

1993 Senate Bill 589

Date of enactment: April 15, 1994
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1993 WISCONSIN ACT 329

AN ACT to renumber 59.971 (1) (a) and (b), 66.012 (7) and 66.019 (2); to renumber and amend 59.971 (7); to amend 59.971 (1) (intro.), 59.971 (6), 66.021 (7) (a), 66.021 (8) (b), 66.021 (15), 66.023 (3) (e), 66.024 (5m) and 66.025; and to create 59.971 (1) (a), 59.971 (1) (c), 59.971 (7) (a) 2, 59.971 (7) (a) 3, 59.971 (7) (ad), 59.971 (7) (ag), (ar) and (aw), 59.971 (7) (c) and (e), 66.012 (7) (b), 66.014 (10) and 66.019 (2) (b) of the statutes, relating to: the continued effect of county shoreland zoning ordinances on shorelands that are located in a city or village and the distribution of certain documents relating to annexation.

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

SECTION 1. 59.971 (1) (intro.) of the statutes is amended to read:

59.971 (1) (intro.) As used in In this section, “shorelands”:

(b) “Shorelands” means the area within the following distances from the ordinary high-water mark of navigable waters, as defined under s. 144.26 (2) (d):

SECTION 2. 59.971 (1) (a) and (b) of the statutes are renumbered 59.971 (1) (b) 1. and 2.

SECTION 3. 59.971 (1) (a) of the statutes is created to read:

59.971 (1) (a) “Department” means the department of natural resources.

SECTION 4. 59.971 (1) (c) of the statutes is created to read:

59.971 (1) (c) “Shoreland zoning standard” means a standard for ordinances enacted under this section that are promulgated as rules by the department.

SECTION 5. 59.971 (6) of the statutes is amended to read:

59.971 (6) If any county does not ~~adopt~~ enact an ordinance by January 1, 1968, or if the department of natural resources, after notice and hearing, determines that a county has ~~adopted~~ enacted an ordinance which ~~that~~ fails to meet ~~reasonable minimum~~ the shoreland zoning stan-

~~dards in accomplishing the shoreland protection objectives of s. 144.26 (1), the department of natural resources shall adopt such an ordinance for the county. As far as possible, s. 87.30 shall apply to this subsection.~~

SECTION 6. 59.971 (7) of the statutes is renumbered 59.971 (7) (a) (intro.) and amended to read:

59.971 (7) (a) (intro.) ~~An~~ Provisions of a county shoreland zoning ordinance enacted under this section by a county continues in effect in that were applicable, prior to annexation, to any shoreland area annexed by a city or village after May 7, 1982, shall continue in effect and shall be enforced after annexation by the annexing city or village unless any of the following occurs:

1. The city or village adopts, maintains enacts, administers and enforces a zoning ordinance which, for the annexed area, that complies with the requirements of this section to the extent possible shoreland zoning standards and which that is at least as restrictive as the county shoreland zoning ordinance.

(b) If the department determines that a zoning ordinance ~~adopted~~ enacted by a city or village which is applicable to a shoreland area annexed after May 7, 1982 under par. (a) 1. or (ad) 1 does not meet ~~these~~ the shoreland zoning standards or is not as restrictive as the county shoreland zoning ordinance, the department shall, after providing notice and conducting a hearing on the matter, it either shall issue an order declaring the city or village ordinance void and reinstating the applicability of the

county shoreland zoning ordinance to the annexed or incorporated area or it ~~shall~~ issue an order declaring the city or village ordinance void and adopting an ordinance for the annexed or incorporated area for the city or village ~~which that~~ does meet these the shoreland zoning standards and that is at least as restrictive as the county shoreland zoning ordinance.

(d) As far as applicable, the procedures set forth in s. 87.30 apply to this subsection.

SECTION 7. 59.971 (7) (a) 2. of the statutes is created to read:

59.971 (7) (a) 2. After annexation, the city or village requests the county to amend the county shoreland zoning ordinance as it applies to the annexed area to delete or modify provisions that meet the specifications under par. (ag), the county enacts the amendment and the city or village administers and enforces the amended ordinance as it applies to the annexed area.

SECTION 8. 59.971 (7) (a) 3. of the statutes is created to read:

59.971 (7) (a) 3. After annexation, the city or village requests that the county shoreland zoning ordinance, as it applies to the annexed area, continue to be in effect and enforced by the county and the county agrees to enforce the ordinance.

SECTION 9. 59.971 (7) (ad) of the statutes is created to read:

59.971 (7) (ad) Provisions of a county shoreland zoning ordinance enacted under this section that were applicable, prior to incorporation, to any shoreland area that is part of a town that incorporates as a city or village under s. 66.012, 66.014, 66.018 or 66.019 after the effective date of this paragraph [revisor inserts date], shall continue in effect and shall be enforced after incorporation by the incorporated city or village unless any of the following occurs:

1. The city or village enacts, administers and enforces a zoning ordinance that complies with the shoreland zoning standards and that is at least as restrictive as the county shoreland zoning ordinance.

2. After incorporation, the city or village requests the county to amend the county shoreland zoning ordinance as it applies to the incorporated area to delete or modify provisions that meet the specifications under par. (ag), the county enacts the amendment and the city or village administers and enforces the amended ordinance.

3. After incorporation, the city or village requests that the county shoreland zoning ordinance, as it applies to the incorporated area, continue to be in effect and enforced by the county and the county agrees to enforce the ordinance.

SECTION 10. 59.971 (7) (ag), (ar) and (aw) of the statutes are created to read:

59.971 (7) (ag) For purposes of pars. (a) 2. and (ad) 2, the types of provisions that may be deleted or modified are those that establish specified land uses or require-

ments associated with those uses and that are not necessary to effect the purposes of s. 144.26 (1) that relate to the protection of navigable waters.

(ar) The county may not enact an amendment under par. (a) 2. or (ad) 2 that is less restrictive than the shoreland zoning standards.

(aw) Any amendment enacted under par. (a) 2. shall apply only to the annexed area of the city or village requesting the amendment.

SECTION 11. 59.971 (7) (c) and (e) of the statutes are created to read:

59.971 (7) (c) If the department determines that an amendment enacted by a county under par. (a) 2. or (ad) 2 does not meet the shoreland zoning standards, the department, after providing notice and conducting a hearing on the matter, shall issue an order declaring the amendment void and shall reinstate the applicability of the county shoreland zoning ordinance, that was in effect prior to amending the ordinance, to the annexed or incorporated area.

(e) Paragraphs (a) and (ad) do not apply to wetlands in shorelands that are governed by the provisions in s. 61.351 or 62.231.

SECTION 12. 66.012 (7) of the statutes is renumbered 66.012 (7) (a).

SECTION 13. 66.012 (7) (b) of the statutes is created to read:

66.012 (7) (b) A county shoreland zoning ordinance enacted under s. 59.971 that is in force in any part of the territory shall continue in force until altered under s. 59.971 (7) (ad).

SECTION 14. 66.014 (10) of the statutes is created to read:

66.014 (10) EXISTING ORDINANCES. A county shoreland zoning ordinance enacted under s. 59.971 that is in force in any part of the territory shall continue in force until altered under s. 59.971 (7) (ad).

SECTION 15. 66.019 (2) of the statutes is renumbered 66.019 (2) (a).

SECTION 16. 66.019 (2) (b) of the statutes is created to read:

66.019 (2) (b) A county shoreland zoning ordinance enacted under s. 59.971 that is in force in any part of the territory shall continue in force until altered under s. 59.971 (7) (ad).

SECTION 17. 66.021 (7) (a) of the statutes is amended to read:

66.021 (7) (a) An ordinance for the annexation of the territory described in the annexation petition may be enacted by a two-thirds vote of the elected members of the governing body not less than 20 days after the publication of the notice of intention to circulate the petition and not later than 120 days after the date of filing with the city or village clerk of the petition for annexation or of the referendum election if favorable to the annexation. If the annexation is subject to sub. (11) the governing body

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shall first review the reasons given by the department of administration that the proposed annexation is against the public interest. ~~Such~~ Subject to s. 59.971 (7), such an ordinance may temporarily designate the classification of the annexed area for zoning purposes until the zoning ordinance is amended as prescribed in s. 62.23 (7) (d). Before introduction of an ordinance containing such temporary classification, the proposed classification shall be referred to and recommended by the plan commission. The authority to make such temporary classification shall not be effective when the county ordinance prevails during litigation as provided in s. 59.97 (7).

SECTION 18. 66.021 (8) (b) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

66.021 (8) (b) Within 10 days of receipt of the ordinance, certificate and plat, the secretary of state shall forward 2 copies of the ordinance, certificate and plat to the department of transportation, one copy to the department of administration, one copy to the department of revenue, one copy to the department of public instruction, one copy to the department of development, one copy to the department of natural resources, one copy to the department of agriculture, trade and consumer protection and 2 copies to the clerk of the municipality from which the territory was annexed.

SECTION 19. 66.021 (15) of the statutes is amended to read:

66.021 (15) ANNEXATION OF TOWN ISLANDS. Upon its own motion, a city or village by a two-thirds vote of the entire membership of its governing body may enact an ordinance annexing territory which comprises a portion of a town or towns and which was completely surrounded by territory of the city or village on December 2, 1973. The ordinance shall include all surrounded town areas except those exempt by mutual agreement of all of the governing bodies involved. The annexation ordinance shall contain a description of the territory sufficiently accurate to determine its location, and the name of the town or towns from which such territory is detached. Upon enactment of the ordinance, the city or village clerk immediately shall file ~~5~~ 6 certified copies of the ordinance in the office of the secretary of state, together with ~~5~~ 6 copies of a scale map showing the boundaries of the territory annexed. The secretary of state shall forward 2 copies of the ordinance and scale map to the department of transportation, one copy to the department of natural resources, one copy to the department of revenue and one copy to the department of administration. This subsection does not apply if the town island was created only by the annexation of a railroad right-of-way or drainage ditch. This subsection does not apply to land owned by a town government which has existing town government buildings located thereon. No town island may be

annexed under this subsection if the island consists of over 65 acres or contains over 100 residents. After December 2, 1973, no city or village may, by annexation, create a town area which is completely surrounded by the city or village.

SECTION 20. 66.023 (3) (e) of the statutes is amended to read:

66.023 (3) (e) *Content of plan; compatibility with existing law.* The cooperative plan shall describe how the plan is consistent with current state and federal laws, county shoreland zoning ordinances under s. 59.971, municipal regulations and administrative rules that apply to the territory affected by the plan.

SECTION 21. 66.024 (5m) of the statutes is amended to read:

66.024 (5m) TEMPORARY ZONING OF AREA PROPOSED TO BE ANNEXED. An interim zoning ordinance to become effective only upon approval of the annexation at the referendum election may be enacted by the governing body of the city or village. ~~Such~~ Subject to s. 59.971 (7), the ordinance may temporarily designate the classification of the annexed area for zoning purposes until the zoning ordinance is amended as prescribed in s. 62.23 (7) (d). The proposed interim zoning ordinance shall be referred to and recommended by the plan commission prior to introduction. Authority to make such temporary classification shall not be effective when the county zoning ordinance prevails during litigation as provided in s. 59.97 (7).

SECTION 22. 66.025 of the statutes is amended to read:

66.025 Annexation of owned territory. In addition to other methods provided by law and subject to ~~s. ss.~~ ss. 59.971 (7) and 66.023 (7), territory owned by and lying near but not necessarily contiguous to a village or city may be annexed ~~thereto~~ to a village or city by ordinance ~~adopted~~ enacted by the board of trustees of ~~such~~ the village or the common council of ~~such~~ the city, provided that in the case of noncontiguous territory the use of ~~such~~ the territory by the city or village is not contrary to any town or county zoning regulation. ~~Such~~ The ordinance shall contain the exact description of the territory annexed and the names of the ~~town or~~ towns from which detached, and shall operate to attach ~~such~~ the territory to ~~such~~ the village or city upon the filing of ~~5~~ 6 certified copies thereof in the office of the secretary of state, together with ~~5~~ 6 copies of a plat showing the boundaries of the territory attached. Two copies of the ordinance and plat shall be forwarded by the secretary of state to the department of transportation, one copy to the department of natural resources, one copy to the department of revenue and one copy to the department of public instruction.