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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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<b>2003 Senate Bill 87</b>	<b>Assembly Substitute Amendment 1</b>
<i>Memo published:</i> March 11, 2004	<i>Contact:</i> Rachel E. Letzing, Staff Attorney (266-3370)

**Current law** includes several statutory provisions for various ways in which territory may be annexed to a city or village. These provisions permit annexations, if specified requirements are met, including annexation initiated by electors and property owners, annexation by referendum initiated by a city or village, annexation of "town islands," and annexation of territory owned by a city or village that lies near, but not necessarily contiguous to, the city or village.

Assembly Substitute Amendment 1 to 2003 Senate Bill 87 prohibits a city or village, under the specified provisions, from annexing town territory (i.e., territory not owned by a city or village), unless the city or village agrees to pay annually to the town, for five years, an amount equal to the amount of property taxes that the town levied on the territory in the year in which the annexation is final. However, a city or village is not required to make payments to the town if the city or village and the town enter into one of the following types of boundary agreements:

- A boundary agreement under s. 66.0307, Stats., which permits the city or village, and the town, to determine boundary lines between themselves under a cooperative plan approved by the Department of Administration. The cooperative plan must identify any boundary change and any existing boundary that may not be changed during the planning period specified in the plan, and the statutory provision generally prohibits other procedures for altering boundaries included in the plan (with an exception for a Department of Natural Resources' order under a statutory provision addressing joint sewerage systems).
- A boundary agreement under s. 66.0225, Stats., which permits any two municipalities (cities, villages, and towns) whose boundaries are immediately adjacent at any point and who are parties to a court action testing the validity or invalidity of an annexation, incorporation, consolidation, or detachment to enter into a written stipulation determining a common boundary line. The stipulation is valid if incorporated in the court's final judgment, approved by the governing bodies of the detaching and annexing municipalities, and approved by referendum if a valid petition for referendum is properly filed.

- A boundary agreement under s. 66.0301, Stats., which generally allows a municipality to contract with other municipalities and with federally recognized Indian tribes and bands in this state for “the receipt or furnishing of services or the joint exercise of any power or duty required or authorized by law.”

The substitute amendment also prohibits a city or village from annexing territory if no part of the city or village is located in the same county as the territory. The substitute amendment creates two exceptions that would allow an annexation otherwise subject to this prohibition to proceed. Under the first exception, an annexation may proceed if the town board and the county board in which the territory is located each adopt a resolution approving the proposed annexation. Under the second exception, if the annexation is of territory owned by a city or village, then the annexation may proceed if the town board and the county board in which the territory is located each adopt a resolution approving the proposed annexation, and the city or village and the town enter into one of the types of boundary agreements described above.

Finally, the substitute amendment prohibits a town from bringing an action, on any grounds, whether procedural or jurisdictional, to challenge the validity of a direct annexation by unanimous approval.

If enacted, the substitute amendment would first apply to any annexation that has not taken effect on the effective date of the legislation.

#### **Legislative History**

Assembly Substitute Amendment 1 was offered by Representative Gard on March 9, 2004. On March 10, 2004, the Assembly adopted Assembly Substitute Amendment 1 and concurred in the bill, as amended, both on voice votes.

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