (44) (a), prohibiting conservation work by a nonprofit organization on streams and lakes of the town without permission of the department of natural resources, is repealed as duplicative. Such permission is required under ch. 30.

Paragraph (b) of s. 60.29 (44), containing special notice requirements for town meetings authorizing the appropriation of money by the town board for conservation of natural resources, is repealed. The committee concluded that there is no overriding reason for special notice requirements for town meetings dealing with this issue.

Subsection (7) revises s. 60.68. Reference to nonnavigable “creek” is not continued; it is assumed to be covered by nonnavigable “stream”. In addition, the town board is given express authority to designate one or more persons to remove an obstruction from a nonnavigable stream.

Subsection (8) restates part of s. 60.29 (22). The current \$100 limit on the amount of money that can be appropriated in these emergency situations is repealed as unrealistic and unnecessary. The requirement in current s. 60.29 (22) that the town clerk notify the department of agriculture, trade and consumer protection of the appropriation is repealed as unnecessary.

Subsection (9) revises s. 60.29 (35). A provision added by assembly amendment 5 newly permits appropriation of money to retain a physician’s assistant.

Subsection (10) revises s. 60.29 (15):

1. Regulation authority is extended to all amusement devices maintained in commercial facilities.

2. The requirement that the term of a license for an amusement device not extend beyond the date of the next town meeting is replaced by a requirement that the license term established by the town board not exceed one year. The town board is given express authority to suspend, as well as revoke, a license.

3. The current penalty provision is revised by removing the minimum forfeiture that may be assessed (\$10) and deleting the current provision for a jail term for failing to pay the forfeiture. The latter is unnecessary. [See ss. 66.12 (1) (c) and 800.09 (1) which provide for jail terms of up to 90 days for failure to pay municipal forfeitures.]

Subsection (11) restates s. 60.82.

Subsection (12) restates s. 60.29 (46). Reference to adoption of an ordinance by a majority of the town board is repealed as unnecessary.

Subsection (13) restates s. 60.29 (32).

Subsection (14) revises s. 60.29 (17a) by eliminating the requirement that money for this purpose be appropriated by a two-thirds vote of the town board.

Subsection (15) restates s. 60.29 (40).

Subsection (16) is based on s. 60.29 (39), which authorizes the town board to provide for fences to enclose a cemetery determined by the board to be abandoned or neglected. The provision is duplicative of s. 157.04 (4). The new provision simply cross-references ch. 157, under which the town board has certain duties and authority in connection with providing for cemeteries.

Subsection (17) is based on s. 60.295. The more general authority for the town board to name streets is under s. 81.01 (11), which is cross-referenced.

Subsection (18) restates part of s. 60.29 (9). The \$10 maximum forfeiture for violations of the regulations is repealed.

Subsection (19) restates s. 60.29 (42).

Subsection (20) restates s. 60.29 (36), as affected by 1983 Wisconsin Act 27.

60.24 Powers and duties of town board chairperson. (1) GENERAL POWERS AND DUTIES. The town board chairperson shall:

(a) *Preside at board meetings.* Preside over meetings of the town board.

(b) *Preside at town meetings.* Preside over town meetings as provided under s. 60.13.

(c) *Sign documents.* 1. Sign all ordinances, resolutions, bylaws, orders, regulations, commissions, licenses and permits adopted or authorized by the town board unless the town board, by ordinance, authorizes another officer to sign specific types of documents in lieu of the chairperson. The board, by ordinance, may authorize use of a facsimile signature under this paragraph.

2. Sign all drafts, order checks and transfer orders as provided under s. 66.042.

(d) *Assure administration of statutes.* Supervise the administration of statutes relating to the town and town operations to see that they are faithfully executed.

(e) *Act on behalf of board.* Act, on behalf of the town board, to:

1. See that town orders and ordinances are obeyed.

2. See that peace and order are maintained in the town.

3. Obtain necessary assistance, if available, in case of emergency, except as provided under ch. 166.

(f) *Act on authorization of board.* If authorized by the town board, act on behalf of the board, to:

1. Direct, as appropriate, the solicitation of bids and quotations for the town's purchase of equipment, materials and services and submit the bids and quotations to the town board for approval.

2. Represent, or designate another officer to represent, the town at meetings of, and hearings before, governmental bodies on matters affecting the town.

(2) ADMINISTER OATHS. The town board chairperson may administer oaths and affidavits on all matters pertaining to the affairs of the town.

(3) OTHER RESPONSIBILITIES. In addition to the powers and duties under this section, the town board chairperson has the following responsibilities:

(a) Nominate election officials when the town board disapproves the nominee of a party committee under s. 7.30 (4) (b) 2.

(b) Serve as caucus official under s. 8.05 (1) (c).

(c) Sue on official bonds under s. 19.015.

(d) Execute and sign a certificate of indebtedness in connection with obtaining a state trust fund loan under s. 24.67.

(e) Serve as town fire warden under ss. 26.13 and 26.14.

(f) Appoint members of the board of harbor commissioners under s. 30.37 (3).

(g) Appoint members of library boards under ss. 43.54 (1) (a) and 43.60 (3).

(h) Exercise the powers and duties specified for a mayor under s. 62.13 if the town creates a joint board of police and fire commissioners or joint police or fire department with a village under s. 61.65 (3g) (d) 2 or a board of police and fire commissioners under s. 60.57.

(i) Provide an annual estimate of funds necessary for any utility district established under s. 66.072 (2).

(j) Publish annually a notice regarding noxious weeds and appoint one or more commissioners of noxious weeds under ss. 66.96 to 66.99.

(k) Sign general obligation bonds issued by the town under s. 67.08 (1).

(L) If authorized by the town board, represent the interests of the town in connection with appearances before the state tax appeals commission under s. 70.64 (5).

(m) Approve the bond of the town treasurer delivered to the county treasurer under s. 70.67 (1).

(n) Perform duties in connection with selection of jurors in actions relating to the taking of property to provide access to a cemetery, fairground or land used for industrial expositions under s. 80.48 (3) and (4).

(o) Sign orders for payment of work performed and materials furnished on town highways under s. 81.04.

(p) See that all tunnels in the town are constructed under s. 81.35 and that they are kept in good repair.

(q) Serve as a member of the county highway committee under s. 83.015 (1) (d).

(r) Close county trunk highways when rendered dangerous for travel and notify the highway commissioner under s. 83.09.

(s) Appoint members to the airport commission under s. 114.14 (2).

(t) Vote or designate another supervisor to vote on whether to abolish a city school district and create a common school district or a unified school district containing the territory of a city school, when an order for school district reorganization has been issued under s. 120.50.

(u) Perform the town chairperson's duties related to jewelry auction sales under s. 130.07.

- (v) Under s. 167.10 (8), enforce regulation of fireworks under s. 167.10.
- (w) Perform the town chairperson's duties related to stray animals and lost goods under ch. 170.
- (x) Perform the town chairperson's duties related to distrained animals under ch. 172.
- (xm) Perform the town chairperson's duties related to animals that have caused damage in the town under ch. 173.
- (y) Perform the town chairperson's duties related to municipal power and water districts under ch. 198.
- (ym) Cause actions to be commenced for recovery of forfeitures for violations of town ordinances that can be recovered in municipal court under s. 778.11.
- (z) Notify the district attorney of forfeitures which may not be recovered in municipal court under s. 778.12.
- (zm) Approve bonds furnished by contractors for public works under s. 779.14 (1).

NOTE: New, except for sub. (1) (a) and (b), the last clause of the first sentence of sub. (1) (c), sub. (2) and sub. (3), which set forth or cross-reference existing duties. The new provisions are based in part on language in s. 61.24, relating to the village president. Currently, there is no provision granting general executive powers to the town board chairperson. See *Schwaab v. Town of Summit*, 98 Wis. 2d 511, 297 N.W. 2d 62 (1980). The special committee concluded that it is important to the efficient operation of towns to grant general executive powers to the town board chairperson. Without such a provision, there is arguably no one "in charge" of the town when the town board is not meeting.

Subsection (3) cross-references existing statutory powers and duties of the town board chairperson located outside of ch. 60. The list is intended to be exhaustive, but the absence of a power or duty from the list does not affect the validity of the power or duty.

SUBCHAPTER V TOWN OFFICERS AND EMPLOYEES

60.30 Election of town officers; general provisions. (1) ELECTED TOWN OFFICERS. (a) At the annual spring election in odd-numbered years, each town shall elect:

1. Except as provided under par. (b), 3 town board supervisors. One of the supervisors shall be designated on the ballot as town board chairperson.
2. A town clerk and a town treasurer or a person to serve in the combined office of town clerk and town treasurer under s. 60.305 (1).
3. A town assessor, if election of the assessor is required, or a person to serve in the combined office of town clerk and town assessor under s. 60.305 (2).
4. The number of constables established by the last preceding town meeting unless the office has been abolished and has not been reestablished by the town meeting under s. 60.10 (1) (b) 4.

(b) If the town board has increased the number of supervisors under s. 60.21, town board supervisors shall be elected at the annual spring election as provided in that section.

(2) RESTRICTIONS. (a) Only an elector of the town may hold a town office, other than an assessor appointed under s. 60.307.

(b) No person may hold the offices of town treasurer and town assessor at the same time.

(c) No assessor may be elected in any town appointing assessors under s. 60.307 or in any town which is under the jurisdiction of a county assessor under s. 70.99.

(d) No person may assume the office of town assessor unless certified by the department of revenue, under s. 73.09, as qualified to perform the functions of the office of town assessor. If a person is elected to the office and is not certified by June 1 of the year elected, the office is vacant and the town board shall fill the vacancy from a list of persons certified by the department of revenue.

(3) NOTICE OF ELECTION. Within 5 days after completion of the canvass under s. 7.53, the town clerk shall transmit a notice of election to each person elected to a town office.

(4) TERM OF OFFICE. (a) Every elected town officer shall hold the office for 2 years and until a successor is elected and qualified.

(b) The regular term of elected town officers, other than the town assessor, commences on the 2nd Tuesday of April in the year of their election. The regular term of an elected assessor commences on June 1 in the year of the assessor's election.

(5) TEMPORARY VACANCY. (a) If any elected town officer, other than a town board supervisor, is absent or temporarily incapacitated from any cause, the town board may appoint, if there is no deputy officer for the office, a suitable person to discharge the duties of the office until the officer returns or the disability is removed. Appointees shall file the official oath and bond required under s. 60.31.

(b) If any elected town officer, other than a town board supervisor, refuses to perform any official duty, the town board may appoint a suitable person to perform those duties which the officer refuses to perform. An appointee shall file the official oath and bond required of the office under s. 60.31. This paragraph does not preclude a finding that refusal to perform official duties constitutes cause under s. 17.13 (3).

(6) TOWN OFFICERS RESIDING IN NEW INCORPORATED MUNICIPALITY OR ANNEXED TERRITORY. Notwithstanding s. 17.03 (4), if, due to incorporation or annexation, any town officer, except a town board supervisor or a municipal judge, becomes a resident of a city or village, the officer shall continue in the town office and discharge the duties of the office until completion of the term for which elected.

NOTE: Subsection (1) restates the first sentence of s. 60.19 (1) (a) except:

1. Subsection (1) (a) (intro.) and (b) makes clear that the elections are to take place at the spring election.

2. The 2nd clause in sub. (1) (a) 2, relating to the combined office of clerk and assessor, is new. It is based on the language in ss. 60.18 (20m) and 60.19 (1) (a) permitting the town meeting by resolution, or the town electors by referendum, to combine the offices of clerk and assessor.

3. The limitation on the number of constables that may be elected (3) is eliminated.

4. The 2nd clause in sub. (1) (a) 4 is new, clarifying that constables are not to be elected where the office has been abolished and has not been reestablished by the town meeting under new s. 60.10 (1) (b) 4.

5. The parenthetical reference to also electing assistant assessors, if provided for by the town board, is repealed as obsolete.

Subsection (2) (a) revises the 2nd sentence in s. 60.19 (1) (a). Permitting the town board to appoint nonelectors of the town as assessors is retained here; the recitation of who may be appointed assessor is incorporated in new s. 60.307.

Subsection (2) (b) restates the 3rd sentence in s. 60.19 (1) (a).

Subsection (2) (c) restates the 5th sentence in s. 60.19 (1) (a).

Subsection (2) (d) restates s. 60.19 (2m), except:

1. The language referencing the 1977, elections and appointments on or after January 1, 1977, is repealed as obsolete.

2. The office of elected assessor does not become vacant due to lack of certification of the person elected until June 1 of the year of election. Under s. 60.31 (3) (a), elected assessors are required to take and file the official oath and bond within 5 days before June 1. A person elected to the office of assessor who is uncertified thus has time to become certified before assuming office. The committee concluded, therefore, that the office should become vacant due to lack of certification on June 1 of the year of election, rather than upon election, as under current law.

3. "Town board" is substituted for the term "appointing authority" since the town board will always have the appointive power.

Subsection (3) is based on the first sentence of s. 60.20. For purposes of certainty, the notice requirement is triggered by completion of the municipal election canvass, rather than "after the election". The portion of the first sentence of s. 60.20 providing that the clerk need not transmit a notice of election to an elected town officer who "voted at the meeting" is repealed, since town officers are not elected at a town meeting.

Subsection (4) (a) restates s. 60.22. Subsection (4) (b) is new. There is no provision in current ch. 60 setting forth when the terms of elected town officers commence. The language is based on similar provisions in s. 61.23 (2), relating to village officers and s. 62.09 (5), relating to city officers.

Subsection (5) (a) is based on the latter portions of ss. 60.23 and 60.28. The current law is revised to follow the comparable provision in village and city law [ss. 61.23 and 62.09 (5) (d)] and is changed in the following respects:

1. Current s. 60.28 contains a separate provision relating to treasurers-elect who refuse to serve or treasurers who vacate the office or are unable to serve in office. Unlike other town officers who are permitted to return to office once the disability is removed, a treasurer who refuses or is unable to serve is replaced by a town board appointee for the remainder of his or her term. However, the former treasurer and his or her sureties remain liable on any bond that was filed.

There appears to be no substantial reason for continuing this provision. There is no similar provision in the current statutes relating to village treasurers and city treasurers. In addition, s. 19.01 (6) makes clear that any official bond continues in force and is applicable to all official conduct during the incumbency of the officer. Accordingly, par. (a) is drafted to apply to any town officer who is absent or temporarily incapacitated for any cause.

2. Paragraph (a) is broadened to include "absences". In addition, the "municipal judge exception" in the provision allowing the town board to temporarily replace any incapacitated incumbent is not continued, since it does not appear in the comparable village and city statute.

3. Current s. 60.23 provides for a forfeiture of \$10 for a person who is elected to town office and who refuses or neglects to serve in the office. This provision is repealed in this draft as unnecessary and archaic.

Subsection (5) (b) is new. It permits the town board to appoint a person to perform the duties of an elective town office (other than supervisor) when the officeholder refuses to perform official duties. The person appointed by the board may only perform those duties the officeholder refuses to perform. The provision is intended as a means for the town board to assure that a town officer's official duties are carried out, short of seeking removal of the officer.

Subsection (6) is based on s. 60.225. The revised law has been broadened to also cover town officers residing in newly organized cities, as well as villages, and residing in newly annexed territory. The reference to s. 17.03 (4) is inserted to clarify that the office does not become vacant, even though the town officer "ceases to be an inhabitant" of the town. In addition, town board supervisors are exempted from the provision; if a supervisor resides in incorporated territory following incorporation or annexation, the office becomes vacant. The special committee concluded that a supervisor is unable to adequately represent a town once the supervisor commences residing in an incorporated municipality.

60.305 Combined and part-time offices. (1) **CLERK AND TREASURER.** Except as provided under sub. (3), the town meeting may:

(a) Combine the offices of town clerk and town treasurer. If the offices are combined, the town board shall provide for an annual audit under s. 60.43 (2).

(b) Designate as part-time the office of town clerk, the office of town treasurer or the combined office of town clerk and town treasurer.

(2) **CLERK AND ASSESSOR.** Except as provided under sub. (3), the town meeting may combine the offices of town clerk and town assessor. If a person elected to a combined office is not certified under s. 73.09 by June 1 of the year elected, the combined office is vacant.

(3) **TOWN IN COUNTY WITH ONLY ONE TOWN.** (a) In the town in any county containing only one town, the town board may, by resolution:

1. Combine 2 or more town offices.

2. Designate any town office as a part-time position.

3. Combine, if concurred in by the county board, the offices of town clerk and county clerk and any other town and county offices if the offices combined are not incompatible and the combination is not expressly forbidden by law.

(b) If the town board and county board agree to combine a county and town office under this subsection, the election to fill the combined office shall be under s. 59.12. No separate election for the town office may be held until the county board, by resolution, revokes the combination and the town board, by resolution, concurs.

(4) **GENERAL PROVISIONS.** (a) A combination of offices under this section takes effect on the latest date that any current term of an office to be combined expires.

(b) Except as provided under sub. (3) (b) for combined town and county offices, the election to fill any combined office shall be under s. 60.30.

(c) The combination of town offices may be revoked in the same way that they were combined. No separate election for a town office, if combined, may be held until the combination is so revoked.

NOTE: Subsection (1) restates the first sentence of s. 60.60 (2) (b). The last sentence of s. 60.60 (2) (b), allowing the town meeting to set the compensation of combined or part-time offices, is not continued here. The general power of the town meeting to set the compensation of town officers, recodified as s. 60.32, is drafted to cover this situation. Since a special town meeting may take up any business permitted to be taken up by the annual meeting, the term "town meeting" is used in sub. (1) (intro.). The reference to the audit required when the offices of clerk and treasurer are combined is new and is intended to give notice of the requirement.

Subsection (2) is based on part of the 4th sentence in s. 60.19 (1) (a), which authorizes the offices to be combined by referendum, held at the time of a regular or special election. The committee concluded it is more consistent with

other provisions relating to combining town offices to give the town meeting the authority to combine the offices. The provision that the combined office is vacant if the person elected to the office fails to obtain appropriate assessor certification from the department of revenue by June 1 of the year elected is new and was inserted by assembly amendment 1. The authority of the town meeting under s. 60.18 (20m) to permit the separate offices of town clerk and town assessor to be held by the same person is not continued in this draft. The authority is repealed to avoid the issue of dual compensation and because there is no guarantee that the same person will hold both offices, even if permitted by the town meeting. In contrast, the town meeting, by combining the 2 offices, can assure that they are held by the same person.

Subsection (3) restates s. 60.60 (2) (a).

Subsection (4) (a) is based on language in the 4th sentence of s. 60.19 (1) (a) and clarifies when the action to combine offices takes effect.

Subsection (4) (b) and the 2nd sentence in sub. (4) (c) are based on the 2nd and 3rd sentences in s. 60.60 (2) (b). The first sentence of sub. (4) (c) is new.

60.307 Appointment of town assessors. (1) **APPLICABILITY.** This section does not apply to any town within the jurisdiction of a county assessor under s. 70.99.

(2) **TOWN MEETING AUTHORIZATION.** If authorized by the town meeting under s. 60.10 (2) (j), the town board may select assessors by appointment.

(3) **METHOD OF SELECTION.** If authorized under sub. (2), a town board may appoint an assessor and any assistants by one of the following methods:

(a) If the town has a civil service system, under that system. If the town has no civil service system, the town board may adopt a civil service system under s. 66.19 (2) for the selection of assessors.

(b) If the town does not have or adopt a civil service system, the town board shall appoint assessors on the basis of merit, experience and general qualifications for a term not to exceed 3 years.

(4) **INDEPENDENT CONTRACTOR AS ASSESSOR.** (a) In this subsection, "independent contractor" means a person who either is under contract to furnish appraisal and assessment services or is customarily engaged in an independently established trade, business or profession in which the services are offered to the general public.

(b) An independent contractor may be appointed as the town assessor. The independent contractor shall designate the individual responsible for the assessment. The designee shall file the official oath under s. 19.01 and sign the affidavit of the assessor attached to the assessment roll under s. 70.49. No individual may be designated by an independent contractor unless he or she has been granted the appropriate certification under s. 73.09.

(5) **ASSESSORS; ASSISTANTS; NUMBER AND SALARIES.** The town board shall determine the number of assistant assessors required and the salaries to be paid the assessor and assistant assessors. If the assessor and assistant assessors are appointed under civil service, the salaries shall be within the civil service salary schedule and appointments shall be from the civil service lists.

(6) **COMMENCEMENT OF OFFICE.** An initial appointee under this section shall take office at the expiration of the terms of the last elected assessors.

NOTE: Subsection (1) restates the provision found in:

1. The 2nd clause in the first sentence of s. 60.19 (2);
2. The 2nd clause in the first sentence of s. 60.19 (3) (b); and
3. The last sentence in s. 60.19 (4).

Subsection (2) cross-references the town meeting's authority to authorize the town board to appoint assessors. Part of s. 60.19 (2) and all of s. 60.19 (3) (a), relating to a petition and referendum procedure for the appointment of assessors, are repealed. Section 60.19 (4), relating to the repeal of an appointed assessor system established by the referendum procedure, is also repealed. Thus, the draft provides for a single procedure by which a town can switch from an elected to an appointed assessor position.

Subsection (3) restates the 2nd sentence of s. 60.19 (2) and part of the 3rd sentence in s. 60.19 (5).

Subsection (4) restates that part of s. 60.19 (2) following the 2nd sentence. Reference to "corporation" has been repealed since corporation is included in the term "person", which appears in the definition of "independent contractor". See s. 990.01 (26), stats.

Subsection (5) restates part of s. 60.19 (2) and (3) (b). Section 60.19 (3) (c), which requires the town board to certify to the town treasurer the names and salaries of the town assessors and requires the treasurer to issue a check semi-monthly to pay the salaries, is repealed as unnecessary.

Subsection (6) restates the last sentence of s. 60.19 (3) (b).

60.31 Official oath and bond. (1) **OFFICIAL OATH.** Except as provided in sub. (3), every elected or appointed town officer shall take and file the oath under s. 19.01 within 5 days after notification of election or appointment.

(2) **OFFICIAL BOND.** Every town clerk, deputy town clerk, town treasurer, deputy town treasurer, elected assessor and town constable shall execute and file an official bond provided by the town. No natural person may be a surety on a bond under this subsection. The bond may be furnished by a surety company under s. 632.17 (2). The amount of the bond shall be fixed by the town board. If the amount of the bond is not fixed by the board, the amount shall be the same as that required of the last incumbent of the office. If the town board at any time determines that the bond is insufficient, it may require an additional bond to be filed within 10 days, in an amount fixed by the board.

(3) **EXCEPTIONS.** (a) An elected assessor shall take and file the official oath and bond at any time between May 27 to May 31.

(b) Municipal judges shall take and file the official oath and bond under s. 755.03.

(4) **FAILURE TO FILE OATH OR BOND.** If any person elected or appointed to a town office fails to file a required official oath or bond within the time prescribed by law, the failure to file constitutes refusal to serve in office.

NOTE: Subsection (1) revises the 2nd sentence in s. 60.20. The provision requiring the oath to be taken and filed within 5 days after "election or appointment" is replaced by a requirement that the oath be taken and filed within 5 days after notification of election or appointment. A cross-reference to s. 19.01 is added, which specifies the form of, and various requirements relating to, oaths of public officials.

Subsection (2) is based on ss. 60.21, 60.43, 60.48 and 60.53. Current law is revised as follows:

1. The deputy town clerk is added to the list of officers required to file an official bond.

2. The subsection specifies that the town is responsible for providing the bond. Current law implies that the town officer is to provide the bond.

3. The new provision prohibits a natural person from being a surety on a bond and, consequently, does not continue the requirements that each bond "have at least 2 sureties" and that the town board chairperson approve the bond sureties in writing on the bond.

4. The provision of s. 60.48 permitting the bond for the town treasurer and deputy town treasurer to be furnished by a surety company under s. 632.17 (2) (insurer authorized to do a surety business) is revised to expressly apply to bonds for all town officers. Under the terms of s. 632.17, this does not appear to be a change in current law.

5. The provision of s. 60.48 requiring the town treasurer's bond to be set at an amount "not less than the whole amount of money estimated to come into his hands during his term" is repealed. Under the subsection, the town board will determine the amount of the treasurer's bond, as it does for the bonds required of other town officers.

Subsection (3) (a) restates the last sentence of s. 60.20.

Subsection (3) (b) cross-references s. 755.03, which sets forth the provisions relating to the official oath and bond of municipal judges.

Subsection (4) restates the 3rd sentence in s. 60.20. That part of s. 60.23 imposing a forfeiture of \$10 to \$50 on persons who enter upon the duties of an elective town office before filing a required oath or bond is repealed as unnecessary and archaic.

60.32 Compensation of elective town offices. (1) ESTABLISHED BY TOWN MEETING OR BOARD. (a) Except as provided under par. (b), the town meeting shall establish the compensation of elective town offices.

(b) If authorized by the town meeting under s. 60.10 (2) (k), the town board shall establish the compensation of elective town offices, other than the office of town board supervisor.

(2) NATURE OF COMPENSATION. Compensation under this section may be:

(a) An annual salary.

(b) A per diem compensation for each day or part of a day necessarily devoted to the service of the town and the discharge of duties.

(c) A combination of pars. (a) and (b).

(3) CHANGES DURING TERM. Subject to sub. (4), the town meeting or, if authorized to establish compensation, the town board may make a change in the compensation of an elective town office to take effect during the term of office.

(4) WHEN ESTABLISHED. Compensation under this section shall be established prior to the latest date and time for filing nomination papers for the office. After that date and time, no change may be made in the compensation of the office that applies to the current term of office.

NOTE: Subsection (1) (a) restates the first sentence in s. 60.60 (1) (a) (intro.) and revises part of s. 60.61 and the first sentence of s. 60.18 (11). Section 60.61, providing that in all towns having an assessed valuation of \$4 million or more elected town assessors shall be compensated as provided by the town meeting and in all other towns a per diem compensation is to be established by the town meeting, is repealed to simply let the town meeting or board set the compensation, regardless of the assessed valuation of the town.

Subsection (1) (b) is new. Under current law, only the town meeting may establish the compensation of elected town officers.

Subsection (2) revises s. 60.60 (1) (a) to apply to all elected town officials.

Subsection (3) is based in part on s. 60.60 (4), which prohibits the salary or compensation rate of an elected town official from being increased or reduced during the term of office. The statutes are silent as to whether a change during the officer's term is permitted if the change was authorized by the town meeting before the officer's term commences. Subsection (3) expressly permits the town meeting or town board to provide for changes in the compensation of an elective town office during the term of office, subject to timely providing for the increase as required under sub. (4).

Subsection (4), first sentence, is new. Current law does not specify the date by which the compensation of elected town officers must be established.

Subsection (4), 2nd sentence, revises ss. 60.18 (11) and 60.60 (4). Currently, no salary or compensation rate may be increased or reduced during the term of any elective town official. Under subsection (4) no salary or compensation rate may be increased or decreased any time after the latest date and time for filing nomination papers for the office (which is 5 p.m. on the first Tuesday of January, under s. 8.10 (2)).

60.321 Reimbursement of expenses. (1) **GENERALLY.** The town board may provide for reimbursement of expenses necessarily incurred by any officer or employe of the town in the performance of official town duties. The board may determine who is eligible for expense reimbursement, which expenses are reimbursable and the amount of reimbursement. Expenses reimbursable under this section include, but are not limited to:

- (a) Traveling expenses, including mileage, lodging and meal expenses.
- (b) Costs associated with programs of instruction related to the officer's or employe's office or employment.

(2) **MANUALS.** The town board may purchase handbooks and manuals that will materially assist town officials and employes in the performance of official duties.

NOTE: Subsection (1) is new. Currently, there is no statutory authority for a town officer to receive reimbursement for meals, lodging, mileage and other out-of-pocket expenses incurred on official town business. In *State v. Kort*, 54 Wis. 2d 129, 194 N.W. 2d 682 (1972), the Wisconsin supreme court ruled that the town board may reasonably reimburse town officers for expenses incurred while on official town business. The decision was based on the general responsibility delegated to the town board to handle the affairs of the town.

New s. 60.321 (1) codifies *Kort*, and expressly gives the town board authority to provide for reimbursement of expenses necessarily incurred by any officer or employe of the town in performance of official town duties. The board may determine who is eligible for expense reimbursement, expenses that are reimbursable and the amount of reimbursement.

Subsection (2) restates s. 60.29 (12) and extends the authority to include handbooks and manuals for town employes, as well as officials.

60.323 Compensation when acting in more than one official capacity. Except for offices combined under s. 60.305, no town may compensate a town officer for acting in more than one official capacity or office of the town at the same time.

NOTE: Restates s. 60.60 (1) (b), clarifying that the provision prohibits the town from compensating a town officer for acting in more than one official "town" capacity or "town" office at the same time.

60.33 Duties of town clerk. The town clerk shall:

- (1) **CLERK OF TOWN MEETING.** Serve as clerk of the town meeting under s. 60.15.
- (2) **CLERK OF TOWN BOARD.** (a) Serve as clerk of the town board, attend meetings of the board and keep a full record of its proceedings.

(b) File all accounts approved by the town board or allowed at town meetings and enter a statement of the accounts in the town's record books.

(c) File with the town board claims approved by the clerk, as required under s. 60.44 (2) (c).

(3) FINANCE BOOK. Maintain a finance book, which shall contain a complete record of the finances of the town, showing the receipts, with the date, amount and source of each receipt; the disbursements, with the date, amount and object of each disbursement; and any other information relating to town finances prescribed by the town board.

(4) ELECTIONS AND APPOINTMENTS. (a) Perform the duties required by chs. 5 to 12 relating to elections.

(b) Transmit to the county clerk, within 10 days after election or appointment and qualification of any town supervisor, treasurer, assessor or clerk, a written notice stating the name and post-office address of the elected or appointed officer. The clerk shall promptly notify the county clerk of any subsequent changes in such offices.

(c) Transmit to the clerk of circuit court, immediately after the election or appointment of any constable or municipal judge in the town, a written notice stating the name of the constable or municipal judge and the term for which elected or appointed. If the judge or constable was elected or appointed to fill a vacancy in the office, the clerk shall include in the notice the name of the incumbent who vacated the office.

(5) SALE OF REAL PROPERTY. Execute the conveyance of real property of the town.

(6) NOTICES. (a) Publish or post ordinances and resolutions as required under s. 60.80.

(b) Give notice of annual and special town meetings as required under ss. 60.11 (5) and 60.12 (3).

(7) RECORDS. (a) Comply with subch. II of ch. 19 concerning any record of which the clerk is legal custodian.

(b) Demand and obtain the official books and papers of any municipal judge if the office becomes vacant and the judge's successor is not elected or appointed and qualified, or if any municipal judge dies. The town clerk shall dispose of the books and papers as required by law.

(8) LICENSES. Issue any license or permit granted by the town board when presented with a receipt from the town treasurer indicating that any required fee has been paid.

(9) SCHOOLS. (a) Perform the clerk's duties under chs. 115 to 121, relating to public instruction.

(b) Within 10 days after the clerk's election or appointment, report his or her name and post-office address to the administrator of each cooperative educational service agency which contains any portion of the town. The clerk shall report to the administrator the name and post-office address of each school district clerk within 10 days after the name and address is filed in the clerk's office.

(c) Make and keep in the clerk's office a map of the town, showing the exact boundaries of school districts within the town.

(d) Apportion, as provided by law, tax revenues collected by the town for schools.

(10) HIGHWAYS AND BRIDGES. Perform the duties specified in chs. 80 to 92, relating to highways, bridges and drains.

(10m) NOTICE OF PROPERTY TAX REVENUE. Notify the clerk of the county in which the town is located, by March 15, of the proportion of property tax revenue and of the credits under s. 79.10 that is to be disbursed by the county clerk to each taxing jurisdiction located in the town.

(11) IN GENERAL. Perform all other duties required by law, ordinance or lawful direction of the town meeting or town board.

NOTE: Subsection (1) is based on s. 60.45 (1). It eliminates the detailed recitation of the clerk's duties at the town meeting and simply cross-references the clerk's duties in connection with the town meeting under new s. 60.15. Other duties of the town clerk in connection with the town meeting, contained in subs. (8), (12) and (13) of s. 60.45, are repealed as unnecessary.

Subsection (2) revises s. 60.45 (7) and eliminates the detailed recitation of the clerk's duties. It also cross-references the clerk's duties under s. 60.44 (2) (c). See the NOTE to that section.

Subsection (3) is new, although the concept is encompassed in s. 60.45 (8), repealed by this draft, which requires the clerk to furnish the board of audit and annual town meeting specified financial information. The provision is based on language in s. 61.25 (3), which requires the village clerk to maintain a finance book.

Subsection (4) (a) restates the first clause in s. 60.45 (20).

Subsection (4) (b) is based on s. 60.45 (2) and (3). The current provision is outdated since town officers are no longer elected by the annual town meeting. Paragraph (b) is broadened to require notice of appointed officers, which includes appointed assessors and appointment by the town board of a treasurer.

Subsection (4) (c) restates s. 60.45 (4).

Subsection (5) revises s. 60.04. The duty to execute a conveyance of real property is clarified to expressly include all conveyances of real property, not just conveyances by sale. The phrase "in pursuance of any order of the town", the details regarding the formal aspects of the conveyance (which are governed by ch. 706, stats.) and the language regarding what is conveyed are repealed as unnecessary.

Subsection (6) (a) is based in part on s. 60.45 (6) and cross-references the clerk's duty to publish and post ordinances and resolutions under s. 60.80. See the NOTE to that section.

Subsection (6) (b) is based on s. 60.45 (5), and cross-references the clerk's duty to give notice of annual and special town meetings.

Subsection (7) (a) is new. The clerk's duties concerning public records are set forth in subch. II of ch. 19, which is cross-referenced for convenience. That part of s. 60.45 (9) which requires the clerk to permit any person to examine any documents in the clerk's custody is repealed as inconsistent with the provisions of subch. II of ch. 19. That part of s. 60.45 (9) which requires the clerk to have custody of, safely keep and deliver to his or her successor the clerk's records and property is repealed because it is contained in subch. II of ch. 19. The provisions in s. 60.45 (9) requiring the clerk to keep his or her records in a fireproof safe and subjecting the clerk to a forfeiture for failure to lock the safe are repealed as unnecessary and outdated.

Subsection (7) (b) restates s. 60.45 (11).

Subsection (8) restates s. 60.45 (19).

Subsection (9) (a) restates the 2nd clause in s. 60.45 (20). Subsection (9) (b), (c) and (d) revises s. 60.45 (14), (16) and (17), respectively, preserving those portions of law still in use. The remaining portions of s. 60.45 (14), (16) and (17), as well as all of s. 60.45 (15) and (18) and s. 60.47, are repealed as obsolete.

Subsection (10) restates the 3rd clause in s. 60.45 (20).

Subsection (10m) is new and was inserted by assembly amendment 11.

Subsection (11) revises the last clause in s. 60.45 (20).

60.331 Deputy town clerk. Each town clerk may appoint one or more deputies for whom the town clerk is responsible. A deputy shall take and file the official oath and bond under s. 60.31. The town clerk may designate a deputy to perform the clerk's duties during the absence, sickness or other disability of the clerk.

NOTE: Revises s. 60.44. The provision requiring that the deputy clerk receive the same compensation as the clerk in the clerk's absence is repealed as an unnecessary limitation on a town's discretion to establish the deputy clerk's compensation. Since the deputy clerk is appointed, rather than elected, his or her compensation would be determined by the town board at whatever level the board deemed to be appropriate.

60.34 Duties of town treasurer. The town treasurer shall:

(1) **RECEIVE AND DISBURSE TOWN MONEY.** (a) Receive and take charge of all money belonging to the town, or which is required by law to be paid into the town treasury, and disburse the money under s. 66.042.

(b) Keep an itemized account of all moneys received and disbursed, specifying the source from which it was received, the person to whom it was paid and the object for which it was paid. The treasurer shall issue numbered receipts for all funds received. At the request of the town board, the treasurer shall present the account books, and any supporting documents requested, to the board.

(2) **DEPOSIT OF TOWN MONEY.** (a) Deposit as soon as practicable the funds of the town in the name of the town in the public depository designated by the town board. Failure to comply with this paragraph is grounds for removal from office.

(b) When money is deposited under par. (a), the treasurer and the treasurer's sureties are not liable for any loss as defined in s. 34.01 (6). The interest arising from the money deposited shall be paid into the town treasury.

(3) **RECORDS.** Comply with subch. II of ch. 19 concerning records of which the treasurer is legal custodian.

(4) **TAXES.** Perform all of the duties relating to taxation required of the town treasurer under chs. 70 to 79.

(5) **PRELIMINARY SETTLEMENT OF SCHOOL TAXES.** (a) To make partial apportionment of levies by school districts and vocational, technical and adult education districts out of any funds available in the town treasury prior to the tax apportionment provided by s. 74.03 (5) within 5 days after the filing of a written request by the district board. The town board may not deny such a request. The district board may not receive more than one payment under this subsection during any month.

(b) On or before January 15 and February 15 and any other date specified by the town board, make a payment to the appropriate treasurer of any school district, and to the appropriate vocational, technical and adult education district treasurer, if the district has not received a payment under par. (a) during that month. That payment shall be the proportion of the school district's or vocational, technical and adult education district's levy that the general property taxes collected in the town, except collections for state trust fund loans, state tax and state special charges, up to the last day of the preceding month bears to the total general property tax levy in the town for all purposes except levies for state trust fund loans, state tax and state special charges. The town treasurer may make the payments required under this paragraph without authorization by the town board.

(c) On or before January 15 and any other date specified by the town board, pay, under s. 74.031, to the appropriate school district treasurer and vocational, technical and adult education district treasurer the proportion of the district's levy that the general property taxes collected in the town, except collections for state trust fund loans, state

tax and state special charges, up to the last day of the preceding month bears to the total general property tax levy in the town for all purposes except levies for state trust fund loans, state tax and state special charges.

NOTE: Subsection (1) (a) restates s. 60.49 (1). Subsection (1) (b) is based on s. 60.49 (3), and newly spells out the minimum detail required in the treasurer's accounts and records. The reference to the treasurer taking an oath that the money in his or her custody is the town's is repealed as obsolete. The reference to delivery of vouchers is repealed; under s. 66.042, vouchers are filed with the clerk, who prepares an order and delivers it to the treasurer. Also repealed is reference to the town board of audit; the concept of a board of audit as distinct from the town board is repealed in this draft.

Subsection (2) restates s. 60.49 (12).

Subsection (3) is new. The treasurer's duties concerning public records are set forth in subch. II of ch. 19, which is cross-referenced for convenience. Section 60.49 (2), which requires the town treasurer to "preserve all books, papers and property appertaining to or filed in his office" is repealed as unnecessary since subch. II of ch. 19 requires the same.

Subsection (4) revises s. 60.49 (4). The references to collecting and paying over taxes and making return of delinquent taxes are repealed, since these duties are encompassed within the treasurer's duties under chs. 70 to 79.

Subsection (5) revises s. 60.49 (6) (b) and (6m) (b) and was inserted by assembly amendment 11 to conform the draft to 1983 Wisconsin Act (enrolled Senate Bill 547). Currently, any settlement of school district and vocational, technical and adult education district taxes by the town treasurer, prior to the March 15 settlement date under s. 74.03 is made at the written request of the district.

The remainder of the treasurer's duties related to schools — s. 60.49 (5), (6) (a), (6m) (a), (7), (8), (9) and (10) — are repealed as either duplicative of the treasurer's duties relating to settlement of taxes under s. 74.03 or as outdated and obsolete.

Current ss. 60.51 and 60.52, relating to the treasurer's duties to provide a statement to the county board showing county money received by the treasurer and to provide a statement of receipts when the treasurer leaves office, are repealed as outdated and obsolete.

60.341 Deputy town treasurer. Each town treasurer may appoint a deputy for whom the treasurer is responsible. The deputy shall take and file the official oath and bond under s. 60.31. In case of the absence, sickness or other disability of the treasurer, the deputy shall perform the treasurer's duties.

NOTE: Restates s. 60.491 with the exception that the requirement that the deputy receive the same compensation as the treasurer when filling in for the treasurer is repealed. [See the NOTE to s. 60.331.] Reference is added to the official bond required to be executed and filed by a deputy town treasurer under new s. 60.31 (2).

60.35 Duties of town constable. (1) A town constable shall perform the duties established by the town board under s. 60.22 (4).

(2) A town constable shall keep his or her office in the town. No constable who keeps his or her office outside the limits of the town may receive fees for any service performed.

NOTE: Subsection (1) is new. See the NOTE to s. 60.22 (4). Current s. 60.54, which recites the current duties of the town constable, is repealed except for sub. (6m), which is restated in new sub. (2).

60.351 Town constable fees. (1) Town constables shall collect the fees prescribed for sheriffs in s. 814.70 for similar services.

(2) If any person except a party to an action performs the services of a town constable, the person shall collect the fees to which the town constable would be entitled.

(3) No town constable may serve or execute any summons, writ or process in any action or proceeding in which he or she is agent or attorney for the plaintiff or if he or she is interested in the collection of any claim which is the subject of the action or proceeding. A town constable may not recover any costs, fees or expenses, nor may any costs or fees be taxed for any services rendered in violation of this subsection.

NOTE: Subsection (1) restates s. 60.55. Subsections (2) and (3) restate s. 60.56.

60.36 Municipal judge. The town board may provide for the election of a municipal judge under ch. 755.

NOTE: New. Cross-references ch. 755, which authorizes the town board to provide for the election of a municipal judge. Other statutory provisions concerning the office of municipal judge are contained in that chapter.

60.37 Town employes. (1) **GENERAL.** The town board may employ on a temporary or permanent basis persons necessary to carry out the functions of town government. The board may establish the qualifications and terms of employment, which may include the residency of the employe. The board may delegate the authority to hire town employes to any town official or employe.

(2) **LEGAL ASSISTANCE.** The town board may designate, retain or employ one or more attorneys on a temporary or continuing basis to counsel the town on legal matters or represent the town in legal proceedings.

(3) **TOWN ADMINISTRATOR.** (a) The town board may create the position of town administrator and establish the qualifications, compensation and terms of employment for the position. The town administrator may be employed to serve at the pleasure of the town board or for a fixed term. If employed for a fixed term, the town board may suspend or remove the town administrator for cause.

(b) The town administrator shall perform all lawful duties assigned by the town board which do not conflict with duties and powers conferred by law on other town officers.

(c) No elected town officer may serve as town administrator.

(d) A town may join with one or more towns, villages or cities, in any combination, to employ a person as administrator for the towns, villages or cities. The governing body of each town, village and city may enter into an agreement for this purpose, which may include agreement to share the costs of the position. The town board may not enter into an agreement under this paragraph to employ an administrator for more than 3 years unless the town meeting approves the agreement.

NOTE: Subsection (1) is based on provisions of s. 60.29 (3) and (24). The language is simplified to state the basic authority of the town board in relation to the employment of persons to perform town functions. The express authority to delegate the employing authority is new.

Subsection (2) restates the first clause of s. 60.29 (3). While a town's authority to obtain legal assistance is arguably contained in other express and implied powers, it is singled out for special mention to clarify that the town board has the authority to designate, retain or employ legal counsel for the town.

Subsection (3) is new. Current law [s. 60.29 (3)] permits the town board to hire expert help, but contains no provision specifically dealing with a "town administrator". This provision recognizes the need in some towns for a professional administrator and provides guidelines for the employment and duties of

a town administrator. The town administrator will carry out duties assigned by the town board that do not conflict with duties and powers of other town officers.

SUBCHAPTER VI
FINANCE

60.40 Preparation and adoption of budget. (1) FISCAL YEAR; ANNUAL BUDGET. The town fiscal year is the calendar year. A town budget shall be adopted annually.

(2) PREPARATION. The town board is responsible for preparation of the proposed budget required under s. 65.90. In preparing the budget, the town board may provide for assistance by any person.

(3) HEARING. The town board shall conduct the budget hearing required under s. 65.90.

(4) ADOPTION. The town board shall adopt the town budget.

(5) AMENDMENT. The town budget may be amended by the town board under s. 65.90 (5).

NOTE: Subsection (1), first sentence, restates s. 60.067. The 2nd sentence of sub. (1) is new. It makes explicit what was implicit in chs. 60 and 65.

Subsection (2) is new. Current law does not clearly specify who is responsible for preparation of the town budget, although towns are required by s. 65.90 to formulate a budget. Making the town board responsible for budget preparation is consistent with current law because, under s. 60.29 (1), the town board has "charge of all the affairs of the town not by law committed to other officers".

The provision that the town board may provide for assistance by any person in preparing the budget is intended to enable the board to obtain and, if necessary, pay for assistance from any person — town officer, town employe or hired expert.

Subsection (3) is new. It is likely that most town boards already perform this function because, under current s. 60.29 (1), the board has "charge of all the affairs of the town not by law committed to other officers".

Subsection (4) is new. Present law has created confusion regarding the respective roles of the town board and town meeting in the budget adoption process. The confusion results from the absence of clear designation of who has final budget adoption authority. While the town board has "charge of all the affairs of the town not by law committed to other officers", any intended statutory budget adoption role is complicated by the fact that the town meeting has the general tax levy authority and authority over certain appropriations and expenditures.

The special committee learned that the budget adoption practices of towns vary widely. The committee concluded that final budget adoption authority should be specified in the statutes and that the town board should have that authority. Budget adoption authority, however, does not give the town board general tax levy authority. Under the draft, the town meeting has general tax levy authority, unless it delegates such authority to the town board. See new s. 60.10 (1) (a) and (2) (a).

Subsection (5) cross-references the town board's authority under s. 65.90 (5) to change the budget with regard to the amount of tax to be levied or certified and the amount and purpose of appropriations.

60.41 Annual financial statement. The town board annually shall prepare a statement of the financial condition of the town and present the statement to the annual town meeting. In preparing the statement, the town board may provide for assistance by any person. The statement shall include the previous year's revenues and expenditures and the current indebtedness of the town.

NOTE: Based on s. 60.33 (4), which requires the town board, in its capacity as the "board of audit", to prepare a report for the town meeting containing, among other things, "a statement of the fiscal affairs of the town". Reference to the "board of audit" is not continued; this draft discontinues the concept of a board of audit as distinct from the town board. The provision does not require an independently prepared financial statement or audit. [However, financial audits may be authorized by the town board under s. 66.041.]

60.42 Finance book. The town clerk shall maintain a finance book under s. 60.33 (3).

NOTE: Cross-references the requirement under new s. 60.33 (3) that the town clerk maintain a finance book. See the NOTE to that section.

60.43 Financial audits. (1) GENERAL. The town board may provide for financial audits under s. 66.041.

(2) AUDIT OF COMBINED CLERK AND TREASURER OFFICE. If the offices of town clerk and town treasurer are combined under s. 60.305 (1) (a), the town board shall arrange for an audit of the town financial records at least once every year. The audit may be conducted either by a certified public accountant, appointed by the town board and not otherwise employed by the town, or by the department of revenue if the department provides such a service.

NOTE: Subsection (1) is new and cross-references the town board's authority to provide financial audits under current s. 66.041.

Subsection (2) revises s. 60.50 as follows:

1. The audit is limited to the town "financial" records.
2. The department of revenue may perform the audit if it provides the service.
3. Reference to "fiscal year" is repealed since the town fiscal year is the calendar year.

60.44 Claims against town. (1) GENERAL PROCEDURE. (a) Claims for money against a town or against officers, officials, agents or employes of the town arising out of acts done in their official capacity shall be filed with the town clerk as provided under s. 893.80 (1) (b).

(b) The town board shall allow or disallow the claim. Notice of disallowance shall be made as provided under s. 893.80 (1) (b).

(2) ALTERNATIVE PROCEDURE. (a) The town board, by ordinance, may provide a procedure for approving financial claims against the town which are in the nature of bills and vouchers. The ordinance shall provide that payment may be made from the town treasury under s. 66.042 after the town clerk reviews and approves in writing each bill or voucher as a proper charge against the treasury, after having determined that:

1. Funds are available under the town budget to pay the bill or voucher.
2. The item or service covered by the bill or voucher has been duly authorized.
3. The item or service covered by the bill or voucher has been supplied or rendered in conformity with the authorization.
4. The claim appears to be a valid claim against the town.

(b) The town clerk may require submission of proof to determine compliance with the conditions under par. (a) 1 to 4.

(c) The ordinance shall require that the clerk file with the town board at least monthly a list of the claims approved, showing the date paid, name of claimant, purpose and amount.

(3) COURT ACTIONS TO RECOVER CLAIMS. Subsection (2), or an ordinance adopted under that subsection, does not affect the applicability of s. 893.80. No action may be brought or maintained against a town upon a claim unless the claimant complies with s. 893.80.

NOTE: Subsection (1) (a) cross-references the requirements for filing claims against a town with the town clerk under s. 893.80 (1) (b).

Subsection (1) (b) is based on s. 60.33 (2). Cross-reference is made to the notice-of-disallowance requirement under s. 893.80 (1) (b).

Unless the alternative claims procedure under sub. (2) is adopted, the procedure referenced under sub. (1) applies to all claims for money against a town, not just tort claims.

Subsection (2) is new. The provision is based on language that applies to 2nd, 3rd and 4th class cities under s. 66.044. It is intended to permit a town to provide an alternative means of reviewing and allowing routine claims. By providing for a procedure whereby the town clerk handles bills and vouchers, the town board will have more time to devote to more important matters.

Subsection (3), first sentence, is new and clarifies that an alternative claims procedure adopted by a town under sub. (2) does not affect the application of s. 893.80, regarding court actions brought against the town to recover claims. The 2nd sentence restates s. 60.36.

60.45 Disbursements from town treasury. Disbursements from the town treasury shall be made under s. 66.042.

NOTE: Cross-references the procedure for making disbursements from the town treasury under s. 66.042.

60.46 Public depository. The town board shall designate one or more public depositories for depositing funds of the town. The treasurer and the treasurer's surety are not liable for loss, as defined under s. 34.01 (6), of money deposited in the name of the town in a designated public depository. Interest accruing from town money in a public depository shall be credited to the town.

NOTE: Restates s. 60.29 (25). See ch. 34 for additional provisions relating to public depositories.

60.47 Public contracts and competitive bidding. (1) DEFINITIONS. In this section:

(a) "Public contract" means a contract for the construction, execution, repair, remodeling or improvement of any public work or building or for the furnishing of materials or supplies, with an estimated cost greater than \$5,000.

(b) "Responsible bidder" means a person who, in the judgment of the town board, is financially responsible and has the capacity and competence to faithfully and responsibly comply with the terms of the public contract.

(2) ADVERTISEMENT FOR BIDS. Except as provided in subs. (4) and (5), no town may enter into a public contract unless the town board, or a town official or employee designated by the town board, advertises for proposals to perform the terms of the public contract by publishing a class 2 notice under ch. 985. The town board may provide for additional means of advertising for bids.

(3) CONTRACTS TO LOWEST RESPONSIBLE BIDDER. The town board shall let a public contract for which advertising for proposals is required under sub. (2) to the lowest responsible bidder. Section 66.29 applies to public contracts let under this section.

(4) **CONTRACTS WITH GOVERNMENTAL ENTITIES.** This section does not apply to public contracts entered into by a town with a municipality, as defined under s. 66.30 (1) (a).

(5) **EXCEPTION FOR EMERGENCIES.** This section is optional with respect to public contracts for the repair and construction of public facilities when damage or threatened damage to the facility creates an emergency, as declared by resolution of the town board, that endangers the public health or welfare of the town. This subsection no longer applies when the town board declares that the emergency no longer exists.

(6) **APPLICATION TO WORK BY TOWN.** This section does not apply to any public work performed directly by the town.

NOTE: Based on s. 60.29 (1m) and (1x). The provisions have been revised to make effective the competitive bidding requirement for public contracts entered into by towns. The attorney general has concluded that the current competitive bidding statute is effectively inapplicable to towns because there is no express statutory requirement that towns advertise any public contracts for bids [66 OAG 285 (1977)].

Subsection (1) (a), defining “public contract”, is based on the definition of “public contract” in s. 66.29 (1) (c). A separate definition is provided to avoid the circularity that would result if the definition in s. 66.29 (1) (c) were cross-referenced. The dollar threshold, \$5,000, is increased from the current \$2,500 under s. 60.29 (1m). The term “public contract”, as it appears in existing statutory competitive bidding provisions, has been interpreted by the attorney general not to include contracts for the purchase of equipment. [See, for example, 66 OAG 198 (1977) and 66 OAG 284 (1977).] Thus, statutory competitive bidding requirements do not apply to purchases of equipment. The special committee was aware of this interpretation but chose not to amend the definition of “public contract” to include equipment; the committee concluded that it is important for towns, which often purchase used equipment, to have flexibility in the purchase of equipment.

Subsection (1) (b), defining “responsible bidder”, is new. The special committee concluded that it is important to clarify the nature of the town’s discretion in awarding public contracts under competitive bidding requirements. The definition represents the committee’s recommendation concerning the meaning of “responsible bidder” in the context of competitive bidding under this chapter.

Subsection (2) expressly requires towns to advertise for proposals to perform public contracts. The requirement removes the above-noted deficiency in current law.

Subsection (3) expressly requires the town board to let public contracts to “the lowest responsible bidder”. It appears necessary to so provide because s. 66.29, which is simply cross-referenced under current law, contains no express competitive bidding requirement. The new provision continues to cross-refer to s. 66.29; however, since that section contains bid provisions relating to bidder’s proof of responsibility, correction of bid errors, separation of contracts, bidder’s certificate, settlement of disputes and payment of public contracts.

Subsection (4) is based on that part of s. 60.29 (1m) which permits a town to enter into a public contract with the county in which the town is located without utilizing competitive bidding procedures. It expands the exemption from bidding to include public contracts between a town and any municipality, as defined under s. 66.30 (1) (a). “Municipality”, under that section, means the state and any state department or agency or any city, village, town, county, school district, public library system, public inland lake protection and rehabilitation district, sanitary district, farm drainage district, metropolitan sewerage

district, sewer utility district, water utility district, mosquito control district or regional planning commission. The committee concluded that the concerns that underlie a competitive bidding requirement for public contracts entered into between towns and nongovernmental entities have less weight in relation to contracts between towns and other governmental entities.

Subsection (5) restates s. 60.29 (1x).

Subsection (6) restates the last clause of the first sentence of s. 60.29 (1m).

SUBCHAPTER VII
PUBLIC WORKS AND PUBLIC SAFETY

60.50 Public works. Without limitation because of enumeration, the town board may:

- (1) **ACQUIRE LANDS.** Notwithstanding s. 60.10 (2) (e), acquire lands to lay, construct, alter, extend or repair any highway, street or alley in the town.
- (2) **STREETS, SEWERS AND WATER MAINS.** Provide for laying, constructing, altering, extending, replacing, removing or repairing any highway, street, alley, sanitary sewer, storm sewer or water main in the town.
- (3) **SIDEWALKS.** Provide for construction, removal, replacement or repair of sidewalks under s. 66.615.
- (4) **LIGHTING HIGHWAYS.** Provide for lighting for highways, as defined under s. 340.01 (22), located in the town.
- (5) **LAKE IMPROVEMENTS.** Provide for making improvements in any lake or waterway located in the town.

NOTE: Combines and consolidates several sections relating to public works. The introductory clause is inserted to make clear that the enumeration of specific types of improvements is not to be construed as a limitation on the power of the town board to engage in public works.

Subsection (1) restates s. 60.29 (27). This subsection permits the town board to acquire lands for highway purposes without the authorization of the town meeting. Thus, it is an exception to new s. 60.10 (2) (e), which gives the town meeting the power to authorize the town board to purchase any land within the town for present or anticipated town purposes.

Subsection (2) is based on s. 60.29 (19) and the first sentence in s. 60.29 (26) (a). The draft repeals as unnecessary and archaic:

1. The provisions in s. 60.29 (19) permitting only town boards in counties having a population of 150,000 or more to construct water mains and sewers and requiring the petition of two-thirds of the property owners in any block or two-thirds of the owners of property abutting the street.
2. The provisions in s. 60.29 (26) (a) requiring a petition by a majority of abutting property owners before the town board may improve a town highway, street or alley.

Subsection (3) is based on s. 60.65 (1). The draft repeals as unnecessary and archaic:

1. The provisions in s. 60.65 (1) requiring a petition by a majority of abutting property owners before the town board may provide for the construction of sidewalks.
2. Section 60.65 (2), relating to the construction and repair of sidewalks by a town resident on premises owned or occupied by the resident.

Subsection (4) revises s. 60.29 (11). The authority is expanded to cover all highways in the town, not just the "principal improved highways". Reference to providing lighting "when necessary to facilitate public travel" is repealed as unnecessary.

Subsection (5) revises the first sentence of s. 60.29 (29) by permitting the town board to provide for improvements in any town waterway, not just a lake. The draft repeals as an undue limitation on the discretion of the town board the provision in s. 60.29 (29) requiring the town board to make lake improvements upon the petition of a majority of the owners of riparian property on any lake in the town.

60.51 Payment for public works; special assessments. The town board may levy and collect special assessments and charges under s. 66.60 to pay for all or part of the cost of any public work or improvement. Special assessments may be paid under s. 66.54. Reassessments shall be under s. 66.635.

NOTE: The first sentence is based on the last clause in s. 60.29 (19), the last 4 sentences in s. 60.29 (26) (a) and s. 60.63.

Under current law, there is some confusion as to whether the special assessment provisions in ch. 60 or those in s. 66.60 apply in certain cases. [See 62 Marq. Law Rev. 171 (1978).] The new provision repeals the special assessment requirements and procedures in ch. 60 and specifies that s. 66.60 is applicable to all special assessments by towns. Since towns are specifically included in s. 66.60, the provisions in s. 60.29 (26) (a) imposing on towns the powers of villages under s. 66.60 become unnecessary.

The 2nd sentence is based on ss. 60.29 (26) (b) and (c) and 60.64. Since towns are specifically included in s. 66.54, the provisions in ss. 60.29 (26) (c) and 60.64 (2) imposing on towns the powers of cities under s. 66.54 are unnecessary.

The 3rd sentence restates s. 60.71.

60.52 Sewer and water systems of adjoining municipality. (1) With the approval of the town board, any city or village adjoining a town may construct and maintain extensions of its sewer or water system in the town. An extension of a sewer or water system under this subsection is subject to s. 62.175 (1) and the rights of abutting property owners.

(2) An abutting property owner who is permitted to connect with and use a sewer or water system constructed under sub. (1) may not be deprived of the use of the sewer or water system, except for nonpayment of water or sewer charges, without the approval of the town board.

NOTE: Restates s. 60.29 (16), except that the current provision which prohibits depriving an abutting property owner from use of a water system is amended to include an abutting property owner's use of a sewer system.

60.53 Service pipes and laterals. Sections 62.16 (2) and 66.625, relating to service pipes and laterals, are applicable to towns.

NOTE: Cross-references 2 provisions relating to service pipes and laterals which are made applicable to towns in this draft. See the NOTES to SECTIONS 15 and 20.

60.54 Solid waste transportation. (1) The town board may designate any town highway which provides reasonable access to a solid waste disposal site or facility licensed under s. 144.44 as appropriate for the transportation of solid waste into, within or through the town for the purpose of disposing of the waste at the site or facility and may prohibit the use of other town highways for that purpose.

(2) Any person violating a prohibition enacted under sub. (1) shall forfeit not more than \$1,000.

NOTE: Revises s. 60.72. The current penalty provision is revised by making it a forfeiture, rather than a crime [fine of \$5 to \$100, imprisonment in county jail up to 6 months, or both]. In addition, it is clearly stated in sub. (2) that the penalty is applicable to violations of prohibitions enacted pursuant to this section, rather than to violations of the section itself (the section merely grants a power to the town board).

60.55 Fire protection. (1) GENERAL AUTHORITY. (a) The town board shall provide for fire protection for the town. Fire protection for the town, or any portion of the town, may be provided in any manner, including:

1. Establishing a town fire department.

2. Joining with another town, village or city to establish a joint fire department. If the town board establishes a joint fire department with a village under s. 61.65 (2) (a) 3, the town board shall create a joint board of fire commissioners with the village under s. 61.65 (2) (b) 2.

3. Contracting with any person.

4. Utilizing a fire company organized under ch. 213.

(b) The town board may provide for the equipping, staffing, housing and maintenance of fire protection services.

(2) FUNDING. The town board may:

(a) Appropriate money to pay for fire protection in the town.

(b) Charge property owners a fee for the cost of fire calls made to their property.

(c) Levy taxes on the entire town to pay for fire protection.

(d) Levy taxes on property served by a particular source of fire protection, to support the source of protection.

NOTE: Subsection (1), except the 2nd sentence of par. (a) 2, is based on provisions of ss. 60.29 (18) (a) and (b) and 60.29 (20) (a) and (d). The 2nd sentence of par. (a) 2 restates s. 60.29 (18) (c).

Subsection (2) (a), (c) and (d) is based on provisions of ss. 60.29 (18) (a) and (b) and 60.29 (20) (a), (c) and (d).

Subsection (2) (b) is new.

Current law concerning town fire protection is noteworthy for its excessive detail, repetition and disorganization. This section eliminates the detail of current law, giving the town board broad authority to provide for and fund fire protection. Flexibility in providing fire protection is necessary because of the widely varying circumstances of towns — circumstances that affect the level of fire protection needed or desired, such as population, geography, area, proximity to urban centers and commercial and industrial development.

Under current law, provision of fire protection by a town is optional. However, under s. 60.29 (18m), if a town does not provide fire protection services, the town is liable for the cost of the services of any fire department that responds to a request to extinguish a fire in the town. See *Kramer v. Hayward*, 57 Wis. 2d 302 (1973). The special committee concluded that it is better public policy to require that a town make provision for fire protection rather than making the town liable for costs of responding to calls when no fire protection is provided. The safety of town residents and property should be enhanced and the probable expectations of town residents regarding fire protection more often met.

Substantive provisions of current town fire protection law repealed in this revision are:

1. The role of the town meeting under s. 60.29 (18) (a) in authorizing the establishment of a town fire department or joint fire department and joint acquisition and ownership of fire equipment.

2. The provision of s. 60.29 (20) (b) requiring the town board to contract for fire protection when two-thirds of the resident property owners of a contiguous district in the town petition the town board for fire protection from a nearby city, village or town, specifying the kind of protection desired and the amount it will cost.

3. That part of s. 60.29 (20) (c) permitting residents of a town, by contract or otherwise, to join with a neighboring town, city or village to establish and maintain a joint volunteer fire department or to obtain fire service from any corporation, association or individual.

4. Section 213.09, setting forth a procedure for providing fire equipment and protection in an unincorporated village where a fire company has been organized under ss. 213.05 to 213.08.

60.555 Fire safety regulations. The town board, by ordinance, may adopt regulations to prevent, detect and suppress fire and related fire hazards. The regulations may include provision for the inspection, at reasonable times, of property in the town for compliance with regulations adopted under this section.

NOTE: Based on provisions of s. 60.29 (18) (a). The detailed recitation of authorized fire safety regulations is eliminated and replaced by broad authority to adopt regulations to prevent, detect and suppress fire and related fire hazards. It is intended that the broad authority include all authority specifically granted under the former language plus any additional authority reasonably implied from the new language.

60.557 Reimbursement for fire calls on highways. (1) If a town incurs costs for a fire call by responding to a vehicle fire on a county trunk highway, the county maintaining that portion of the highway where the vehicle was located at the time of the fire shall reimburse the town up to \$100 for the costs.

(2) If a town incurs costs for a fire call on a state trunk highway or any highway that is a part of the national system of interstate highways and maintained by the department of transportation, by the department of transportation shall reimburse the town up to \$100 for the costs.

NOTE: Restates s. 60.29 (20) (e). The current \$100 reimbursement level was retained by assembly amendment 3.

60.56 Law enforcement. (1) GENERAL AUTHORITY. (a) The town board may provide for law enforcement in the town or any portion of the town in any manner, including:

1. Establishing a town police department.

2. Joining with another town, village or city to create a joint police department. If the town board establishes a joint police department with a village under s. 61.65 (1) (a) 3, the town board shall create a joint board of police commissioners with the village under s. 61.65 (1) (b) 2.

3. Contracting with any person.

(b) The town board may provide for the equipping, staffing, housing and maintenance of law enforcement services.

(2) FUNDING. The town board may appropriate money to fund law enforcement services.

NOTE: Based on s. 60.29 (7), (8) and (9). The detail of current law is eliminated and replaced with broad authority of the town board to provide for law enforcement. Related provisions eliminated in this revision are:

1. Section 60.29 (21), providing that town police officers possess all of the powers possessed by such officers in villages. [While s. 60.29 (21) appears to apply to all town officers appointed under s. 60.29, a review of the provision's legislative history reveals that it is intended to apply only to town police officers.]

2. Section 60.29 (8m), providing that the town board has charge of the town jail. The concept of town jails is outmoded; they no longer exist.

60.565 Ambulance service. The town board shall contract for or operate and maintain ambulance services unless such services are provided by another person. The town board may purchase equipment for medical and other emergency calls.

NOTE: Restates s. 60.29 (17), adding authority to purchase equipment for any kind of emergency. While there is some question as to whether provision for ambulance service is mandatory or optional under current law, the special committee concluded that, given the importance of ambulance service, particularly in rural areas, provision of the service should be mandatory. Assembly amendment 4 added the qualification that if ambulance service is provided by another entity, the town need not provide it.

60.57 Police and fire commission. (1) The town board may:

- (a) If the town has a police department, establish a board of police commissioners.
- (b) If the town has a fire department, establish a board of fire commissioners.
- (c) If the town has both a police and fire department, establish a board of police and fire commissioners.

(2) A board created under this section shall be organized in the same manner as boards of police and fire commissioners under s. 62.13 (1).

(3) A board created under this section is subject to the provisions of s. 62.13 (2) to (5) and (7) to (12) to the extent that the provisions apply to 2nd and 3rd class cities. In applying s. 62.13 under this section, the town board chairperson has the powers and duties specified for a mayor, the town board has the powers and duties specified for a common council and the town has the powers and duties specified for a city.

NOTE: New. Currently, towns have no authority to establish a board of police and fire commissioners unless a joint police or fire department is established with a village under s. 61.65. The special committee concluded that a police and fire commission is desirable for towns that wish to insulate their police and fire departments from political concerns and make more time available to the town board for other matters. The committee also concluded that the range of needs in towns for fire protection and law enforcement and the variations in town political climate support the recommendation that the authority to establish a police and fire commission be optional and available to all towns, not only to towns of a specified population.

Subsections (2) and (3) are patterned after s. 61.65 (3g) (d) 1. a and 2, relating to boards of police and fire commissioners in villages. Reference is made to the provisions of s. 62.13, relating to police and fire commissions in cities, because the committee concluded it is important, for the sake of uniformity, for town boards of police and fire commissioners to be subject to the same statutory provisions as those for villages and cities. However, s. 62.13 (6), relating to optional powers of a board of police and fire commissioners, is expressly made unavailable to towns that establish a board.

60.61 General zoning authority. (1) **PURPOSE AND CONSTRUCTION.** (a) Ordinances adopted under this section shall be designed to promote the public health, safety and general welfare.

(b) Authority granted under this section shall be liberally construed in favor of the town exercising the powers. This section may not be construed to limit or repeal any powers possessed by any town.

(2) **EXTENT OF AUTHORITY.** Subject to sub. (3), if a town is located in a county which has not adopted a county zoning ordinance under s. 59.97, the town board, by ordinance, may:

(a) Regulate, restrict and determine: the areas within which agriculture, forestry, mining and recreation may be conducted; the location of roads, schools, trades and industries; the location, height, bulk, number of stories and size of buildings and other structures; the percentage of a lot which may be occupied; the size of yards, courts and other open spaces; the density and distribution of population; the location of buildings designed for specified uses; the trades, industries or purposes that may be engaged in or subject to regulation; and the uses for which buildings may not be erected or altered.

(b) Establish districts of such number, shape and area necessary to carry out the purposes under par. (a).

(c) Establish building setback lines.

(d) Regulate, restrict and determine the areas in or along natural watercourses, channels, streams and creeks in which trades and industries, filling or dumping, erection of structures and the location of buildings may be prohibited or restricted.

(e) Adopt an official map showing areas, outside the limits of villages and cities, suited to carry out the purposes of this section.

(f) Regulate, restrict and determine the location, height, bulk, number of stories and size of buildings and other structures and objects of natural growth in any area of the town in the vicinity of an airport owned by the town or privately owned, divide the territory into several areas and impose different restrictions for each area. In exercising its power under this paragraph, the town board may, by eminent domain, remove or alter any buildings, structures or objects of natural growth which are contrary to the restrictions imposed in the area in which they are located, except railroad buildings, bridges or facilities other than telegraph, telephone and overhead signal system poles and wires.

(3) **EXERCISE OF AUTHORITY.** Before exercising authority under sub. (2), the town board shall petition the county board to initiate, at any regular or special meeting, action to adopt a county zoning ordinance under s. 59.97. The town board may proceed under sub. (2) if:

(a) The county board fails or refuses, at the meeting, to direct the county zoning agency to proceed under s. 59.97;

(b) The county zoning agency's report and the recommended county zoning ordinance prepared pursuant to the report are not presented to the county board within one year; or

(c) The county zoning agency report and recommended county zoning ordinance are presented to the county board within one year and the county board at its next meeting following receipt of the report fails to adopt the ordinance.

(4) **PROCEDURE.** (a) The town board shall appoint a town zoning committee consisting of 5 members.

(b) Before the town board may adopt an ordinance under sub. (2), the town zoning committee shall recommend zoning district boundaries and appropriate regulations and restrictions for the districts. In carrying out its duties, the town zoning committee shall

develop a preliminary report and hold a public hearing on the report before submitting a final report to the town board. If the town zoning committee makes a substantial change in its report following the public hearing, it shall hold another public hearing on the report. After the final report of the town zoning committee is submitted to the town board, the board may adopt an ordinance under sub. (2) following a public hearing held by the board on the proposed ordinance.

(c) 1. After the town board has adopted a town zoning ordinance, the board may alter, supplement or change the boundaries or regulations established in the ordinance if a public hearing is held on the revisions. The board shall give notice of any proposed revisions in the zoning ordinance and of the time and place of the public hearing on them by a class 2 notice under ch. 985. The board shall allow any interested person to testify at the hearing.

2. A proposed amendment, supplement or change to the town zoning ordinance must be adopted by not less than a three-fourths vote of the town board if a protest against the proposed amendment, supplement or change is presented to the town board prior to or at the public hearing under subd. 1 and:

a. The protest is signed and acknowledged by the owners of at least 50% of the area proposed to be altered; or

b. The protest is signed and acknowledged by the abutting owners of at least 50% of the total perimeter of the area proposed to be altered that is included within 300 feet of the parcel or parcels to be rezoned.

(d) 1. In this paragraph, "comprehensively revise" means to incorporate numerous and substantial changes in the zoning ordinance.

2. The town board may, by a single ordinance, comprehensively revise an existing town zoning ordinance. The ordinance shall be adopted under par. (b).

(5) NONCONFORMING USES. (a) An ordinance adopted under this section may not prohibit the continued use of any building or premise for any trade or industry for which the building or premise is used when the ordinance takes effect. An ordinance adopted under this section may prohibit the alteration of, or addition to, any existing building or structure used to carry on an otherwise prohibited trade or industry within the district. If a use that does not conform to an ordinance adopted under this section is discontinued for a period of 12 months, any future use of the land, building or premise shall conform to the ordinance.

(b) Except as provided in par. (d), immediately after the publication of a town zoning ordinance, the town board shall provide for the compilation of a record of the present use of all buildings and premises used for purposes not in conformity with the zoning ordinance. The record shall contain the names and addresses of the owner of the nonconforming use and any occupant other than the owner, the legal description of the land, and the nature and extent of the use of the land. The record shall be published in the town as a class 1 notice under ch. 985. Within 60 days after final publication, upon presentation of proof to the town board, errors or omissions in the record may be corrected. At the expiration of the 60-day period, the record shall be filed in the office of the town clerk and a certified copy of the record filed in the office of the register of deeds. The record is prima facie evidence of the extent and number of nonconforming uses existing at the time the ordinance takes effect. Errors or omissions in the record shall be corrected by the town board upon petition of any citizen or by the board on its own motion. The decision of the board concerning errors or omissions is final.

(c) Immediately after the record of nonconforming uses is filed with the town clerk, the clerk shall furnish the town assessor the record of nonconforming uses within the town. After the assessment for the following year and each succeeding assessment, the town assessor shall file a written report, certified by the board of review, with the town clerk listing all nonconforming uses which have been discontinued since the prior assess-

ment. The town clerk shall record discontinued nonconforming uses as soon as reported by the assessor. In this paragraph, "town assessor" includes the county assessor assessing the town under s. 70.99.

(d) Paragraphs (b) and (c) do not apply to towns issuing building permits as a means of enforcing the zoning ordinance or of identifying nonconforming uses or to towns which have established other procedures for this purpose.

(6) ENFORCEMENT. The town board may by ordinance provide for the enforcement of all ordinances adopted under this section. The board may impose forfeitures and other penalties for violation of ordinances adopted under this section. To enforce compliance with ordinances adopted under this section, the town or the owner of real estate within a district affected by the ordinance may seek a court order.

NOTE: Subsection (1) (a) restates the 2nd sentence of s. 60.74 (4).

Subsection (1) (b) revises s. 60.74 (5) by eliminating reference to powers "now" possessed by any town. The prohibition against construing town zoning authority to limit or repeal any town powers should apply to all powers of a town, not just those in existence when the town zoning law was enacted.

Subsection (2) (intro.) restates s. 60.74 (1) (a) (intro.).

Subsection (2) (a) and (b) restates s. 60.74 (1) (a) 1 and 5.

Subsection (2) (c) restates s. 60.74 (1) (a) 2.

Subsection (2) (d) restates s. 60.74 (1) (a) 3.

Subsection (2) (e) restates s. 60.74 (1) (a) 4.

Subsection (2) (f) restates s. 60.74 (1) (b).

Subsection (3) restates all but the last sentence of s. 60.74 (1) (am), which is repealed as unnecessary.

Subsection (4) (a) and (b) revises s. 60.74 (2), except the last 2 sentences. The revisions are:

1. In par. (a), the town board is required to appoint a town zoning committee; the provision of current law that the town park commission, if in existence, serves as the town zoning committee is repealed. [Provisions relating to the town park commission are repealed in this draft. See the NOTE to SECTION 34 (2).]

2. In par. (b), the town zoning committee is required to hold another public hearing on its report if the committee makes substantial changes in its original report following the initial public hearing. This provision reflects the interpretation of current law in 39 OAG 292 (1950).

3. Under par. (b), the town board, before it may adopt a zoning ordinance under its town zoning authority, must hold a public hearing on the proposed ordinance.

Subsection (4) (c) 1, restates the last 2 sentences of s. 60.74 (2).

Subsection (4) (c) 2, is based on s. 60.74 (3). It substitutes for the current town zoning protest procedure language based on the county zoning protest procedure in s. 59.97 (5) (e) 5. The new language:

1. Requires an extraordinary majority vote of the town board, rather than a simple majority vote of the town zoning committee, for a zoning change to be adopted over a protest;

2. Expands the class of property owners affected by a proposed zoning change who may sign a protest to the change; and

3. Increases the required percentage of eligible protesters from 20% to 50%.

Subsection (4) (d) is new. Currently, authority to comprehensively revise a zoning ordinance is contained in village, city and county zoning statutes but not the town zoning statutes. The special committee concluded there is no reason to deny this authority to towns.

Subsection (5) (a) restates the last sentence of s. 60.74 (4) and revises the 3rd sentence of s. 60.74 (6) (b). The revision establishes a 12-month period as the period for which a nonconforming use must be discontinued to trigger the requirement that any future use conform to the town zoning ordinance.

Subsection (5) (b) to (d) restates s. 60.74 (6), except the 3rd sentence of s. 60.74 (6) (b).

Subsection (6) restates the first, 3rd and 4th sentences of s. 60.74 (4).

60.62 Zoning authority if exercising village powers. (1) Subject to subs. (2) and (3), if a town board has been granted authority to exercise village powers under s. 60.10 (2) (c), the board may adopt zoning ordinances under s. 61.35.

(2) If the county in which the town is located has adopted a zoning ordinance under s. 59.97, the exercise of the authority under sub. (1) is subject to approval by the town meeting or by a referendum vote of the electors of the town held at the time of any regular or special election.

(3) In counties having a county zoning ordinance, no zoning ordinance or amendment of a zoning ordinance may be adopted under this section unless approved by the county board.

NOTE: Revises s. 60.74 (7). The current requirement that the referendum authorizing the town board to exercise village zoning authority be held at the annual town meeting, not a special town meeting [47 OAG 220 (1958)] is repealed. Instead, in order to provide greater flexibility in authorizing the exercise of such authority, authority may be granted by the town meeting (annual or special) or by a referendum held in conjunction with a regular or special election.

60.63 Community living arrangements. For purposes of s. 60.61, the location of a community living arrangement, as defined in s. 46.03 (22), in any town shall be subject to the following criteria:

(1) No community living arrangement may be established after March 28, 1978 within 2,500 feet, or any lesser distance established by an ordinance of the town, of any other such facility. Agents of a facility may apply for an exception to this requirement, and such exceptions may be granted at the discretion of the local township. Two community living arrangements may be adjacent if the town authorizes that arrangement and if both facilities comprise essential components of a single program.

(2) Community living arrangements shall be permitted in each town without restriction as to the number of facilities, so long as the total capacity of the community living arrangements does not exceed 25 or one percent of the town's population, whichever is greater. If the capacity of the community living arrangements in the town reaches such total, the town may prohibit additional community living arrangements from locating in the township. Agents of a facility may apply for an exception to this requirement, and such exceptions may be granted at the discretion of the town.

(3) A foster family home which is the primary domicile of a foster parent, which is for 4 or fewer children and which is licensed under s. 48.62 shall be permitted use in all residential areas and is not subject to subs. (1) and (2) except that foster homes operated by corporations, child welfare agencies, churches, associations or public agencies shall be subject to subs. (1) and (2).

(4) If the community living arrangement has capacity for 8 or fewer persons being served by the program, meets the criteria listed in subs. (1) and (2), and is licensed, operated or permitted under the authority of the department of health and social services, the community living arrangement is entitled to locate in any residential zone, without being required to obtain special zoning permission except as provided under sub. (10).

(5) In all cases where the community living arrangement has capacity for 9 to 15 persons being served by the program, meets the criteria listed in subs. (1) and (2), and is licensed, operated or permitted under the authority of the department of health and social services, that facility is entitled to locate in any residential area except areas zoned exclusively for single-family or 2-family residences except as provided in sub. (10), but is entitled to apply for special zoning permission to locate in those areas. The town may grant such special zoning permission at its discretion and shall make a procedure available to enable such facilities to request such permission.

(6) In all cases where the community living arrangement has capacity for serving 16 or more persons, meets the criteria listed in subs. (1) and (2), and is licensed, operated or permitted under the authority of the department of health and social services, that facility is entitled to apply for special zoning permission to locate in areas zoned for residential use. The town may grant such special zoning permission at its discretion and shall make a procedure available to enable such facilities to request such permission.

(7) The department of health and social services shall designate a single subunit within the department to maintain appropriate records indicating the location and the capacity of each community living arrangement, and such information shall be available to the public.

(8) In this section, "special zoning permission" includes but is not limited to the following: special exception, special permit, conditional use, zoning variance, conditional permit and words of similar intent.

(9) The attorney general shall take all necessary action, upon the request of the department of health and social services, to enforce compliance with this section.

(10) Not less than 11 months nor more than 13 months after the first licensure of a community living arrangement and every year thereafter, the town board of a town in which a community living arrangement is located may make a determination as to the effect of the community living arrangement on the health, safety or welfare of the residents of the town. The determination shall be made according to the procedures provided under sub. (11). If the town board determines that a community living arrangement's existence in the town poses a threat to the health, safety or welfare of the residents of the town, the town board may order the community living arrangement to cease operation unless special zoning permission is obtained. The order is subject to judicial review under s. 68.13, except that a free copy of the transcript may not be provided to the community living arrangement. The community living arrangement must cease operation within 90 days after the date of the order, or the date of final judicial review of the order, or the date of the denial of special zoning permission, whichever is later.

(11) A determination made under sub. (10) shall be made after a hearing before the town board. The town shall provide at least 30 days' notice to the community living arrangement that such a hearing will be held. At the hearing, the community living arrangement may be represented by counsel and may present evidence and call and examine witnesses and cross-examine other witnesses called. The town board may call witnesses and may issue subpoenas. All witnesses shall be sworn by the town board. The town board shall take notes of the testimony and shall mark and preserve all exhibits. The town board may, and upon request of the community living arrangement shall, cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the town. Within 20 days after the hearing, the town board shall

deliver to the community living arrangement its written determination stating the reasons therefor. The determination shall be a final determination.

NOTE: Identical to s. 60.74 (9) but renumbered to reflect its status as a separate section rather than a subsection.

60.64 Historic preservation. The town board, in the exercise of its zoning and police powers for the purpose of promoting the health, safety and general welfare of the community and of the state, may regulate any place, structure or object with a special character, historic interest, aesthetic interest or other significant value for the purpose of preserving the place, structure or object and its significant characteristics. The town board may create a landmarks commission to designate historic landmarks and establish historic districts. The board may regulate all historic landmarks and all property within each historic district to preserve the historic landmarks and property within the district and the character of the district.

NOTE: Restates s. 60.74 (1) (a) 6.

60.65 Board of adjustment. (1) **TOWN BOARD SHALL APPOINT.** If a zoning ordinance has been adopted under s. 60.61, the town board shall establish and appoint a board of adjustment.

(2) **MEMBERSHIP.** The board of adjustment consists of 3 members. Not more than one town board supervisor may be a member of the board of adjustment. The initial terms of the members of the board of adjustment are one, 2 and 3 years, respectively, starting from the first day of the month next following the appointment. Successors shall be appointed or elected at the expiration of each term and their term of office shall be 3 years and until their successors are appointed or elected. Members of the board of adjustment shall reside within the town. The board shall choose a chairperson. Vacancies shall be filled for the unexpired term of any member whose office becomes vacant. The town board may compensate the members of the adjustment board.

(3) **POWERS AND DUTIES.** The town board may authorize the board of adjustment to, in appropriate cases and subject to appropriate conditions and safeguards, permit special exceptions to the terms of the zoning ordinance under s. 60.61 consistent with the ordinance's general purpose and intent and with applicable provisions of the ordinance. This subsection does not preclude the granting of special exceptions by the town zoning committee designated under s. 60.61 (4) or the town board, in accordance with regulations and restrictions adopted under to s. 60.61.

(4) **PROCEDURE.** The town board shall adopt regulations for the conduct of the business of the board of adjustment consistent with ordinances adopted under s. 60.61. The board of adjustment may adopt rules necessary to implement the regulations of the town board. Meetings of the board shall be held at the call of the chairperson and other times as the board may determine. The chairperson or, in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses. The board shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent, indicating that fact and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(5) **EXERCISE OF COUNTY BOARD OF ADJUSTMENT POWERS.** Boards of adjustment under town zoning ordinances shall have the powers and duties provided for boards of adjustment under s. 59.99 and shall carry out their duties in the manner provided for boards of adjustment by s. 59.99.

NOTE: Revises s. 60.75 as follows:

1. The town board is required, rather than permitted, to appoint a board of adjustment.

2. The current requirement that all meetings of the board of adjustment be open to the public is repealed. The special committee concluded that there is no persuasive reason to retain this absolute requirement. Meetings of the board will be subject to the general open meetings law, subch. IV of ch. 19, which generally requires open meetings of governmental bodies but permits closed meetings under specified circumstances.

60.66 Town park commission. (1) ESTABLISHED BY ANNUAL TOWN MEETING. The annual town meeting may establish a town park commission consisting of 7 members.

(2) APPOINTMENT AND TERM. (a) The town board shall appoint the members of the commission within 60 days after the commission is established. Each member shall take and file the official oath.

(b) Except as provided under par. (c), members shall serve a term of 7 years, commencing July 1 of the year in which appointed. The town board shall appoint a successor during the month of June immediately preceding the expiration of the member's term.

(c) The first 7 members shall be appointed for staggered terms so that on the first day of July in each of the 7 years next following the year in which they are appointed, the term of one member expires.

(d) A member shall hold his or her office until his or her successor is appointed and qualified.

(3) ORGANIZATION. (a) Within 30 days after the appointment and qualification of the initial members of the commission, the commission shall hold a meeting to appoint officers and establish bylaws for its operation.

(b) The commission may appoint necessary assistants and employes to carry out its functions, make rules and regulations concerning their work and remove them at pleasure.

(c) The town board shall provide sufficient office space for the maps, plans, documents and records of the commission.

(4) POWERS AND DUTIES. (a) In this subsection, "park" means a public park, parkway, boulevard or pleasure drive.

(b) The commission shall have charge of and supervision over all parks located in the town and may exercise the powers of a board of park commissioners under ss. 27.08 and 27.10 (1).

(c) Within 2 years after its organization under sub. (3), the commission shall:

1. Make a thorough study of the town with reference to reserving lands for park purposes.

2. Make plans and maps of a comprehensive town park system.

3. Present the results of its study and its plans to the town meeting.

(d) The commission may:

1. Lay out, improve and maintain parks in the town.

2. Lay out, grade, construct, improve and maintain highways, roads and bridges in a park or connecting the park with any other park or with any municipality.

3. Establish regulations for the use and enjoyment of the parks by the public.

4. With town board approval, acquire, in the name of the town, by purchase, land contract, lease, condemnation or otherwise, tracts of land suitable for parks. No land acquired by the commission may be disposed of by the town without the consent of the commission. If the land is disposed of, all money received for the land shall be paid into a town park fund.

5. Accept, in the name of the town, grants, conveyances and devises of land and bequests and donations of money to be used for parks located in the town.

NOTE: Inserted by assembly amendment 8.

Subsection (1) revises the first sentence of s. 60.181. That part of s. 60.181 (intro.), dealing with who may vote at the town meeting, and stating that decisions are made by vote, is deleted as unnecessary.

The first sentence of sub. (2) (a) is based on the 2nd sentence of s. 60.181. The requirement that the appointments by the town board be in writing and be filed with the town clerk are deleted as unnecessary. The provision requiring the board to appoint the members within 60 days of the creation of the commission by the annual meeting is new.

The 2nd sentence of sub. (2) (a) restates the last sentence of s. 60.181.

Subsection (2) (b) restates the first part of the 3rd sentence and the 4th sentence in s. 60.181.

Subsection (2) (c) restates the last clause in the 3rd sentence of s. 60.181.

Subsection (2) (d) restates part of the first clause in the 3rd sentence in s. 60.181.

Subsection (3) (a) revises s. 60.182 (1). Deleted as unnecessary are current provisions (1) requiring the commissioners to convene at the town hall to “perfect an organization”; (2) specifying that the commission, once organized, “has the usual powers of such bodies” in addition to the powers enumerated in s. 60.182; and (3) requiring the commissioners to use a common seal.

Subsection (3) (b) restates s. 60.182 (2).

Subsection (3) (c) restates the first clause in s. 60.182 (3). The current provision requiring the records to be open for public inspection “at all reasonable hours and under such reasonable regulations” as the town board prescribes is deleted as unnecessary, since the duties of town officials concerning public records are set forth in subch. II of ch. 19.

Subsection (4) (a) is new and is included to provide a clear statement of the extent of the commission’s jurisdiction.

Subsection (4) (b) restates the first clause in s. 60.184 (intro.).

Subsection (4) (c) revises s. 60.183. The 2nd sentence of s. 60.183, requiring the commission to make other reports if requested by the town board, is deleted as unnecessary.

Subsection (4) (d) 1 to 3 revises s. 60.184 (1). Deleted as unnecessary are (1) a provision permitting the commission to use “such methods and material as it may deem expedient” in constructing or maintaining highways, roads and bridges in connecting town parks; and (2) a provision permitting the commission to determine building lines along highways and roads in or connecting town parks.

Subsection (4) (d) 4 and 5 restates s. 60.184 (2) and (3).

SUBCHAPTER IX TOWN SANITARY DISTRICTS

60.70 Definitions. In this subchapter:

- (1) “Commission” means the town sanitary district commission.
- (1m) “Commissioner” means a member of a commission.
- (2) “Equalized full value” means the assessed full value adjusted to reflect the full value as determined under s. 70.57.
- (3) “Municipality” means a city, village or town.

(4) "Pollution" means contaminating or rendering unclean or impure the waters of the state, or making them injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

(5) "Private sewage system" has the meaning given under s. 145.01 (14).

(6) "Sewerage system" means all structures, conduits and pipelines by which sewage is collected, transported, pumped, treated and disposed of, except plumbing inside and in connection with buildings served, and service pipes from building to street main.

(7) "Solid waste" has the meaning given under s. 144.01 (15).

(8) "Solid waste disposal" has the meaning given under s. 144.43 (4r).

(9) "Town sanitary district" or "district" means a town sanitary district created under this subchapter.

(10) "Water supply system" means all structures, conduits and appurtenances by means of which water is delivered to consumers except piping and fixtures inside buildings served and service pipes from building to street main.

(11) "Waters of the state" has the meaning given under s. 144.01 (19).

NOTE: This section is new. Current town sanitary district law uses the definitions found in s. 144.01 and incorporates them by cross-reference. Chapter 144 contains statutes administered by the department of natural resources related to air pollution, protection of the waters of the state, solid and hazardous waste disposal and mining. While some of these definitions are appropriate, some are inapplicable and others are obsolete or in need of revision as applied to town sanitary districts. This draft creates a new definition section specifically applicable to town sanitary districts.

A number of the terms in s. 144.01 are not included in the new town sanitary district definition section because they are not used in this subchapter. These terms are: air pollution, department, environmental pollution, hazardous substance, industrial wastes, nonprofit-sharing corporation, owner, other wastes, secretary and system or plant.

The definition of person is dropped in favor of the generic definition in s. 990.01 (26). "Person" thus includes individuals, partnerships, associations and bodies politic or corporate.

The remaining definitions in s. 144.01 are either incorporated directly into this subchapter or revised to meet the specific requirements of this subchapter.

Subsection (1) is new. It defines the term which is used consistently throughout this subchapter in references to the governing body of a town sanitary district.

Subsection (2) is identical to s. 60.306 (3) (b).

Subsection (3) is based on s. 144.01 (6). Counties and various special purpose districts included in s. 144.01 (6) are not continued here, since the term "municipality" is only used in this subchapter in relation to tax collection. See new ss. 60.77 (6) (b) and 60.79 (5).

Subsection (4) restates s. 144.01 (10). "Includes" in the current statute is changed to "means".

Subsection (5) is new. The cross-referenced definition is applicable to statutes administered by the department of industry, labor and human relations.

Subsection (6) combines and restates the definitions in current ss. 60.30 (1) and 144.01 (14).

Subsection (7) is new. The cross-referenced definition is used in regulatory programs administered by the department of natural resources.

Subsection (8) is new. The current town sanitary district law uses the term "garbage and refuse disposal". Both "garbage" and "refuse" are defined in s. 144.01. However, "solid waste disposal" is the contemporary term for this activity, and is used in regulatory statutes administered by the department of natural resources.

Subsection (9) is new. It defines the terms which are used consistently throughout this subchapter to refer to town sanitary districts.

Subsection (10) is new. The substance of this definition is identical to s. 144.01 (21). The defined term is changed from "'waterworks' or 'water system'" to "water supply system".

Subsection (11) is new. Waters of the state includes both surface water and groundwater. The term is used in the definition of "pollution" in new sub. (4) and in new s. 60.72 (4). In the latter provision, the current statute [s. 60.315 (1)] uses the term "surface water", so this draft, by changing the term to "waters of the state", expands the coverage of that provision.

60.71 Creation of town sanitary district by town board order. (1) TOWN BOARD AUTHORITY. (a) The town board may establish one or more town sanitary districts under this section.

(b) If a proposed town sanitary district is in more than one town, the town board of the town containing the largest portion of the equalized full value of taxable property within the proposed district has exclusive jurisdiction to establish the town sanitary district.

(2) PETITION. (a) At least 51% of the persons owning land or the owners of at least 51% of the land within the limits of the territory proposed to be organized into a town sanitary district may petition the town board for the establishment of a town sanitary district. The petition shall be addressed to the town board and filed with the town clerk. The petition shall contain the following information:

1. The proposed name of the town sanitary district.
2. A statement of the necessity for the proposed work.
3. A statement that the public health, safety, convenience or welfare will be promoted by the establishment of the town sanitary district and that the property to be included will be benefited by the proposed district.
4. A legal description of the boundaries of the proposed town sanitary district.
5. A plat or sketch showing the approximate area and boundaries of the proposed town sanitary district.
6. A general description of the proposed improvements.

(b) One or more of the petitioners shall verify that the petition was signed personally by the persons whose signatures appear on the petition. The petition is presumed to have been signed by the persons whose signatures appear on the petition. No petition with the requisite number of valid signatures may be declared void because of alleged defects in the information required to be included in the petition. The town board at any time may permit a petition to be amended to conform to the facts.

(3) BOND. At least 15 days prior to the hearing under sub. (4), the petitioners shall file a personal or a surety bond with the town clerk, with security approved by the town board, sufficient to pay all of the expenses connected with the proceedings if the town board refuses to organize the district. The petitioners shall maintain the bond until either the town board issues an order to organize the district, the petitioners pay the costs of the town board under sub. (6) (f) or the proceedings are otherwise terminated. If the town board determines that a bond is insufficient, it may order the execution of an additional bond within a specified time, but not less than 10 days from the date of the order.

If the petitioners fail to execute or maintain the bond, the town board may dismiss the petition.

(4) HEARING. (a) The town board shall schedule and conduct a hearing within 30 days after receipt of any petition with the requisite number of valid signatures.

(b) The town board shall publish a class 2 notice, under ch. 985, of the hearing. The notice shall contain an announcement of the hearing and a description of the boundaries of the proposed town sanitary district. The town board shall mail the notice to the department of health and social services and the department of natural resources at least 10 days prior to the hearing.

(c) Any person may file written comments on the formation of the district with the town clerk. Any owner of property within the boundary of the proposed district may appear at the hearing and offer objections, criticisms or suggestions as to the necessity of the proposed district and the question of whether his or her property will be benefited by the establishment of the district. A representative of the department of health and social services and of the department of natural resources shall attend the hearing and advise the town board.

(5) TERRITORY COMPRISING A DISTRICT. (a) A town sanitary district may not include any territory located within a village or city.

(b) A town sanitary district may include territory located within a metropolitan sewerage district or any other similar district outside of the boundaries of a village or city for the purpose of auxiliary sewer construction by the town sanitary district.

(6) DECISION BY THE TOWN BOARD. (a) Within 30 days after the conclusion of the hearing under sub. (4), the town board shall issue written findings and a decision on formation of the proposed town sanitary district.

(b) As part of its findings, the town board shall determine if:

1. The proposed work is necessary.
2. Public health, safety, convenience or welfare will be promoted by the establishment of the district.
3. Property to be included in the district will be benefited by the district.

(c) If the town board's findings required by par. (b) are all in the affirmative, the town board shall issue an order establishing the boundaries of the town sanitary district, declaring the district organized and giving the district a corporate name. After the district is established, the town board and the petitioners may submit to the commission certified bills covering their reasonable costs and disbursements in connection with the petition and hearing. The commission shall pay the expenses out of the funds of the district.

(d) If the town board's findings required by par. (b) are in the affirmative, except that part of the territory described in the petition will not be benefited by the establishment of the district, the town board shall issue an order under par. (c), but shall exclude such territory from the district.

(e) If the town board determines that other territory not described in the original petition should be included within the town sanitary district, the town board shall continue the hearing for not more than 30 days and publish a class 2 notice, under ch. 985, of the continued hearing. The notice shall contain a description of the revised boundaries of the proposed town sanitary district.

(f) Except as provided in par. (d), if any of the town board's findings under par. (b) are partly or wholly in the negative, the town board shall dismiss the proceedings and order the petitioners to pay, within 30 days, all reasonable costs and disbursements of the town board in connection with the proceedings.

(7) **FILING THE ORDER.** The town board shall file copies of the order establishing the town sanitary district with the department of natural resources and with the register of deeds in each county in which the district is located.

NOTE: Subsection (1) revises s. 60.301. Reference to “the conditions stated in s. 60.303 (3)” is repealed, since those conditions act as a limitation on town board authority without the necessity of a cross-reference. [See new s. 60.71 (6) (b).] Where more than one town is included in a proposed town sanitary district, it is clarified that the town containing the largest equalized full value of taxable property within the proposed district has “exclusive” jurisdiction to establish the town sanitary district.

Subsection (2) (a) revises s. 60.302 (1). The exception for large towns in the current statute [“except as provided in sub. (6)”] is repealed. The meaning of the 2nd sentence in s. 60.302 (2) is preserved by reference to “a petition or petitions”.

Subsection (2) (a) also revises s. 60.302 (3) and part of s. 60.302 (4). Paragraph (a) 3 changes the language of current law so that it is consistent with the language in new s. 60.71 (6) (b) 2. No substantive change is intended.

Paragraph (a) 4 changes current law by substituting a reference to the boundaries of the “proposed town sanitary district”, rather than the “proposed work”. Also, the description of the town sanitary district boundaries must be a legal description. A “general description” of the proposed improvements must be included in the petition, rather than the current law’s “outline”.

Subsection (2) (b) revises parts of s. 60.302 (2) and (4). Reference to “execution” of the petition is repealed, since that term appears to be synonymous with “signature” in the context of the current statute. The phrase regarding the presumption of validity “until proof to the contrary shall have been made” is repealed, since that requirement is included in the concept of a presumption.

Subsection (2) (b) also revises the first sentence of s. 60.302 (2). The reference to alleged defects is clarified by specifying that the defects which may be corrected are only those in the information required to be included in the petition by sub. (2) (a), above. The reference to amendments “in form and substance” is repealed as unnecessary. The final clause in the sentence is repealed since it duplicates the provision on amending the petition.

Subsection (3) revises s. 60.302 (5). A new provision clarifies that the petitioners must maintain the bond in force during the proceedings on the petition. Also, the petitioners are allowed to file either a personal or a surety bond.

Subsection (4) (a) restates part of the first sentence of s. 60.303.

Subsection (4) (b) revises s. 60.303 (2) and part of s. 60.303 (5). The requirement that the notice be published within the county is repealed as unnecessary, since the reference to ch. 985 means that the notice must be published in a newspaper likely to give notice in the area of the proposed district.

Subsection (4) (c) revises part of s. 60.303 (1) and (5). The provision on written comments is expanded so that comments for or against the proposed district, rather than merely objections to the formation of the district, may be submitted. Also, written comments may be submitted at any time instead of only before the hearing.

Subsection (5) restates s. 60.30 (2). The reference to not including incorporated territory “at the time of organization of such district” is repealed as unnecessary, since district territory which is annexed or incorporated subsequent to district formation is automatically detached. See new s. 60.79 (2).

Subsection (6) (a) is new. Current s. 60.303 (3) requires the town board to render a decision "upon the hearing", which could be construed to require an immediate decision. This provision gives the town board 30 days after the hearing to make its decision.

Subsection (6) (b) restates part of s. 60.303 (3).

Subsection (6) (c) restates part of s. 60.303 (3) and (4). A new provision permits the town board to recover its expenses from the commission if the town sanitary district is established. The last sentence is clarified so that an affirmative requirement is imposed on the commission to pay the costs of the town board and the petitioners.

Subsection (6) (d) restates the last sentence of s. 60.303 (6).

Subsection (6) (e) revises the first sentence of s. 60.303 (6). The town board is given a specific time period — 30 days — to complete the hearing after deciding to add territory to that proposed in the petition.

Subsection (6) (f) revises the first sentence of s. 60.303 (4). The decision of the town board is clarified so that it relates directly to the findings under par. (b). The 30-day deadline for payment is new.

Subsection (7) revises s. 60.303 (7). The fee for filing the order with the register of deeds in counties of over 250,000 population is repealed. Section 59.57 would, therefore, govern filing the order in any county, resulting in a fee of \$4 for the first page and \$2 for each additional page. The last sentence of current s. 60.303 (7) applied only to Milwaukee county when it was created in 1947. This sentence is repealed since Milwaukee county no longer has town sanitary districts and there is no need for a separate index of these orders in other counties having a population of over 250,000.

60.72 Creation of town sanitary district by order of the department of natural resources.

(1) **DEFINITION.** In this section, "department" means the department of natural resources.

(2) **HEARING.** The department shall conduct a public hearing to determine whether to order the establishment of a town sanitary district under this section.

(3) **NOTICE.** The department shall give notice of a hearing under this section by mail to the town clerk of each town in the area to be affected at least 30 days prior to the hearing. The town board shall publish a class 2 notice, under ch. 985, of the hearing. The notice by the town board shall contain an announcement of the hearing and a description of the area identified by the department for inclusion in the town sanitary district.

(4) **FINDING.** Following the public hearing, the department shall determine if private sewage systems or private domestic water supply systems, or both, in the affected towns constitute a threat to public health, safety, convenience or welfare or of pollution of waters of the state, and that there is no local action to correct the situation. The department shall issue its determination as written findings.

(5) **ORDER.** If the department's findings under sub. (4) are in the affirmative, the department shall issue an order specifying the work which is necessary and designating the property which is to be included in the proposed town sanitary district.

(6) **TOWN BOARD ACTION.** Notwithstanding s. 60.71, upon receipt of an order from the department under sub. (5), the town board may order the establishment of a town sanitary district or create a utility district under s. 66.072.

(7) **TOWN BOARD FAILURE TO ACT.** If the town board fails to establish a town sanitary district within 45 days after receipt of the department's order, the department shall issue an order establishing boundaries of the town sanitary district, declaring the district organized and giving the district a corporate name. The department's order establishes the district without any further action by the town board. The department shall file a copy

of the order with the register of deeds in each county in which the district is situated and with the town clerk of each town in which the district is situated.

(8) COMMISSIONERS. (a) After a town sanitary district has been established under sub. (6) or (7), the town board shall appoint or provide for the election of commissioners or constitute itself as the commission under s. 60.74 within 60 days after the expiration of the review period under s. 60.73, if no appeal is filed, or within 60 days after the department's order is affirmed in a proceeding under s. 60.73. If the town board does not appoint or provide for the election of commissioners or constitute itself as the commission, the department shall appoint, for 2-year terms, 3 commissioners who meet the residence and property-ownership requirements of s. 60.75 (3).

(b) If the department appoints commissioners under par. (a), the town board, after the initial 2-year terms, shall appoint or provide for the election of commissioners under s. 60.74 or constitute itself as the commission. If the town board does not appoint or provide for the election of commissioners or constitute itself as the commission within 60 days after the initial 2-year terms expire, the department shall appoint, for staggered terms as provided in s. 60.74, 3 commissioners who meet the residence and property-ownership requirements of s. 60.75 (3).

(c) If the town board fails to fill any vacancy on the commission within 60 days, the department shall appoint a person who meets the residence and property-ownership requirements of s. 60.75 (3) to fill the vacancy.

(d) The department shall file notice of all appointments of commissioners with the town clerk in each town in which the district is located.

(9) STATUTES APPLICABLE. Except as otherwise provided in this section, and unless clearly inapplicable, all other statutes relating to town sanitary districts shall apply to any town sanitary district created under sub. (6) or (7).

NOTE: Subsection (1) restates the definition in s. 60.315 (1).

Subsection (2) is new. Current s. 60.315 clearly implies that the department of natural resources may hold a public hearing for this purpose. This provision requires the department to conduct a public hearing.

Subsection (3) restates the last sentence of s. 60.315 (1). The requirement that the notice contain specific information is new.

Subsection (4) revises part of s. 60.315 (1). The required finding of the department of natural resources relating to public health, safety, convenience or welfare is modeled after the finding of the town board under new s. 60.71 (6) (b). "Constitute a threat" is substituted for "cause a menace"; no substantive change is intended. "Waters of the state", a new defined term, includes groundwater as well as surface water.

Subsection (5) restates part of s. 60.315 (1) and adds procedural details.

Subsection (6) restates s. 60.315 (2) and (7).

Subsection (7) restates s. 60.315 (3).

Subsection (8) restates s. 60.315 (5).

Subsection (9) restates s. 60.315 (6).

60.73 Review of orders creating town sanitary districts. Any person aggrieved by any act of the town board or the department of natural resources in establishing a town sanitary district may bring an action in the circuit court of the county in which his or her lands are located, to set aside the final determination of the town board or the department of natural resources, within 90 days after the final determination, as provided under s. 893.73 (2). If no action is taken within the 90-day period, the determination by the town board or the department of natural resources is final.

NOTE: Revises s. 60.304. The separate appeal provision for town sanitary districts created by order of the department of natural resources [found in current s. 60.315 (4)] is eliminated.

60.74 Commissioners; method of selection. (1) **SINGLE TOWN DISTRICTS.** If a town sanitary district is located entirely within one town, the town board shall determine how commissioners will be selected. The town board may appoint the commissioners, provide for their election or constitute itself as the commission. If the town board constitutes itself as the commission, it shall do so by an affirmative vote of at least two-thirds of the town board supervisors. The town board shall determine the method of selection for the initial commissioners within 60 days after the town sanitary district is established.

(2) **MULTIPLE TOWN DISTRICTS.** (a) If a town sanitary district is located in 2 or more towns, the town board of the town containing the largest portion of the equalized full value of taxable property of the district shall determine, within 60 days after the district is established, how commissioners will be selected. The town board may appoint commissioners or provide for their election.

(b) If, as a result of a change in each town's share of the equalized full value of taxable property in the district, a town's share exceeds the share of the town first authorized to determine selection under par. (a), the town board of the town with the greater share, within 60 days, may provide for the election or appointment of commissioners to replace the commissioners selected under par. (a). Any commissioner selected under par. (a) shall serve until new commissioners are appointed or elected under this paragraph.

(3) **ELECTION OF COMMISSIONERS.** (a) If the town board provides for the election of commissioners, the town board shall either schedule the election of the first commissioners at the next regular spring election or call a special election. If the town board schedules the election of the first commissioners at the next regular spring election, the town board shall appoint commissioners, within the time limits specified in sub. (1) or (2), to serve until the 3rd Monday of April in the year when the next regular spring election is held.

(b) After the first commissioners are elected, all subsequent commissioners shall be elected at a regular spring election.

(4) **CHANGE FROM APPOINTMENT TO ELECTION.** (a) If the commissioners of a district have been appointed, a petition requesting that commissioners be elected may be submitted to the town board responsible for the selection of commissioners under sub. (1) or (2). The petition shall state whether the petitioners wish to have the first commissioners elected at a special election or at the next regular spring election. The petition shall be signed by at least 20% of the qualified electors of the district.

(b) Upon receipt of the petition, the town board shall provide for the election of commissioners. If the petition requests the election of the first commissioners at a special election, the special election shall be scheduled in accordance with s. 8.50. After the first commissioners are elected, all subsequent commissioners shall be elected at a regular spring election.

(c) If the commissioners are elected at a special election, the current appointed commissioners continue to serve until their successors are elected and qualify. If the commissioners are elected at a regular spring election, the current appointed commissioners continue to serve until the 3rd Monday of April following the election of the commissioners.

(5) **CHANGE FROM ELECTION TO APPOINTMENT.** (a) If the commissioners have been elected as the result of a petition under sub. (4), the town board may not change the method of selection from election to appointment except as provided under par. (b).

(b) A petition signed by at least 20% of the qualified electors of the district, requesting a change to appointment of commissioners, may be submitted to the town board. Upon receipt of the petition, the town board shall submit the question to a referendum at the

next regular spring election or general election, or shall call a special election for that purpose. The inspectors shall count the votes and submit a statement of the results to the commission. The commission shall canvass the results of the election and certify the results to the town board which has authority to appoint commissioners.

(c) If the change in the method of selection of commissioners is approved at the referendum, the town board shall appoint commissioners within 60 days after the referendum is conducted.

NOTE: Subsection (1) revises part of s. 60.305 (1) (a). The 60-day deadline is made applicable to the town board's decision to constitute itself as the commission, as well as to the town board's provision for appointment or election of commissioners.

Subsection (2) revises part of s. 60.305 (1) (a). "Assessed valuation" is changed to "equalized full value", which is a defined term. The standard for determining which town board has jurisdiction is changed so that it is the same as the standard under new s. 60.71 (1) (b). The current law's alternative standard of "the town in which the major portion of the patrons reside" is repealed, since this can create a conflict with the results of the "largest equalized full value" standard. Throughout the new subchapter, where a district is located in 2 or more towns, the governing town board is determined on the basis of property valuation.

Subsection (3) is new. It gives town boards flexibility in scheduling the election of commissioners. While the current statutes are silent on this point, it is apparent that the town board may call a special election. The provision also permits the town board to schedule the election at the next regular spring election.

Subsection (4) revises part of s. 60.305 (1) (a). The change from appointed to elected commissioners may be accomplished at either the next regular spring election or at a special election at the option of the petitioners. A transition provision is added so that appointed commissioners continue to serve until commissioners are elected.

Subsection (5) is new. It provides a specific procedure for returning to the appointment of commissioners after the commissioners are elected as the result of a petition under new sub. (4). The provision also restricts the authority of a town board to return to the appointment of commissioners after receiving a petition under new sub. (4).

60.75 Commissioners; requirements. (1) NUMBER OF COMMISSIONERS. (a) Except as provided in par. (b), the commission shall consist of 3 members.

(b) If the town board constitutes itself as the commission, the number of commissioners shall be the number of town board supervisors.

(2) TERMS. (a) Except as provided in pars. (b) and (c), commissioners shall serve for staggered 6-year terms.

(b) Except as provided under par. (c), of the commissioners first appointed or elected in a newly established town sanitary district, one shall be appointed or elected for a term of 2 years, one for a term of 4 years and one for a term of 6 years. If the commissioners first elected in a newly established town sanitary district are elected at a special election, the town board shall specify shorter staggered terms for the commissioners so that their successors may be elected at a regular spring election.

(c) If the town board constitutes itself as the commission, the terms of the commissioners are concurrent with the terms of the town board supervisors.

(d) An elected commissioner shall hold office until the 3rd Monday of April in the year that his or her successor is elected. An appointed commissioner shall hold office until a successor takes office.

(3) **RESIDENCE; REQUIREMENT TO OWN PROPERTY.** (a) Except as provided in par. (b) or (c), all commissioners shall be residents of the town sanitary district.

(b) If commissioners are elected or appointed and if the sanitary district is composed primarily of summer resort property, at least one of the commissioners shall be a resident of the district. Any commissioner who is not a resident shall own property within the town sanitary district.

(c) If the town board constitutes itself as the commission, par. (a) does not apply.

(4) **VACANCIES.** Any vacancy on an elective or appointive commission may be filled by appointment by the town board for the remainder of the unexpired term. Any vacancy on a commission consisting of town board supervisors remains vacant until a successor town board supervisor is appointed or elected.

(5) **OATH OF OFFICE.** Before assuming office, each commissioner shall take and sign the oath of office required under s. 19.01 and file the oath with the town clerk.

NOTE: Subsection (1) revises part of s. 60.305 (1) (a). The exception in par. (b) is new.

Subsection (2) restates part of s. 60.305 (1) (b). Paragraph (c) explicitly states what is implied in the last sentence of s. 60.305 (1) (b).

Subsection (3) (a) and (b) revises part of s. 60.305 (1) (a). The property-ownership requirement is repealed.

Subsection (3) (c) is new, adding an obviously necessary exception to the residence requirement.

Subsection (4), first sentence, restates part of s. 60.305 (1) (a). The 2nd sentence is new.

Subsection (5) is new. Commissioners are currently required to take the oath of office. This provision calls attention to the requirement of s. 19.01.

60.76 Organization of the commission. (1) **ELECTION OF OFFICERS.** (a) Except as provided in par. (b), the commission shall organize by electing one of its members president and appointing a secretary and treasurer.

(b) When the town board constitutes the commission, the town chairperson shall be the commission president, the town clerk shall be the commission secretary and the town treasurer shall be the commission treasurer.

(2) **SECRETARY; DUTIES.** The secretary shall keep a separate record of all proceedings and minutes of meetings and hearings. At the end of each fiscal year, the secretary shall submit to the town board of each town in which the district is located a report showing a complete audit of the financial transactions of the commission during the fiscal year. The report shall be incorporated in the annual financial statement of the town containing the largest portion of the equalized full value of all taxable property in the district.

(3) **TREASURER.** The commission may require the treasurer to execute an indemnity bond, provided by the district, in an amount which the commission finds appropriate for the proper performance of the treasurer's duties.

(4) **FISCAL YEAR.** The town sanitary district fiscal year is the calendar year.

NOTE: Subsection (1) revises part of s. 60.306 (1). The current provision specifying that the treasurer of the town having the largest assessed valuation of taxable property in the district acts as treasurer of the district is repealed. Instead, the commission is given authority to appoint a treasurer (who still may be the town treasurer) unless the town board constitutes the commission, in which case the town treasurer serves as treasurer of the district.

Subsection (2) restates part of s. 60.306 (1). The term "annual financial statement" replaces "annual report" to reflect new s. 60.41. See the NOTE to that section.

Subsection (3) revises part of s. 60.306 (1) by providing that if the commission requires the treasurer to execute an indemnity bond, the district is to provide the bond.

Subsection (4) is new. It explicitly states what is inferred from current s. 60.306 (1).

60.77 Powers and duties. (1) **AUTHORITY OF THE COMMISSION.** The commission has charge of all affairs of the town sanitary district.

(2) **CORPORATE STATUS.** The district is a body corporate with the powers of a municipal corporation for the purposes of carrying out this subchapter. The district may sue and be sued and may enter into contracts. The commission may provide for a corporate seal of the town sanitary district.

(3) **COMPENSATION; EXPENSES.** The town board of the town having the largest portion of the equalized full value of all taxable property in the district may fix the compensation of the commissioners, the secretary and the treasurer. The commissioners and the secretary and treasurer of the commission may receive actual and necessary expenses incurred while in the performance of the duties of the office in addition to any other compensation.

(4) **GENERAL POWERS AND DUTIES.** The commission may project, plan, construct and maintain a system of water supply, solid waste collection and disposal of sewerage, including drainage improvements, sanitary sewers, surface sewers or storm water sewers, or all of the improvements or activities or any combination of them necessary for the promotion of the public health, comfort, convenience or welfare of the district. The commission may provide chemical or mechanical treatment of waters for the suppression of swimmers' itch, algae and other nuisance-producing aquatic growths.

(5) **SPECIFIC POWERS.** The commission may:

- (a) Sell any of its services to users outside of its corporate limits.
- (b) Require the installation of private sewage systems.
- (c) Issue rules or orders, which shall be published as a class 1 notice under ch. 985.
- (d) Provide an office for the district.
- (e) Fix and collect charges for solid waste collection and disposal, sewage service and water supply service. The commission may fix and collect sewage service charges under s. 66.076 and water supply service charges under s. 66.069.
- (f) Levy special assessments to finance the activities of the district, using the procedures under s. 66.60.
- (g) Provide for the operation as a single enterprise of its water supply, solid waste or sewerage system, or any part or combination of parts of the system.

(h) Obtain by purchase, lease, gift, grant or bequest any real property situated in this state and any personal property that may be needed for the purposes of this subchapter.

(i) Sell, convey or dispose of any part of its interest in real or personal property which it has acquired that is not needed to carry out the powers and duties of the commission.

(6) **SPECIFIC DUTIES.** The commission shall:

- (a) Let contracts for any work or purchase that involves an expenditure of \$5,000 or more to the lowest bidder in the manner prescribed by the commission. Section 66.29 applies to contracts let under this paragraph.

(b) On or before November 1 of each year, levy a tax on all taxable property in the district and apportion the tax among the municipalities in which the district is located on the basis of equalized full value, for the purpose of carrying out the provisions of this subchapter. The amount of the tax in excess of that required for maintenance and operation of the district and for principal and interest on bonds or promissory notes may not exceed, in any one year, one mill on each dollar of the equalized full value of all taxable property in the district. The commission shall certify in writing to the clerk of every municipality in which the district is located the total amount of tax levied in the municipality.

(7) INTEREST IN CONTRACTS; PENALTY. No commissioner may have an interest, directly or indirectly, in a contract with, work or labor done for or material furnished to the town sanitary district or to anyone on the district's behalf, unless the interest is in a contract not exceeding \$1,000 in any one year or in the publication of required legal notices by the district or a commissioner if the publication rate does not exceed the rate prescribed by law. A commissioner who violates this subsection shall forfeit not less than \$50 nor more than \$500.

NOTE: Subsection (1) restates part of s. 60.306 (1).

Subsection (2) restates portions of ss. 60.30, 60.303 (3) and 60.306 (1) and (2).

Subsection (3) revises part of s. 60.305 (1). The current law does not provide for the secretary's compensation. The current law only mentions "salary"; this provision is broader, permitting compensation in any form. The provision for actual and necessary expenses is new.

Subsection (4) restates parts of ss. 60.30 (1) and 60.306 (2). Districts are clearly empowered to engage in solid waste collection, as well as disposal. The reference to "mechanical" treatment of waters is new — it refers to cutting of aquatic weeds.

Subsection (5), except pars. (h) and (i), restates parts of ss. 60.30 (1), 60.306 (2), (2m), (4) and (5), 60.307 (10) and 60.309 (1). In addition, in par. (e), the commission is given authority to fix and collect water supply service charges under current s. 66.069.

Subsection (5) (h) and (i) is new. The power of the commissioners in relation to real and personal property is clearly stated.

Subsection (6) restates ss. 60.305 (3) and 60.306 (3) (a). The threshold of the bidding requirement is changed from \$2,500 to \$5,000, which is the same threshold applicable to towns under new s. 60.47. A cross-reference to the bidding procedures is provided to clarify the applicability of s. 66.29 to town sanitary districts.

Subsection (7) restates s. 60.305 (2).

60.78 Powers to borrow money and issue bonds. A town sanitary district may borrow money and issue and execute bonds, notes and other forms of indebtedness under this section.

(1) **AUTHORITY TO ISSUE BONDS; PURPOSES.** A town sanitary district may issue bonds for the construction or extension of surface or storm water sewers, drainage improvements, sanitary sewers or a system of water supply, sewerage or solid waste disposal, or all or any combination of these purposes, or for the purpose of acquiring real property.

(2) **RESOLUTION.** Before issuing bonds, the commission, at a meeting in which all commission members are present, shall adopt a resolution stating the amount of the proposed issue, the purpose of the issue and any other information which the commission considers necessary or useful. The commission shall publish the resolution as a class 2 notice, under ch. 985, within 30 days after adoption of the resolution. The notice shall

include a description of the opportunity and procedure for submitting a petition to request a special election on the bond issue.

(3) **PETITION.** Within 30 days after the 2nd insertion of the notice under sub. (2), a petition may be filed with the secretary of the commission requesting submission of the bond issue to a vote of the electors of the town sanitary district. The petition shall be signed by at least 10% of the electors of the town sanitary district.

(4) **ELECTION.** If a petition meeting the requirements of sub. (3) is filed, the commission shall submit the resolution for the proposed bond issue to the electors of the district for approval at a spring election or general election, or shall call a special election for that purpose. The inspectors shall count the votes and submit a statement of the results to the commission. The commission shall canvass the results of the election and certify the results to the clerks of the towns having territory within the district. The town clerks shall file the certificates in the official town records.

(5) **TAXES.** Except as provided under sub. (9), after the adoption of the resolution under sub. (2) and before the issuance of the bonds, the commission shall levy by resolution a direct annual irrevocable tax sufficient in amount to pay, and for the express purpose of paying, the interest on the bonds as it falls due, and to pay and discharge the principal of the bonds at maturity. After the bonds are issued, the commission shall, on or before November 1 annually, certify in writing to the clerk of any town having territory in the district the total amount of the tax to be raised by the town. Upon receipt of the certificate, the clerk of each town shall place the certificate on the tax rolls, to be collected as other taxes are collected. The moneys, when collected, shall be paid to the treasurer of the district.

(6) **FORM OF BONDS.** Every bond issued by a town sanitary district shall be a negotiable instrument, payable to the bearer or registered under s. 67.09, shall mature in a period not exceeding 20 years from the date of the bonds and shall bear interest. Each bond shall contain a statement of the equalized full value of all of the taxable property in the district and of the aggregate amount of the existing bonded indebtedness of the district and shall state that a direct annual irrevocable tax has been levied by the district sufficient to pay the interest on the debt when it falls due and to pay and discharge the principal of the debt at maturity. The bonds shall be executed in the name of the town sanitary district under s. 67.08 (1).

(7) **NEGOTIATION AND SALE.** The commission shall negotiate and sell, or otherwise dispose of, the bonds for not less than par and accrued interest. If the purpose for which the bonds have been authorized does not require an immediate sale of the entire issue, portions of the issue may be sold as needed.

(8) **TEMPORARY BORROWING.** A town sanitary district, when in temporary need, may borrow money as if it were a city under s. 67.12.

(9) **MORTGAGE BONDS.** A town sanitary district, in lieu of levying a direct annual irrevocable tax under this section, may borrow money and issue mortgage bonds under s. 66.066. A town sanitary district may provide in the resolution authorizing the issuance of such bonds that any of the bonds, to the extent and in the manner prescribed by the resolution, are subordinated and junior in standing, with respect to the payment of principal and interest and the security of the bonds, to other mortgage bonds of the town sanitary district.

NOTE: The (intro.) clause is new. It provides an introduction to the section on borrowing, with a clear statement of the general town sanitary district authority to borrow money.

Subsection (1) revises part of s. 60.307 (1). Several terms are changed to correspond with new definitions. The purposes for which bonds may be issued are expanded to include acquisition of all types of real property, rather than just rights-of-way or appurtenances.

Subsection (2) revises part of s. 60.307 (1) and all of s. 60.307 (2). A new provision requires the commission to include in the notice information about the opportunity to petition for a special election on the bond issue. The last sentence of current s. 60.307 (2), regarding copying the resolution at length into a special record book, is repealed as obsolete.

Subsection (3) revises part of s. 60.307 (3). The current requirement of signatures based on the number of votes for governor in the last election is repealed, since election statistics are available only on a ward-by-ward basis. Further, the boundaries of a town sanitary district may not correspond with ward boundaries. The signature requirement in this provision is 10% of the electors within the district.

The deadline for filing the petition for a referendum is changed. Currently, the time limit commences to run when the resolution is recorded in a special book kept by the commission for that purpose. Subsection (3) changes the time limit so that it commences to run when the 2nd newspaper notice is published.

Subsection (4) revises part of s. 60.307 (3). Some of the procedural detail is eliminated, since the procedures in the election laws are sufficient for the purpose of conducting the referendum. The commission is given the option of calling a special election or submitting the referendum question at a spring or general election.

Subsection (5) restates s. 60.307 (4) and (5).

Subsection (6) restates s. 60.307 (6) and part of s. 60.307 (7).

Subsection (7) restates part of s. 60.307 (7).

Subsection (8) restates s. 60.307 (8).

Subsection (9) restates s. 60.307 (9). The cross-reference is changed from s. 198.14 (10) to s. 66.066, since the current cross-reference incorporates by reference the procedures in s. 66.066.

The last sentence of s. 60.307 (10) also pertains to mortgage bonds. However, since s. 66.066 includes equivalent provisions concerning multiple mortgage bond issues and refinancing bonds, that sentence is repealed from this provision.

60.785 Additions; consolidation; dissolution. (1) ADDITIONS. (a) Territory may be added to a town sanitary district under the procedure in s. 60.71. The required signatures shall be obtained from property owners in the territory proposed to be added to the district.

(b) In lieu of commencing the process of adding territory by petition of property owners, the commission may request the town board to add territory to the town sanitary district. Except for the requirement of a petition, the town board shall use the procedure in s. 60.71.

(2) CONSOLIDATION. (a) Any town sanitary district may be consolidated with a contiguous town sanitary district by resolution passed by a two-thirds vote of all of the commissioners of each district, fixing the terms of the consolidation and ratified by the qualified electors of each district at a referendum held in each district. The ballots shall contain the words "for consolidation", and "against consolidation". If a majority of the votes cast on the referendum in each town sanitary district are for consolidation, the resolutions are effective and have the force of a contract. Certified copies of the resolutions and the results of the referendum shall be filed with the secretary of natural resources and with the register of deeds in each county in which the consolidated district is situated.

(b) Within 60 days after the referendum, the appropriate town board shall appoint or provide for the election of commissioners or constitute itself as the commission for the consolidated district, as provided in s. 60.74.

(c) Consolidation of a district does not affect the preexisting rights or liabilities of any town sanitary district and actions may be commenced or completed on such rights or liabilities as though no consolidation had occurred.

(3) **DISSOLUTION.** (a) A town sanitary district may be dissolved using the procedure for creating a town sanitary district under s. 60.71. The petition shall state why the town sanitary district does not meet the standards of s. 60.71 (6) (b). If the town board, after the hearing, finds that one or more of the standards of s. 60.71 (6) (b) are not met, the town board shall order the dissolution of the town sanitary district, except that a board may not order the dissolution of a district if, following dissolution, all outstanding indebtedness of the district would not be paid or provision for payment of the indebtedness would not be made.

(b) Any unexpended funds remaining after dissolution of the district shall be distributed by the commission on an equitable basis to the municipalities or persons who supplied the funds.

(c) The town board's order may be reviewed under the procedures and time limits in s. 60.73.

NOTE: Subsection (1) restates part of s. 60.303 (8) and all of s. 60.315 (8).

Subsection (2) restates s. 60.303 (9).

Subsection (3) is based, in part, on s. 60.316. The provisions on indebtedness and unexpended funds are new.

60.79 Alteration of town sanitary districts. (1) **INCORPORATION OR ANNEXATION OF ENTIRE TOWN SANITARY DISTRICT.** If any territory which includes an entire town sanitary district is incorporated as a city or village or if the territory is annexed by a city or village:

(a) The incorporation or annexation dissolves the district without further action by the commission or the town board and without any right to appeal the dissolution.

(b) The property of the district passes to the city or village and the city or village shall assume all assets and liabilities of the district. If any mortgage bonds or mortgage certificates are outstanding, the transfer of the property is subject to the bonds or certificates. If any general obligation bonds are outstanding, the city or village shall levy and collect an annual irrevocable tax on all taxable property in the city or village in an amount necessary to pay the interest and principal of the bonds when due.

(c) The city or village continues to collect special assessments levied by the former district and shall apply the special assessments to the purpose for which the original assessment was made.

(2) **INCORPORATION OR ANNEXATION OF PART OF A TOWN SANITARY DISTRICT.** (a) The incorporation or annexation of territory within the town sanitary district detaches that territory from the district.

(b) The city or village and the town sanitary district are subject to pars. (c) to (e) if territory constituting less than the entire town sanitary district is annexed or incorporated and:

1. The territory is served by the town sanitary district with a water supply or sewerage system; or

2. The territory is not served by the town sanitary district with a water supply or sewerage system, but the district has obligations related to the territory subject to incorporation or annexation which require payment for longer than one year following the incorporation or annexation.

(c) The city or village and the town sanitary district shall divide the assets and liabilities of the town sanitary district under s. 66.03, except that the ownership of any water supply or sewerage system shall be determined under par. (dm).

(d) 1. Any water supply or sewerage system, including all mains and all property of the system, shall belong to and be operated by the district or the city or village, in whichever the major portion of the patrons reside on the date of annexation or incorporation, unless other provision is made by agreement of the governing body of the city or village and the commission. Express power is hereby granted to the governing body of the city or village and the commission to contract with each other relative to the operation and property of any water supply or sewerage system.

2. In determining the major portion of the patrons, each location served shall be considered as one patron irrespective of the manner in which the title to the property is held.

(dm) If the responsibility for continuing the operation is vested in the town sanitary district, it shall continue, except by agreement, until the proportion of users changes so that a majority of the patrons reside in the city or village, at which time the property and the responsibility shall shift to the city or village.

(e) Any special assessment levied before the incorporation or annexation shall continue to be collected by the district or city or village which is operating the water supply or sewerage system and shall be applied to the purpose for which the original assessment was made.

(3) SERVICE AREA. No city or village which secures a water supply or sewerage system under this section is required to serve an area outside its corporate limits greater than that included in the town sanitary district at the time of annexation or incorporation. The city or village shall continue to serve the area previously included within the district.

(4) CITY OR VILLAGE AUTHORITY. A city or village which obtains a water supply or sewerage system under this section may:

(a) Continue, alter or discontinue operation by a commission.

(b) Continue or discontinue existing methods of financing construction and operation of the system.

(c) Finance or refinance the system under s. 66.066, including issuance of refunding bonds authorized in ss. 66.066 (2) (b) and 67.04, including issuance of refunding bonds authorized in ss. 67.04 (2) (r) and 67.12 (12) for the purposes stated in those sections or for refunding purposes.

(d) Levy special assessments within the area of the former town sanitary district under s. 66.60. Special assessments may be levied regardless of the time when the improvement was commenced or completed, when used for refunding purposes in conjunction with issuance of general obligation-local improvement bonds under s. 66.54 (9) or special assessment bonds under s. 66.54 (10).

(5) COLLECTION OF SPECIAL ASSESSMENTS BY TOWNS. Towns shall aid cities and villages and villages, and cities shall aid towns, in the levy and collection of special assessments, property taxes and all service charges under this section by entering them on town, city or village assessment and tax rolls and collecting and forwarding the moneys to the levy-ing municipality.

NOTE: Subsection (1) restates s. 60.31 (1).

Subsection (2) (a) and (b) revises s. 60.31 (2) (a). It makes clear that annexation or incorporation serves in all cases to detach territory from the town sanitary district. The provision regarding territory not served by the town sanitary district is clarified by specifying that "obligations" of the district are those related to the territory subject to incorporation or annexation.

Subsection (2) (c) restates s. 60.31 (2) (b).

Subsection (2) (d) and (dm), from assembly amendment 2, restates part of s. 60.31 (2) (c), (d) and (e).

Subsection (2) (e) revises part of s. 60.31 (2) (c), consistent with the changes in new. par. (d).

Subsection (3) restates s. 60.31 (3).

Subsection (4) restates s. 60.31 (4) (intro.) and (a) to (d). A reference in current s. 60.31 (4) to the residence of the patron for special assessments is repealed, since s. 66.60 provides for special assessments on property and does not depend in any way on the residence of the property owner.

Subsection (5) restates s. 60.31 (4) (e).

SUBCHAPTER X
MISCELLANEOUS

60.80 Publication or posting of ordinances and resolutions. (1) **GENERAL REQUIREMENT.** The town clerk shall publish as a class 1 notice under ch. 985, or post in at least 3 places in the town likely to give notice to the public, the following, within 30 days after passage or adoption:

(a) Resolutions, motions and other actions adopted by the town meeting, or in the exercise of powers, under s. 60.10.

(b) Ordinances adopted by the town board.

(c) Resolutions of general application adopted by the town board and having the effect of law.

(2) **REQUIREMENT FOR FORFEITURES.** If an ordinance imposes a forfeiture, posting may not be used in lieu of publication under sub. (1).

(3) **EFFECTIVE UPON PUBLICATION.** An ordinance, resolution, motion or other action required to be published or posted under this section shall take effect the day after its publication or posting, or at a later date if expressly provided in the ordinance, resolution, motion or action.

(4) **AFFIDAVIT OF POSTING.** If an ordinance, resolution, motion or other action is posted under this section, the town clerk shall sign an affidavit attesting that the item was posted as required by this section and stating the date and places of posting. The affidavit shall be filed with other records under the jurisdiction of the clerk.

NOTE: New. The only related provisions under current law are: (1) s. 60.18 (4), providing that town orders or bylaws take effect upon being posted in 3 of the "most public places" in the town; and (2) s. 60.45 (6), requiring the town clerk to post the bylaws of the town and record the time and place of posting. These provisions are not continued in this draft.

The new provision is intended to publicize significant actions of the town meeting and town board. It ties the effective date of the resolution, ordinance, motion or other action to publication or posting, unless otherwise provided in the ordinance, resolution, motion or action. Similar provisions apply to actions of county, village and city governing bodies.

60.81 Population; use of federal census. If the census of a town is required, the last federal census, including a special federal census, if any, shall be used.

NOTE: Identical to s. 60.015.

60.82 Regional planning programs. The town board may act jointly with other municipalities in the area to establish and maintain a regional planning program to protect the health, safety and general welfare of the town as part of the region. The board may make payments out of the general fund for the town's share of the cost of the program.

NOTE: Revises s. 60.29 (41). Reference to the town's share of the cost of a regional planning program under this section is revised by deleting the modifier "proportional" and simply referring instead to the "town's" share. The change is intended to remove any limitation on the amount a town may contribute to such programs that might have been inferred from the use of "proportional share".

60.83 Destruction of obsolete town records. The town board may provide for the destruction of obsolete town records under s. 19.21 (4).

NOTE: New. The cross-reference is inserted for convenience. Deleted in this draft is s. 60.756, which specifies the minimum retention periods for various town records. The special committee concluded that there is no persuasive reason to retain the detailed listing of specified town records and their retention period. Section 19.21 (4), the general provision relating to destruction of obsolete town records, adequately deals with the retention and destruction of town records.

60.84 Monuments. (1) **SURVEY, CONTRACT FOR.** The town board may contract with the county surveyor or any registered land surveyor to survey all or some of the sections in the town and to erect monuments under this section as directed by the board.

(2) **BOND.** Before the town board executes a contract under sub. (1), the surveyor shall execute and file with the town board a surety bond or other financial security approved by the town board.

(3) **MONUMENTS.** (a) **Monuments** shall be set on section and quarter-section corners established by the United States survey. If there is a clerical error or omission in the government field notes or if the bearing trees, mounds or other location identifier specified in the notes is destroyed or lost, and if there is no other reliable evidence by which a section or quarter-section corner can be identified, the surveyor shall reestablish the corner under the rules adopted by the federal government in the survey of public lands. The surveyor shall set forth his or her actions under this paragraph in the certificate under sub. (4).

(b) All monuments set under this section are presumed to be set at the section and quarter-section corners, as originally established by the United States survey, at which they respectively purport to be set.

(c) To establish, relocate or perpetuate a corner, the surveyor shall set in the proper place a monument, as determined by the town board, consisting of:

1. A stone or other equally durable material, not less than 3 feet long and 6 inches square, with perpendicular, dressed sides and a square, flat top. As prescribed by the town board, the top shall be engraved with either:

a. A cross formed by lines connecting the corners of the top; or

b. If the monument is set at a section corner, the number of the section or, if set at a quarter-section corner, "1/4S"; or

2. A 3-inch diameter iron pipe, not less than 3 feet long, with pipe walls not less than one-quarter inch thick, galvanized or coal-charred to prevent rust. The pipe shall have a flat plate, screwed to the top, engraved as prescribed in subd. 1. The pipe shall have a suitable bottom plate or anchor.

(d) A monument under par. (c) shall be set 2 1/2 feet in the ground. If the monument is located in a highway, the top of the monument shall be even with or below the surface of the highway.

(4) **CERTIFICATE.** The surveyor shall prepare a certificate setting forth a complete and accurate record of any survey under this section, including the exact bearings and distances of each monument from each other monument nearest it on any line in the town.

The certificate shall be recorded in the office of the register of deeds of the county in which the surveyed land is located.

NOTE: Subsection (1) revises part of the first sentence of s. 60.37. The role of the town meeting in relation to town monuments is repealed. The special committee concluded there is no reason for the town meeting's involvement in a matter of administrative detail such as town survey monuments. The town board is thus given authority to contract with the county surveyor or any registered land surveyor to survey all or some of the sections in the town and to erect monuments under the section as directed by the town board. The language granting the latter authority is broadened to permit the town board flexibility in contracting with the surveyor. In addition, the current law's phrase "competent surveyor" is made more specific by substitution of "registered land surveyor". [Land surveyors must be registered under ch. 443, in order to practice in this state.]

Subsection (2) revises the 2nd sentence in s. 60.37. The requirement that the surveyor give to the town a \$3,000 bond with sufficient sureties approved by the town board is replaced by a simple requirement that the surveyor execute and file with the town board a surety bond or other financial security approved by the board. The detailed recitation of what conduct on the part of the surveyor is covered by the bond is repealed as unnecessary.

Subsection (3) (a) restates the 2nd and 3rd sentences in s. 60.38. The term "quarter-section corner" is substituted for "quarter post". No substantive change is intended.

Subsection (3) (b) restates s. 60.41.

Subsection (3) (c) revises part of the first sentence of s. 60.37. First, it is made explicit that the monument specifications apply whenever a corner is established, relocated or perpetuated. Second, the requirement that the town meeting approve the use of a pipe monument is repealed as unnecessary.

Subsection (3) (d) restates the last clause of the first sentence of s. 60.37.

Subsection (4) revises the first sentence of s. 60.38 by specifying that the surveyor's certificate is to be recorded in the county in which the surveyed land is located.

Current s. 60.40, requiring the town clerk to apportion costs incurred in establishing, relocating or perpetuating section corners under s. 59.63, and current s. 60.42, specifying how the costs of erecting monuments are to be paid by the town, are repealed as unnecessary.

SECTION 8. 60.05 (6) (title) of the statutes is repealed.

SECTION 9. 60.05 (6) of the statutes is renumbered 59.07 (22) (b).

NOTE: This subsection, requiring the county board to provide a plat and record of any new town organized by the board or of any town boundaries altered by the board, is renumbered for more appropriate placement in the statutes.

SECTION 10. 60.555 of the statutes is renumbered 62.09 (1) (e) and amended to read:

62.09 (1) (e) The office of constable is abolished in 1st class cities ~~of the first class~~. The duties of the constable in such cities shall be performed by the sheriff of the county in which the city is located. ~~Any constable in a city of the first class now holding office shall remain in office until his term expires.~~

NOTE: Renumbers s. 60.555 to relocate it in the city law chapter, where it appropriately belongs. The reference to incumbent constables, repealed here, is no longer needed. The provision was created by chapter 391, laws of 1947, and has become obsolete.

SECTION 11. 60.81 of the statutes is renumbered 66.012.

NOTE: Section 60.81, relating to incorporation of certain towns adjacent to 1st class cities, is moved to ch. 66, which contains all the other municipal incorporation laws.

SECTION 12. 61.29 of the statutes is repealed and recreated to read:

61.29 Constable. (1) A constable shall:

- (a) Execute and file an official bond.
- (b) Serve within his or her county any writ, process, order or notice, and execute any order, warrant or execution lawfully directed to or required by any court or officer to be executed by the constable.
- (c) Attend any session of the circuit court in his or her county when required by the sheriff.
- (d) Inform the district attorney of all trespasses on public lands of which the constable has knowledge or information.
- (e) Impound cattle, horses, sheep, swine and other animals at large on the highways in violation of a village ordinance.
- (f) Cause to be prosecuted all violations of law of which the constable has knowledge or information.
- (g) Perform all other duties required by law.
- (h) Keep his or her office in the village. No constable who keeps his or her office outside the limits of the village may receive fees for any service performed during the period the outside office is maintained.

(2) Section 60.351 applies to village constables.

NOTE: Subsection (1) (a) restates the first part of s. 61.29.

Subsection (1) (b) to (g) restates current s. 60.54 (1) to (6) and (7), relating to duties of town constables. Section 61.29 currently provides that a village constable "shall be governed in every respect by the law prescribed for constables in towns". Because the draft repeals the specific duties of a town constable and permits the town board to establish those duties, the current cross-reference to town constable powers and duties is replaced by a restatement of those powers and duties and made applicable only to village constables. No substantive change is intended. See the NOTES to new ss. 60.35 and 60.567.

Subsection (1) (h) restates that part of s. 60.54 (6m) applicable to village constables.

Subsection (2) cross-references to new s. 60.351, relating to fees of constables. Because current s. 61.29 provides that a village constable is governed by the laws applicable to town constables and because s. 60.351 merely restates current law, there is no substantive change.

SECTION 13. 62.03 (1) of the statutes is amended to read:

62.03 (1) This subchapter, except ss. 62.071, 62.08 (1), 62.09 (1) (e), 62.175 and 62.23 (7) (em), does not apply to 1st class cities under special charter.

NOTE: A technical change reflecting the relocation of s. 60.555, relating to abolition of constables in cities of the 1st class, into ch. 62.

SECTION 14. 62.09 (15) of the statutes is created to read:

62.09 (15) CONSTABLES. A constable shall keep his or her office in the city. No constable who keeps his or her office outside the limits of the city may receive fees for any service performed during the period the outside office is maintained.

NOTE: From s. 60.54 (6m), relocated for more appropriate placement in the statutes.

SECTION 15. 62.16 (2) (d) of the statutes is created to read:

62.16 (2) (d) *Application to towns and villages.* This subsection applies to towns and villages and when applied to towns and villages:

1. "City" means town or village.
2. "Comptroller" means clerk.
3. "Council" means town board or village board.

NOTE: Makes s. 62.16 (2) applicable to towns, which directs cities and villages to require water, heat, sewer and gas service pipes to be first laid in a street if: (1) the city council, village board, department of transportation or county board declares its intention to improve the street; and (2) water, gas or heat mains or sewers have previously been laid or are planned to be laid in the street. Current s. 61.39 provides that s. 62.16 (2) is applicable to villages. The new provision specifically includes villages in s. 62.16 (2).

SECTION 16. 66.072 (1) of the statutes is repealed and recreated to read:

66.072 (1) Towns, villages and 3rd and 4th class cities may establish utility districts.

(a) In villages and 3rd and 4th class cities, the village board or common council may direct that the cost of utility district highways, sewers, sidewalks, street lighting and water for fire protection not paid for by special assessment be paid out of the district fund under sub. (2). The cost of bridges in the district may not be paid out of the district fund.

(b) In towns, the town board may direct that the cost of any convenience or public improvement provided in the district and not paid for by special assessment be paid from the district fund under sub. (2).

NOTE: The only substantive change intended in the repeal and recreation of this subsection is in par. (b), which expands the authority of a town board to provide utility district improvements funded by a tax on property in the district to include "any convenience or public improvement". See the NOTE to new s. 60.23 (2).

The redraft assumes that reference in current law to the "expense...not chargeable to private property" refers to the cost of the improvement not paid by special assessment, and incorporates that terminology.

SECTION 17. 66.19 (2) of the statutes is amended to read:

66.19 (2) (a) Any town with a population of more than 5,000 inhabitants may proceed ~~under s. 60.29 (1) to~~ establish a civil service system ~~as provided~~ under sub. (1) and in such departments as the town board may determine. Any person who ~~shall have~~ has been employed in any such department for more than 5 years prior to the establishment of such civil service ~~shall be~~ is eligible to appointment without examination.

(b) Any town not having a civil service system and having exercised the option of placing assessors under civil service ~~pursuant to s. 60.19 (2) may proceed under s. 60.29 (1) to~~ under s. 60.307 (3) may establish a civil service system for assessors under sub. (1), ~~except where~~ unless such town has come within the jurisdiction of a county assessor under s. 70.99.

NOTE: Amended to repeal an unnecessary reference to s. 60.29 (1) [new s. 60.22 (1)]. Section 60.29 (1) gives the town board authority over all "affairs of the town not by law committed to other officers". It is not necessary to cross-reference this general authority in the above provision.

Also, the reference to current s. 60.19 (2) is amended to reflect the new location of the provision in revised ch. 60.

SECTION 18. 66.615 (10) (intro.), (a) and (b) of the statutes are amended to read:

66.615 (10) APPLICATION OF SECTION; DEFINITIONS. (intro.) The provisions of this section shall not apply to ~~1st class cities of the first class~~ but shall be applicable to towns and villages, and when applied to towns and villages:

- (a) "City" means town or village.
- (b) "Council" means town board or village board.

NOTE: Current s. 60.65 and new s. 60.50 (3) provide that s. 66.615, relating to sidewalks, applies to towns. This SECTION amends s. 66.615 (10) (intro.), (a) and (b) to specifically include towns.

SECTION 19. 66.62 (1) of the statutes is amended to read:

66.62 (1) In addition to other methods provided by law, the common council of any ~~2nd, 3rd or 4th class city of the second, third or fourth class, or the, a village board of any village, or a town board~~ may, by ordinance, provide that the cost of installing or constructing any public work or improvement shall be charged in whole or in part to the property benefited thereby, and to make an assessment against such property in such manner as such council or ~~village~~ board determines. Such special assessment shall be a lien against the property from the date of the levy.

NOTE: Amends s. 66.62 (1) to permit a town board, by ordinance, to provide for and establish procedures for special assessments. This gives towns an alternative to following the statutorily prescribed procedures in s. 66.60.

SECTION 20. 66.625 of the statutes is amended to read:

66.625 Laterals and service pipes. Whenever the governing body shall by resolution require water, heat, sewer and gas laterals or service pipes to be constructed from the lot line or near the lot line to the main or from the lot line to the building to be serviced, or both, it may provide that when the work is done by the city ~~or~~, village or town or under a city ~~or~~, village or town contract, a record of the cost of constructing such laterals or service pipes shall be kept and such cost, or the average current cost of laying such laterals or service pipes, shall be charged and be a lien against the lot or parcel served.

NOTE: Amends s. 66.625 to permit towns to assess costs for constructing water, heat, sewer and gas laterals and service pipes. This provision replaces current s. 60.63 (4) which provides that before a water service lateral is laid, the town board must assess against the lots to be served a sum equal to the average cost of laying the lateral.

SECTION 21. 66.635 (2) of the statutes is amended to read:

66.635 (2) If the common council ~~or~~, village board or town board determines that any special assessment is invalid for any reason, it may reopen and reconsider such assessment as provided in s. 66.60 (10).

NOTE: Current s. 60.71 and new s. 60.51 provide that s. 66.635, relating to reassessments of special assessments, applies to towns. This SECTION amends s. 66.635 to specifically include towns.

SECTION 22. 67.04 (5) (j) of the statutes is amended to read:

67.04 (5) (j) To purchase ~~land under the circumstances mentioned in s. 60.18 (15)~~ water frontage, scenic areas, historic sites and woodlots.

NOTE: Amends s. 67.04 (5) (j) which permits a town to issue bonds to purchase land for purposes specified in s. 60.18 (15). The current cross-reference to s. 60.18 (15) is replaced by a restatement of the purposes specified in that subsection because the draft repeals s. 60.18 (15) and assumes that the subsection is included in the town meeting's general authority to acquire land for town purposes. See the NOTE to s. 60.10 (2) (e). No substantive change in a town's bonding authority is intended.

SECTION 23. 70.23 (1) of the statutes is amended to read:

70.23 (1) The assessor shall enter upon the assessment roll opposite to the name of the person to whom assessed, if any, as before provided in regular order as to lots and blocks, sections and parts of sections (~~except that so much as is within the limits of an incorporated village or unincorporated village the limits of which have been designated by the town board, shall be assessed in one part of the roll from the best information he can obtain~~), a correct and pertinent description of each parcel of real property in the assessment district and the number of acres in each tract containing more than one acre.

NOTE: Amended to reflect the repeal of the concept of "unincorporated village" from the statutes. See the NOTE to new s. 60.23 (2). Reference to "incorporated village" is repealed because it appears to be antiquated.

SECTION 24. 70.65 (1) of the statutes is amended to read:

70.65 (1) From the assessment roll when so corrected, the clerk of the taxation district shall make out in a book to be called a tax roll, a complete list of all the taxable real property, except as directed under this section in regular order as to lots and blocks and sections and parts of sections, by the proper corrected descriptions and having entered opposite in separate columns the name of the person to whom assessed before, and the valuation after the description and also a complete alphabetical list of all persons in the clerk's town having any taxable personal property, with the aggregate valuation of the property and the number of the school district in which it is subject to taxation set opposite in separate columns. ~~Whenever the property located in an unincorporated village the limits of which have been designated by the town board is embraced in a town tax roll the list of the real property and of persons taxable for personal property shall be entered in a continuous part of the roll.~~ Public lands sold and not patented and lands mortgaged to the state shall be separately entered under a proper heading.

NOTE: Amended to reflect the repeal of the concept of "unincorporated village" from the statutes. See the NOTE to new s. 60.23 (2).

SECTION 25. 81.05 of the statutes is amended to read:

81.05 Waterways; maintenance by towns. The town board of any town in which is ~~situated any there is~~ a waterway suitable for general and useful navigation by ~~boats and launches~~ watercraft may, by order ~~to be~~ recorded by the town clerk, ~~adopt the same~~ designate the waterway as a public waterway of the town ~~and~~. The town board may thereupon expend highway funds in for the improvement and maintenance of the navigability thereof. But no of the public waterway. No amount in excess of \$200 shall \$500 may be expended on any such a public waterway in any year except in pursuance of a special appropriation therefor, voted at the annual town meeting unless appropriated by the town meeting under s. 60.10 (1) (d). ~~No town shall become is liable in for damages by reason of any resulting from a defect or insufficiency of such a water highway in a waterway designated a public waterway under this section.~~

NOTE: Amended to increase, from \$200 to \$500, the amount the town board may spend, without the approval of the town meeting, on the improvement and maintenance of the navigability of a public waterway. The special committee concluded that the \$200 threshold is unrealistically low; it has been \$200 since 1916.

SECTION 26. 81.12 (1) of the statutes is amended to read:

81.12 (1) Whenever the highway funds provided or available therefor shall be insufficient to keep the highways open and in repair, the town board may levy a special or emergency highway tax, but not to exceed two and one-half mills on the dollar, and said tax shall be certified and entered in the tax roll and collected and expended as other highway taxes are. Not more than one levy shall be made in any year under this section and the amount levied shall not exceed \$600. The limits contained in ~~ss. 60.18 (1) and s. 81.11~~ shall not apply to taxes levied pursuant to this section.

NOTE: Amended to reflect the repeal of the tax levy limits in s. 60.18 (1). See the NOTE to new s. 60.10 (1) (a).

SECTION 27. 81.38 (3) of the statutes is amended to read:

81.38 (3) Whenever the construction or repair of any such culvert or bridge must be made without delay, the town board may file its petition with the county clerk and the county highway committee, setting forth the facts respecting the necessity for immediate construction or repairs. It shall then be the duty of the town board and the county highway committee to make such construction or repairs with the least possible delay. The town board is authorized to borrow the entire cost of the work, and to include the town's share of such cost in the next tax levy. ~~But if the said town's share of such cost exceeds the amount produced by a tax of 2 mills on the dollar the action of a town meeting shall be required.~~ The construction or repair of a culvert or bridge performed and accepted pursuant to this subsection shall entitle the town to the same county aid that the town would have been entitled to had it filed its petition with the county board as provided in sub. (1).

NOTE: Deletes the requirement that the town meeting approve a tax levy to fund the town's share of a town bridge or culvert when the town's share exceeds 2 mills. The special committee concluded that because the provision applies to town bridges and culverts constructed or repaired on an emergency and, therefore, limited basis, it is neither feasible nor necessary to require town meeting approval for a tax levy in excess of 2 mills to fund the repair or construction.

SECTION 28. 157.50 (5) of the statutes is repealed and recreated to read:

157.50 (5) The town meeting may authorize the town board to appropriate up to \$500 in any year for the improvement of the town cemetery, under supervision of the town board.

NOTE: Based on s. 157.50 (5). Under the current provision, the town meeting's authority is to directly levy a "special tax" for improvement of the town cemetery. The revised provision changes the town meeting's power to one of authorization to the town board to appropriate money for improvements to the cemetery. There are 2 reasons for this change:

1. Under new s. 60.11 (2) (a), the town meeting may delegate its general tax levy authority to the town board. Consequently, it seems inconsistent to preserve the town meeting's tax levy authority in connection with town cemetery improvements.

2. Under new s. 60.11, the town meeting's authority in relation to particular town expenditures is generally in the form of authorizing the town board to appropriate money for a specified purpose.

SECTION 29. 213.09 of the statutes, as affected by 1983 Wisconsin Act 24, is repealed.

NOTE: Section 213.09, relating to fire protection in unincorporated villages where a fire company has been established, is repealed to reflect the deletion of the concept of "unincorporated village" from the Wisconsin statutes and the

draft's revision of town fire protection law. See the NOTES to new ss. 60.23 (2) and 60.55.

SECTION 30. 236.02 (9) of the statutes is amended to read:

236.02 (9) "Town planning agency" means ~~a town park commission organized under s. 60.181~~, a town zoning committee appointed under s. ~~60.74~~, 60.61 (4) (a) or any agency created by the town board and authorized by statute to plan land use.

NOTE: This subsection, defining "town planning agency" for the purpose of the platting chapter, is amended to reflect the repeal of s. 60.181 and to reflect the new location in revised ch. 60 of s. 60.74.

SECTION 31. 893.73 (1) (b) of the statutes is repealed and recreated to read:

893.73 (1) (b) An action to review the validity of proceedings for division or dissolution of a town under s. 60.03.

NOTE: This provision, providing a 180-day statute of limitations for commencing review of town division or dissolution proceedings under former s. 60.05, is repealed and recreated to reflect the revision to former s. 60.05 (4). See the NOTE to new s. 60.03 (6).

SECTION 32. 893.73 (2) (a) of the statutes is amended to read:

893.73 (2) (a) An action under s. ~~60.304~~ 60.73 contesting an act of a town board or the department of natural resources in the establishment of a town sanitary district.

NOTE: This provision, containing a 90-day statute of limitations, is amended to reflect the new numbering of the cross-referenced provision in ch. 60 and to reflect the facts that the department of natural resources may establish a town sanitary district and that the department's order may be contested.

SECTION 33. 985.05 (1) of the statutes is amended to read:

985.05 (1) The governing body of every municipality not required to have an official newspaper may designate a newspaper published or having general circulation in the municipality and eligible under s. 985.03 as its official newspaper or utilize the same for specific notices. The governing body of such municipality may, in lieu of newspaper publication, direct other form of publication or posting under s. 985.02 (2). Other publication or posting, however, shall not be substituted for newspaper publication in proceedings relating to: tax sales; tax sales certificates or tax redemptions; civil annexations, detachments, consolidations or incorporations under chs. 59 to 66; or legal notices directed to specific individuals. Posting may not be substituted for publication in school board elections conducted ~~pursuant to~~ under s. 120.06 or publication under s. 60.80 (2) of town ordinances imposing forfeitures. If an eligible newspaper is published in the municipality, other publication or posting shall not be substituted for newspaper publication under s. 61.32 or 61.50.

NOTE: Amended to reflect the prohibition in new s. 60.80 against substituting posting for publication of town ordinances that impose forfeitures.

SECTION 34. **Nonstatutory provisions.** (1) EFFECT ON BONDS ISSUED BY TOWNS AND TOWN SANITARY DISTRICTS. The treatment of sections 60.18 (7) and 60.307, 1981 stats., by this act does not affect any bonds, of any type, issued by a town or town sanitary district prior to the effective date of this act. Any proceedings for the authorization and issuance of bonds by a town or town sanitary district commenced prior to the effective date of this act may continue under the law applicable at the time of commencement and bonds issued as a result of such proceedings are not affected by this act.

(2) TRANSITION; EXISTING PARK COMMISSIONS, UNINCORPORATED VILLAGES AND ZONING COMMITTEES. (a) *Park commissions.* On the effective date of this act, town park commissions established under sections 60.181 and 60.182 of the statutes, as affected by this act, are town park boards under chapter 27 of the statutes.

(b) *Zoning committee*. On the effective date of this act, town park commissions performing the duties under section 60.74 of the statutes, as affected by this act, are town zoning committees under section 60.61 (4) (a) of the statutes, as affected by this act.

(c) *Unincorporated villages*. On the effective date of this act, unincorporated villages designated under section 60.29 (6) of the statutes, as affected by this act, are utility districts under section 66.072 of the statutes, as affected by this act.

NOTE: Subsection (1) clarifies that the treatment of former s. 60.18 (7) [see new s. 60.10 (2) (d)] and s. 60.307 [see new s. 60.78] by this act, providing that the town meeting may authorize the town board to issue general obligation bonds and that sanitary districts may issue bonds, does not adversely affect bonds of any type issued by a town or sanitary district prior to the effective date of this act. Further, proceedings for the authorization and issuance of bonds (of any type) by a town or sanitary district in process prior to the effective date of this act may continue and bonds issued as a result of such proceedings are, similarly, not affected by this act.

NOTE: Subsection (2) (a) reflects the repeal by this act of ss. 60.181 to 60.184, relating to the town park commission. The special committee concluded that there is no substantial reason to retain these provisions, since towns may create town park boards, with similar duties and powers, under ch. 27.

Subsection (2) (b) reflects a change in the provision relating to the town zoning committee. See new s. 60.61 (4) (a) and the NOTE thereto.

Subsection (2) (c) reflects the elimination by this draft of the concept "unincorporated village". See new s. 60.23 (2), SECTION 16 and the NOTES thereto.

SECTION 35. Program responsibility changes. In the sections of the statutes listed in Column A, the program responsibilities references shown in Column B are deleted and the program responsibilities references shown in Column C are inserted:

A	B	C
Statute Sections	References Deleted	References Inserted
15.191 (intro.)	none	60.63 (7), 60.71 (4)(c)
15.251 (intro.)	60.74 (9)(h)	60.63 (9)
15.341 (intro.)	60.18 (15), 60.29 (44), 60.303 (5), 60.315	60.71 (4)(c), 60.72
15.461 (intro.)	60.29 (20)(e)	60.557
15.791	60.30 to 60.315	subch. IX of ch. 60

SECTION 36. Cross-reference changes. In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
5.58 (1r)	60.305	60.74
5.60 (6m)	60.305	60.74
33.22 (3)	60.30, 60.306 and 60.307	60.77 and 60.78
33.22 (3)	60.306 (3)	60.77 (6)(b)
33.22 (3)	60.303 (2) and (5)	60.71 (4)(b) and (c)
33.22 (3)	60.306	60.77
33.22 (5)	60.315	60.72
33.235 (3)	60.303 (9)(a)	60.785 (2)
33.235 (4)	60.306 (3)	60.77 (6)(b)
33.36 (2)(c)	60.31 (2)(c)	60.79 (2)(d)
46.03 (22)(c)	60.74 (9)(f)	60.63 (7)
59.03 (5)	60.19 (1)(b)	60.21 (3)(a)
59.63 (1)	60.37	60.84 (3)(c)
59.97 (5)(c)	60.74 (7)	60.62
61.26 (12), as affected by 1983 Wis. Act 36	60.49 (6) and (6m)	60.34 (5)
66.02	60.05	60.03

66.026	60.81, 61.187, 61.189, 61.74, 62.075	61.187, 61,189, 61.74, 62.075, 66.012
66.032 (1)(g)	60.74	60.61
66.035	59.09, 60.29 (9)	59.09
66.078	60.301	60.71 (1)
66.33 (7)	60.307 (9)	60.78 (9)
66.345, as affected by 1983 Wis. Act 27	60.29 (36)	60.23 (20)
66.521 (11)(a)	60.29 (1m)	60.47
66.88 (7)	ss. 60.302 to 60.305	subch. IX of ch. 60
66.898 (1)	ss. 60.302 to 60.305	subch. IX of ch. 60
66.898 (5)(a)(intro.)	ss. 60.302 to 60.305	subch. IX of ch. 60
66.898 (5)(a) 2	ss. 60.302 to 60.305	subch. IX of ch. 60
66.91 (5)(d) 1	ss. 60.302 to 60.305	subch. IX of ch. 60
66.912 (4)	ss. 60.302 to 60.305	subch. IX of ch. 60
67.04 (5)(b)	60.18 (9)	60.10 (2)(f)
67.05 (5)(a)	60.13	60.12 (3)
84.295 (4m)(e) 2	60.30 to 60.316	subch. IX of ch. 60
90.05 (2)	60.29 (42)	60.23 (19)
91.73 (1)	59.97 to 59.99, 60.74 and 60.75, 61.35 or 62.23	59.97 to 59.99, 61.35 or 62.23 or subch. VIII of ch. 60
144.445 (3)(d)	60.18, 60.29, 60.306, 60.72, 60.74, 61.34, 61.35, 62.11, 62.23, 66.01, 66.052, 66.24 (8), 87.30, 91.73, 141.07, 196.58, 236.45 or 349.16	60.10, 60.22, 60.23, 60.54, 60.77, 61.34, 61.35, 62.11, 62.23, 66.01, 66.052, 66.24 (8), 87.30, 91.73, 144.07, 196.58, 236.45 or 349.16 or subch. VIII of ch. 60
889.04	60.45 (1) and (7)	60.33 (1) and (2)

SECTION 37. Effective date. This act takes effect on the first January 1 commencing after its publication.

Conversion table

The following list shows the location of the substance of those statutes recodified in this act. The left-hand column ("Old Section") lists those provisions of the statutes affected by the act, while the right-hand column ("New Section") shows the provision of this recodified town laws where the substance of the old provision can be found. This table does not show, except for certain deletions, what specifically happened to a particular section. To find that information, see the new section and the NOTE thereto.

<i>Old Section</i>		<i>New Section</i>
60.01		60.01
60.015		60.81
60.02		60.09 (1)
60.025		60.09 (2)
60.03		repealed
60.04		60.33 (5)
60.05 (1) to (5)		60.03
(6)		59.07 (22)(b)
60.06		60.05
60.065		repealed
60.067		60.40 (1)
60.07 (1)	meeting required	60.11 (1)
	when held	60.11 (2)(a)
	notice	60.11 (5)
	jurisdiction	60.11 (6)
	where held; annual	60.11 (3)(a)
	where held; special	60.12 (4)(a)
(2)	next meeting	60.11 (2)(b)
	notice	60.11 (5)
	presiding officer	60.13 (1)(b)
(3)	where held	60.11 (3)(b)

	new towns	60.16 (2)
	change in location	60.11 (3)(b)
60.08		60.11 (3)(b)
60.09		60.11 (4) and 60.12 (5)
60.10		60.16 (1)
60.11	officers; oath	60.16 (3)
	jurisdiction	60.16 (4)
60.12	who may convene	60.12 (1)(b) and (c)
	contents of request	60.12 (2)
	jurisdiction	60.12 (6)
60.13		60.12 (3)
60.14		60.13 (1)(a)
60.15	chairperson's duties	60.13 (2)
	enforcement authority	60.13 (3)
60.16		60.15
60.17	majority vote	60.14 (2)
	order of business	60.14 (3) and (4)(a)
60.18 (intro.)	powers authorized	60.10 (1)(intro.), (2) (intro.) and (3)(intro.)
	qualified voters	60.14 (1)
	voting	60.14 (2)
	(1)(intro.)	60.10 (1)(a) and (2)(a)
	(1)(a) and	repealed
	(b)	
	(4)	[see s. 60.80]
	(7)	60.10 (2)(d)
	(8)	repealed
	(9)	60.10 (2)(f)
	(10)	60.10 (2)(g)
	(10m)	60.10 (1)(b) 4
	(11)	60.32 (1)(a)
	compensation; who sets	60.32 (4)
	when established	60.10 (2)(c)
	(12)	and 60.22 (3)
	(14)	60.10 (2)(e)
	(15)	repealed
	(16)	60.10 (3)(c)
	(18)	60.23 (3)(f)
	(18m)	repealed
	(20)	repealed
	(20m)	60.10 (1)(b) 3 and 60.305 (2)
	(21)	60.10 (2)(i)
	(22)	60.10 (2)(i)
	(23)	60.10 (3)(d)
	(24)	60.10 (2)(j)
60.181		60.66 (1) and (2)
60.182		60.66 (3)
60.183		60.66 (4)(c)
60.184		60.66 (4) (b) and (d)
60.19 (1)(a)	officers elected	60.30 (1)
	only electors	60.30 (2)(a)
	treasurer and assessor	60.30 (2)(b)
	where county assessor	60.30 (2)(c)
	clerk and assessor	60.305 (2)
	combined office;	60.305 (4)(a)
	expiration	
	(1)(am)	60.21 (1)
	(1)(b)	60.20 (2)
	quorum	60.21 (3)(a) and (b)
	board size; wards	60.10 (2)(b)
	increased board size	60.20 (2)
(1)(c)	quorum	60.21 (2)
	increased board size	60.307 (1)
(2)	where county assessor	60.307 (3)
	method of selection	60.307 (4)
	independent contractor	

	number and salaries	60.307 (5)
(2m)		60.30 (2)(d)
(3)(a)		repealed
(3)(b)	where county assessor	60.307 (1)
	number and salaries	60.307 (5)
	commencement of office	60.307 (6)
(3)(c)		repealed
(4)		60.307 (1)
(5)	appointed assessors	60.10 (2)(j)
	method of selection	60.307 (3)
60.195		60.21 (3)(c)
60.20	notice of election	60.30 (3)(a)
	oath	60.31 (1)
	failure to file	60.31 (4)
	assessors	60.31 (3)
60.21		60.31 (2)
60.22		60.30 (4)(a)
60.225		60.30 (6)
60.23		60.30 (5)(a)
60.28		60.30 (5)(a)
60.29 (intro.)	board; designation	60.20 (1)
	quorum	60.20 (2)
	where meeting held	60.20 (3)
	powers	60.22 (intro.)
		60.23 (intro.)
(1)		60.22 (1)
(1m)	contracts with governments	60.47 (4)
	not applicable to town	60.47 (6)
	work	
(1x)		60.47 (5)
(2)		60.23 (2)
(3)	town employes	60.37 (1)
	legal advice	60.32 (2)
(4)		60.22 (2)
(5)		60.22 (4)
(6)		60.23 (2)
(7)		60.56
(8)		60.56
(8m)		repealed
(9)	use of firearms	60.23 (18)
	police personnel	60.56
(11)		60.50 (4)
(12)		60.321 (2)
(13)		60.22 (3)
(14)		repealed
(15)		60.23 (10)
(16)		60.52
(17)		60.565
(17a)		60.23 (14)
(18)(a)	fire protection; general	60.55 (1)
	authority	
	funding	60.55 (2)
	fire safety regulations	60.555
(18)(b)		60.55 (1) and (2)
(18)(c)		60.55 (1)(a) 2
(18m)		60.55 (3)
(19)	water mains and sewers	60.50 (2)
	special assessment	60.51
(20)(a) to		60.55 (1) and (2)
(d)		
(20)(e)		60.557
(21)		repealed
(22)		60.23 (8)
(24)		60.37 (1)
(25)		60.46
(26)(a)	street improvements	60.50 (2)

	special assessment	60.51
(26)(b)		60.51
and (c)		
(27)		60.50 (1)
(29)		60.50 (5)
(30)		60.23 (2)
(31)		60.23 (2)
(32)		60.23 (13)
(33)		repealed
(35)		60.23 (9)
(36)		60.23 (20)
(38)		60.23 (1)
(39)		60.23 (16)
(40)		60.23 (15)
(41)		60.82
(42)		60.23 (19)
(43)		60.23 (5)
(44)(a)		60.10 (3)(a) and 60.23 (6)
(44)(b)		repealed
(45)		60.23 (4)
(46)		60.23 (12)
60.295		60.23 (17)
60.30 (1)	sewerage definition	60.70 (6)
	sue and be sued	60.77 (2)
	construct sewers	60.77 (4)
	sell to outside users	60.77 (5)
(2)		60.71 (5)
60.301		60.71 (1)
60.302 (1)		60.71 (2)(a)
(2)		60.71 (2)(d)
(3)		60.71 (2)(b)
(4)	plat or sketch	60.71 (2)(b)
	verification	60.71 (2)(c)
(5)		60.71 (3)
(6)		repealed
60.303 (1)	hearing	60.71 (4)(a)
	comments and objections	60.71 (4)(c)
(2)		60.71 (4)(b)
(3)	required findings	60.71 (6)(b)
	order establishing	60.71 (6)(c)
	district	
(4)	body corporate	60.77 (2)
	certified bills	60.71 (6)(c)
	dismiss proceedings	60.71 (6)(f)
(5)	notice	60.71 (4)(b)
	agencies at hearing	60.71 (4)(c)
(6)	eliminate territory	60.71 (6)(d)
	subsequent hearing	60.71 (6)(e)
(7)		60.71 (7)
(8)		60.785 (1)
(9)(a)		60.785 (2)
(9)(b)		60.785 (2)
60.304		60.73
60.305 (1)(a)	single town districts	60.74 (1)
	multiple town districts	60.74 (2)
	change from appointment	60.74 (4)
	to election	
	number of commissioners	60.75 (1)
	residency	60.75 (3)(a) and (b)
	vacancies	60.75 (4)
	compensation	60.77 (3)
(1)(b)		60.75 (2)
(2)		60.77 (7)
(3)		60.77 (6)
60.306 (1)	election of officers	60.76

		in charge of affairs	60.77 (1)
		corporate seal	60.77 (2)
	(2)	enter into contracts	60.77 (2)
		general powers	60.77 (4)
		private sewage systems	60.77 (5)
	(2m)		60.77 (5)
	(3)(a)		60.77 (6)
	(3)(b)		60.70 (2)
	(4) and		60.77 (5)
	(5)		
60.307	(1)	issue bonds	60.78 (1)
		adopt resolution	60.78 (2)
	(2)		60.78 (2)
	(3)	petition	60.78 (3)
		election	60.78 (4)
	(4) and		60.78 (5)
	(5)		
	(6)		60.78 (6)
	(7)	form of bond	60.78 (6)
		negotiation and sale	60.78 (7)
	(8)		60.78 (8)
	(9)		60.78 (9)
	(10)		60.77 (5)
60.308	(1)		repealed
	(2)		repealed
60.309	(1)		60.77 (5)
	(4)		repealed
60.31	(1)		60.79 (1)
	(2)(a)	detachment	60.79 (2)(a)
		when city or village	60.79 (2)(b)
		subject to	
	(2)(b)		60.79 (2)(c)
	(2)(c)	who operates district	60.79 (2)(d)
		special assessments	60.79 (2)(e)
	(2)(d)		60.79 (2)(d)
	and (e)		
	(3)		60.79 (3)
	(4)(intro.)		60.79 (4)
	and (a) to		
	(d)		
	(4)(e)		60.79 (5)
60.315	(1)	definition	60.72 (1)
		notice	60.72 (3)
		finding of menace	60.72 (4)
		certify to towns	60.72 (5)
	(2)		60.72 (6)
	(3)		60.72 (7)
	(4)		repealed
	(5)		60.72 (8)
	(6)		60.72 (9)
	(7)		60.72 (6)
	(8)		60.785 (1)
60.316			60.785 (3)
60.32			repealed
60.33	(1)		repealed
	(2)		60.44 (1)(b)
	(3)		repealed
	(4)		60.41
60.34			repealed
60.35			repealed
60.36			60.44 (3)
60.37		contract with surveyor	60.84 (1)
		bond	60.84 (2)
		monuments; materials	60.84 (3)(c)
		monuments; depth	60.84 (3)(d)
60.38		monuments; where set	60.84 (3)(a)

	surveyor's certificate	60.84 (4)
60.39		
60.40		60.84 (5)
60.41		60.84 (3)(b)
60.42		repealed
60.43		60.31 (2)
60.44		60.331
60.45 (1)		60.33 (1)
(2) and		60.33 (4)(b)
(3)		
(4)		60.33 (4)(c)
(5)		60.33 (5)(b)
(6)		60.33 (5)(a)
(7)		60.33 (2)
(8)		repealed
(9)		60.33 (6)(a)
(11)		60.33 (6)(b)
(12) and		repealed
(13)		
(14)		60.33 (8)(b)
(15)		repealed
(16)		60.33 (8)(c)
(17)		60.33 (8)(d)
(18)		repealed
(19)		60.33 (7)
(20)	elections	60.33 (4)(a)
	schools	60.33 (8)(a)
	highways	60.33 (9)
	general duties	60.33 (10)
60.46		60.07
60.47		repealed
60.48		60.31 (2)
60.49 (1)		60.34 (1)(a)
(2)		repealed
(3)		60.34 (1)(b)
(4)		60.34 (4)
(5)		repealed
(6)(a)		repealed
(6)(b)		60.34 (5)
(6m)(a)		repealed
(6m)(b)		60.34 (5)
(7) to		repealed
(11)		
(12)		60.34 (2)
60.491		60.341
60.50		60.43 (2)
60.51		repealed
60.52		repealed
60.53		60.31 (2)
60.54 (1) to (6)		repealed
(6m)		60.35 (2)
60.55		60.351 (1)
60.56	same fees if person other than constable if agent for plaintiff	60.351 (2)
		60.351 (3)
60.60 (1)(a)		60.32 (1)(a)
(intro.)		
(1)(a)		60.32 (2)
(1)(b)		60.323
(2)(a)		60.305 (3)
(2)(b)	combined offices	60.305 (1)
	election	60.305 (4)(b)
(4)		60.32 (3) and (4)
60.61		60.32 (1)(a)
60.62		repealed
60.63		60.51

60.64		60.51
60.65 (1)		60.50 (3)
(2) and		repealed
(3)		
60.68		60.23 (7)
60.70		repealed
60.71		60.51
60.72		60.54
60.74 (1)(a)		60.61 (2)(intro.)
(intro.)		
1 and 5		60.61 (2)(a) and (b)
2		60.61 (2)(c)
3		60.61 (2)(d)
4		60.61 (2)(e)
6		60.64
(1)(am)		60.61 (3)
(1)(b)		60.61 (2)(f)
(2)	zoning committee	60.61 (4)(a) and (b)
	changes in ordinance	60.61 (4)(c) 1
(3)		60.61 (4)(c) 2
(4)	purpose	60.61 (1)(a)
	nonconforming use	60.61 (5)(a)
	enforcement	60.61 (6)
(5)		60.61 (1)(b)
(6)		60.61 (5)(b) to (d)
(6)(b)	nonconforming use	60.61 (5)(a)
	discontinued	
(7)		60.62
(8)		repealed
(9)		60.63
60.75		60.65
60.756		[see s. 60.83]
60.80	town meeting	60.10 (3)(b)
	town board	60.23 (3)
60.81		66.012
60.82		60.23 (11)