



## 1999 ASSEMBLY BILL 202

March 15, 1999 - Introduced by Representatives OWENS, AINSWORTH, FREESE, GOETSCH, GUNDERSON, HANDRICK, HASENOHRL, LADWIG, F. LASEE and SKINDRUD, cosponsored by Senator SCHULTZ. Referred to Committee on Urban and Local Affairs.

1     **AN ACT to amend** 60.61 (2) (intro.), 60.61 (3) (intro.), 60.62 (2), 60.62 (3), 62.23  
2           (7a) (a), 66.021 (2) (intro.), 66.024 (intro.), 66.025, 66.32, 70.99 (8) and 236.02  
3           (5); **to create** 60.10 (1) (g), 60.225 and 60.23 (32) of the statutes; and **to affect**  
4           Laws of 1975, chapter 105, section 1 (1) and (2); **relating to:** the powers of  
5           certain towns and authorizing the creation of charter towns by certain town  
6           boards.

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### *Analysis by the Legislative Reference Bureau*

Under current law, if a town meeting authorizes a town board to do so, the town board may exercise powers relating to villages and conferred on village boards by statute, except those powers that conflict with statutes relating to towns and town boards. For example, a town board exercising village powers may not create a tax incremental financing district, annex territory, exercise extraterritorial zoning jurisdiction over another town or, in counties that have adopted a county zoning ordinance, enact a town zoning ordinance unless it is approved by the county board. If a town board exercises village powers, the town is still subject to annexation by a city or village and may be subject to extraterritorial zoning powers exercised by a city or village.

This bill authorizes a town board that is authorized to exercise village powers to adopt a resolution, that is subject to ratification in a referendum that the town board must call, declaring that it is a "charter town" and that, under certain

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circumstances and subject to several limitations, allows the town board to create a tax incremental financing district. The bill also allows a charter town board to exercise certain zoning powers, and exempts the town from being subject to certain city and village extraterritorial powers. This bill does not allow such towns to annex territory or to engage in extraterritorial zoning or plat approval.

The powers granted to towns in this bill apply only if certain conditions are met on the date on which the board adopts the resolution. Some of the conditions that must be satisfied include the following:

1. The population of the town must be at least 2,500.
2. The town board creates a town plan commission and adopts a comprehensive land use plan.
3. The town enacts and enforces building code ordinances.
4. The town board enacts a construction site erosion control and storm water management zoning ordinance.

In addition, certain charter towns are exempt from being subject to city and village annexation powers if certain conditions are met. Some of the conditions that must be met include the following:

1. At least 10% of the town residents receive water supply or sewage disposal services, or both, from one of several entities, such as a town sanitary district, a town utility district, a metropolitan sewerage district or another city, village or town.
2. The equalized value of the town must exceed \$100,000,000.
3. The town must provide law enforcement services 24 hours a day.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 60.10 (1) (g) of the statutes is created to read:

2           60.10 (1) (g) *Approval of resolutions.* Approve a resolution adopted by the town  
3 board under s. 60.225 (1).

4           **SECTION 2.** 60.225 of the statutes is created to read:

5           **60.225 Charter towns. (1) PROCEDURE.** If a town board is authorized to  
6 exercise village powers under s. 60.10 (2) (c), and subject to sub. (2), a town board may  
7 adopt a resolution declaring its town to be a charter town that is subject to this  
8 section if, on the date of adoption of the resolution, all of the following conditions are  
9 satisfied:

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- 1 (a) The population of the town is at least 2,500.
- 2 (b) The town board creates and maintains a town plan commission under s.  
3 62.23.
- 4 (c) The town board enacts a comprehensive zoning ordinance under s. 60.61,  
5 60.62 or 62.23, and establishes an official town map under s. 62.23 (6).
- 6 (d) The town board adopts a comprehensive land use plan that is similar to a  
7 county development plan described under s. 59.69 (3) (b) and (c).
- 8 (e) The town board enacts a construction site erosion control and storm water  
9 management zoning ordinance under s. 60.627.
- 10 (f) The town board enacts a subdivision ordinance under s. 236.45.
- 11 (g) The town enacts and enforces building code ordinances under s. 60.61 (1m).
- 12 **(2) RATIFICATION.** (a) If a town board adopts a resolution under sub. (1), the  
13 town board shall call a referendum to ratify the resolution at the next spring primary  
14 or election or September primary or general election, to be held not sooner than 45  
15 days after the ratification referendum is called by the town board. The referendum  
16 question shall be: "Do you approve the town board resolution declaring .... [name of  
17 town] to be a charter town?".
- 18 (b) A resolution adopted by a town board under sub. (1) may not take effect until  
19 the resolution is approved by the electors in a ratification referendum under par. (a).  
20 If the resolution is ratified, the town clerk shall certify that fact to the secretary of  
21 state. The secretary of state shall issue a certificate of charter town status and shall  
22 record that status in a book kept for that purpose.
- 23 (c) If a resolution adopted by a town board under sub. (1) takes effect under par.  
24 (b), the town board may adopt a resolution, not sooner than 4 years after the effective  
25 date of the resolution declaring the town to be a charter town, that revokes the town's

**ASSEMBLY BILL 202****SECTION 2**

1 charter town status. The revocation resolution may not take effect until the  
2 resolution is approved by the electors in a ratification referendum called by the town  
3 board for that purpose. The referendum shall comply with the requirements for a  
4 ratification referendum that is held under par. (a), except that the referendum  
5 question shall be: “Do you approve the town board resolution that revokes the status  
6 of ... [name of town] as a charter town?”. If the referendum revoking charter town  
7 status is approved, county zoning ordinances that did not apply to the town because  
8 of its former charter town status apply to the town on the effective date of the  
9 revocation resolution. If a county ordinance conflicts with an ordinance enacted by  
10 the former charter town board, the county ordinance shall take precedence over the  
11 former charter town ordinance on the effective date of the revocation resolution.

12 **(3) ZONING.** (a) 1. Except for a wetlands in shorelands zoning ordinance, no  
13 town may be subject to any county zoning ordinance that is enacted by a county board  
14 after a town board adopts a resolution under sub. (1) unless the town board approves  
15 the ordinance or until the resolution adopted by the town board under sub. (1) is  
16 defeated in a ratification vote by the referendum under sub. (2).

17 2. If a town board adopts a resolution under sub. (1) and the resolution is  
18 ratified under sub. (2), a town board may adopt a resolution revoking its approval of  
19 any county zoning ordinance, other than a wetlands in shorelands zoning ordinance,  
20 if the town board notifies the county board in writing at least 60 days before the  
21 resolution revoking approval of a county zoning ordinance takes effect. On the  
22 effective date of the resolution revoking town approval of a county zoning ordinance,  
23 the town board may act under s. 60.61 (2) or 60.62 (1).

24 (b) No town may be subject to the extraterritorial zoning jurisdiction or  
25 extraterritorial plat approval jurisdiction of a city or village during the period

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1 beginning after a town board adopts a resolution under sub. (1) and before a  
2 ratification vote under sub. (2) or at any time after the electors of the town approve  
3 the resolution under sub. (2).

4 (4) PROTECTED STATUS. If all of the following apply, no town territory may be  
5 annexed by a city or village under s. 66.021, 66.024 or 66.025 during the period  
6 beginning after a town board adopts a resolution under sub. (1) and before a  
7 ratification vote under sub. (2) or at any time after the electors of the town approve  
8 such a resolution under sub. (2), unless the town board approves the proposed  
9 annexation:

10 (a) The equalized value of the town exceeds \$100,000,000, according to the most  
11 recent assessment.

12 (b) At least 10% of the town residents receive either water supply or sewage  
13 disposal services, or both, from one of the following:

- 14 1. A town sanitary district created by the town under subch. IX.
- 15 2. A town utility district created under s. 66.072.
- 16 3. A metropolitan sewerage district created under ss. 66.20 to 66.26 or under  
17 ss. 66.88 to 66.918.
- 18 4. A public utility created under s. 196.01 (5).
- 19 5. A town sanitary district created by another town under subch. IX.
- 20 6. A city or village.

21 (c) The town provides law enforcement services, 24 hours a day, by establishing  
22 a town police department or by creating a joint police department with another city,  
23 village or town under s. 60.56.

24 **SECTION 3.** 60.23 (32) of the statutes is created to read:

**ASSEMBLY BILL 202****SECTION 3**

1           60.23 **(32)** TOWN TAX INCREMENT POWERS. Exercise all powers of cities under s.  
2           66.46. If the town board exercises the powers of a city under s. 66.46, it is subject to  
3           the same duties as a common council under s. 66.46 and the town is subject to the  
4           same duties and liabilities as a city under s. 66.46.

5           **SECTION 4.** 60.61 (2) (intro.) of the statutes is amended to read:

6           60.61 **(2)** EXTENT OF AUTHORITY. (intro.) Subject If a town board revokes its  
7           approval of a county zoning ordinance under s. 60.225 (3) (a) 2. or, subject to subs.  
8           (3) and (3m), if a town is located in a county which has not enacted a county zoning  
9           ordinance under s. 59.69, the town board, by ordinance, may:

10          **SECTION 5.** 60.61 (3) (intro.) of the statutes is amended to read:

11          60.61 **(3)** EXERCISE OF AUTHORITY. (intro.) Before exercising authority under  
12          sub. (2), the town board of a town that is located in a county which has not adopted  
13          a county zoning ordinance under s. 59.69 shall petition the county board to initiate,  
14          at any regular or special meeting, action to enact a county zoning ordinance under  
15          s. 59.69. The town board may proceed under sub. (2) if:

16          **SECTION 6.** 60.62 (2) of the statutes is amended to read:

17          60.62 **(2)** If the county in which the town is located has enacted a zoning  
18          ordinance under s. 59.69, the exercise of the authority under sub. (1) is subject to  
19          approval by the town meeting or by a referendum vote of the electors of the town held  
20          at the time of any regular or special election, except that this subsection does not  
21          apply if a town board revokes its approval of a county zoning ordinance under s.  
22          60.225 (3) (a) 2.

23          **SECTION 7.** 60.62 (3) of the statutes is amended to read:

24          60.62 **(3)** In counties having a county zoning ordinance, no zoning ordinance  
25          or amendment of a zoning ordinance may be adopted under this section unless

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1 approved by the county board, except that this subsection does not apply if a town  
2 board revokes its approval of a county zoning ordinance under s. 60.225 (3) (a) 2.

3 **SECTION 8.** 62.23 (7a) (a) of the statutes is amended to read:

4 62.23 (7a) (a) Extraterritorial zoning jurisdiction means the unincorporated  
5 area, except as provided in s. 60.225 (3) (b), within 3 miles of the corporate limits of  
6 a first, second or third class city, or 1 1/2 miles of a fourth class city or a village.  
7 Wherever extraterritorial zoning jurisdictions overlap, the provisions of s. 66.32  
8 shall apply and any subsequent alteration of the corporate limits of the city by  
9 annexation, detachment or consolidation proceedings shall not affect the dividing  
10 line as initially determined under s. 66.32. The governing body of the city shall  
11 specify by resolution the description of the area to be zoned within its extraterritorial  
12 zoning jurisdiction sufficiently accurate to determine its location and such area shall  
13 be contiguous to the city. The boundary line of such area shall follow government lot  
14 or survey section or fractional section lines or public roads, but need not extend to  
15 the limits of the extraterritorial zoning jurisdiction. Within 15 days of the adoption  
16 of the resolution the governing body shall declare its intention to prepare a  
17 comprehensive zoning ordinance for all or part of its extraterritorial zoning  
18 jurisdiction by the publication of the resolution in a newspaper having general  
19 circulation in the area proposed to be zoned, as a class 1 notice, under ch. 985. The  
20 city clerk shall mail a certified copy of the resolution and a scale map reasonably  
21 showing the boundaries of the extraterritorial jurisdiction to the clerk of the county  
22 in which the extraterritorial jurisdiction area is located and to the town clerk of each  
23 town, any part of which is included in such area.

24 **SECTION 9.** 66.021 (2) (intro.) of the statutes is amended to read:

**ASSEMBLY BILL 202****SECTION 9**

1           66.021 (2) METHODS OF ANNEXATION. (intro.) Subject to s. 66.023 (7) and except  
2 as provided in s. 60.225 (4), territory contiguous to any city or village may be annexed  
3 thereto in the following ways:

4           **SECTION 10.** 66.024 (intro.) of the statutes is amended to read:

5           **66.024 Annexation by referendum; court order.** (intro.) As a complete  
6 alternative to any other annexation procedure, and subject to s. 66.023 (7) and except  
7 as provided in s. 60.225 (4), unincorporated territory which contains electors and is  
8 contiguous to a city or village may be annexed thereto in the manner hereafter  
9 provided. The definitions in s. 66.021 (1) shall apply to this section.

10          **SECTION 11.** 66.025 of the statutes is amended to read:

11          **66.025 Annexation of owned territory.** In addition to other methods  
12 provided by law and subject to ss. 59.692 (7) and 66.023 (7) and except as provided  
13 in s. 60.225 (4), territory owned by and lying near but not necessarily contiguous to  
14 a village or city may be annexed to a village or city by ordinance enacted by the board  
15 of trustees of the village or the common council of the city, provided that in the case  
16 of noncontiguous territory the use of the territory by the city or village is not contrary  
17 to any town or county zoning regulation. The ordinance shall contain the exact  
18 description of the territory annexed and the names of the towns from which  
19 detached, and shall operate to attach the territory to the village or city upon the filing  
20 of 6 certified copies thereof in the office of the secretary of state, together with 6 copies  
21 of a plat showing the boundaries of the territory attached. Two copies of the  
22 ordinance and plat shall be forwarded by the secretary of state to the department of  
23 transportation, one copy to the department of natural resources, one copy to the  
24 department of revenue and one copy to the department of public instruction.

25          **SECTION 12.** 66.32 of the statutes is amended to read:

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1           **66.32 Extraterritorial powers.** The extraterritorial powers granted to cities  
2 and villages by statute, including ss. 30.745, 62.23 (2) and (7a), 66.052, 236.10 and  
3 254.57, may not be exercised within the corporate limits of another city or village and  
4 may not be exercised within the corporate limits of a town whose board has adopted  
5 a resolution under s. 60.225 (1) unless a majority of the votes cast in the ratification  
6 vote on the resolution do not approve the resolution. Wherever these statutory  
7 extraterritorial powers overlap, the jurisdiction over the overlapping area shall be  
8 divided on a line all points of which are equidistant from the boundaries of each  
9 municipality concerned so that not more than one municipality shall exercise power  
10 over any area.

11           **SECTION 13.** 70.99 (8) of the statutes is amended to read:

12           70.99 (8) Each city, town and village assessor duly appointed or elected and  
13 qualified to make the assessment for a city, town or village shall continue in office  
14 for all purposes of completing the functions of assessor with respect to such current  
15 year's assessment, but is divested of all authority in respect to the January 1  
16 assessment that comes under the jurisdiction of the county assessor, except that a  
17 town assessor of any charter town under s. 60.225 is not divested of his or her  
18 authority under this subsection and a county assessor does not have jurisdiction in  
19 a charter town.

20           **SECTION 14.** 236.02 (5) of the statutes is amended to read:

21           236.02 (5) "Extraterritorial plat approval jurisdiction" means the  
22 unincorporated area, except as provided in s. 60.225 (3) (b), within 3 miles of the  
23 corporate limits of a first, second or third class city, or 1 1/2 miles of a fourth class city  
24 or a village.

