



2003 ASSEMBLY BILL 658

November 13, 2003 - Introduced by Representatives MUSSER, ZIEGELBAUER, AINSWORTH, OLSEN, LEMAHIEU, KERKMAN, HUBLER, J. WOOD, M. LEHMAN, JENSEN, GRONEMUS, HINES, KESTELL, SERATTI, VAN ROY, ZEPNICK, JESKEWITZ, GIELOW, OTT, GOTTLIEB, LOTHIAN, NASS, WARD, PETTIS, BIES, FREESE, VRAKAS, TOWNSEND, HUNDERTMARK and LADWIG, cosponsored by Senators SCHULTZ, JAUCH, ROESSLER, REYNOLDS, LEIBHAM, BROWN, HARSDFORF, COWLES and M. MEYER. Referred to Committee on Urban and Local Affairs.

1 **AN ACT to amend** 59.03 (2) (c), 59.26 (1) (intro.), 59.26 (2), 59.26 (3), 59.26 (8) (a),
2 62.09 (1) (a) and 62.13 (1); and **to create** 59.26 (10), 59.27 (13), 61.65 (1) (a) 4.
3 and 62.13 (2s) of the statutes; **relating to:** authorizing a city or a village to
4 abolish its police department and contract for law enforcement services with a
5 county.

Analysis by the Legislative Reference Bureau

Generally under current law, each city is required to have a board of police and fire commissioners. The board is required to appoint the chief of police and the chief of the fire department, and the chiefs are required to appoint subordinates subject to approval by the board. Also under current law, a village with a population of 5,000 or more is required to provide police protection by creating its own police department, by contracting for police protective services with a city, village, town, or county, or by creating a joint police department with a city, village, or town.

Current law authorizes a county to exercise any of its powers to provide services, such as water, sewer, streets and highways, fire, police, and health, in any municipality (city, village, or town), or part of a municipality that is located in the county, upon the request of the municipality. The municipality may adopt a resolution designating the function it would like the county to assume and the terms under which the power shall be exercised. If the county board approves the resolution, the county may then exercise the designated function in the municipality, and the county and municipality may enter into a contract under which the

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municipality agrees to appropriate money to the county to pay for the service to be provided by the county.

This bill specifically authorizes a city, or a village, to abolish its police department if it enters into a contract with a county for the sheriff to provide law enforcement services within those parts of the city or village that are located within the county. If a city or village is in more than one county, the city or village must enter into similar contracts with all of the counties in which the city or village is located.

Before a city or village may enter into such a contract, the common council or village board must adopt a resolution requesting that the county provide police protective services and stating that the services are to be provided exclusively by the county, and the county must approve the resolution. The contract must address at least the following issues:

1. The division of the city's assets and liabilities that relate to the city's police department.
2. A description of the level of services that the county will provide and the amount that the city will pay for the services.
3. A procedure for the city to request, or require, additional law enforcement services and the amount that the city will have to pay for the services.
4. The term of the agreement and procedures for the renewal, extension, or termination of the agreement.

No agreement that is entered into may take effect before the termination of any collective bargaining agreement that covers the city's police department employees.

The bill also provides that if a city or village and a county enter into a contract for the county to provide law enforcement services a sheriff is required, for approximately two years after the contract takes effect, and to the greatest extent possible, to hire any additional deputies that are needed from the ranks of former police officers who lost their positions when their departments were abolished. This requirement on a sheriff applies notwithstanding any current law provisions governing the hiring of deputies, such as a requirement that deputies be hired from a list of persons with the highest scores on a civil service exam, although the requirement does not apply to the extent that it conflicts with a collective bargaining agreement between a county and its employees.

For further information see the *state and 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.** 59.03 (2) (c) of the statutes is amended to read:
- 2 59.03 (2) (c) Whenever the request under par. (a) or acceptance under par. (b)
- 3 of a municipality shall be by resolution of its governing board, such request or
- 4 acceptance shall not go into effect until the expiration of 60 days from the adoption

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1 of the resolution or, in the case of county law enforcement services provided to a city
2 as described in s. 62.13 (2s), as provided in s. 62.13 (2s) (d). If a petition under s. 9.20
3 for direct legislation on the request or acceptance shall be filed before the expiration
4 of said 60 days, the resolution of the governing board shall be of no effect but the
5 request or acceptance of such municipality shall be determined by direct legislation.

6 **SECTION 2.** 59.26 (1) (intro.) of the statutes is amended to read:

7 59.26 (1) (intro.) Within 10 days after entering upon the duties of the office of
8 sheriff, the sheriff shall appoint some proper person, who is a resident of the county,
9 undersheriff. However, in counties with a population of 500,000 or more the
10 appointment of an undersheriff is optional. In counties where the sheriff's
11 department is under civil service, the sheriff, in conformity with county ordinance,
12 may, at the request of the affected deputy, grant a leave of absence to a deputy sheriff
13 who the sheriff has appointed undersheriff, or to any other position in the sheriff's
14 department, upon the deputy's acceptance of the appointment. Any deputy in a
15 county under civil service granted leave of absence under this subsection upon
16 completion of the appointive position shall immediately be returned to the position
17 of deputy sheriff and shall continue therein without loss of any rights under the civil
18 service law. The sheriff, however, may not grant such leave of absence to a deputy
19 sheriff until the sheriff first secures the consent of the board by resolution duly
20 adopted by the board. Within 10 days after entering upon the duties of the office of
21 sheriff, the sheriff shall also appoint, subject to sub. (10), deputy sheriffs for the
22 county as follows:

23 **SECTION 3.** 59.26 (2) of the statutes is amended to read:

24 59.26 (2) The Subject to sub. (10), the sheriff may appoint as many other
25 deputies as the sheriff considers proper.

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1 **SECTION 4.** 59.26 (3) of the statutes is amended to read:

2 59.26 (3) The Subject to sub. (10), the sheriff may fill vacancies in the office of
3 any such appointee, and he or she may appoint a person to take the place of any
4 undersheriff or deputy who becomes incapable of executing the duties of that office.

5 **SECTION 5.** 59.26 (8) (a) of the statutes is amended to read:

6 59.26 (8) (a) In any county with a population of less than 500,000, the board,
7 by ordinance, may fix the number of deputy sheriffs to be appointed in that county
8 at not less than that number required by sub. (1) (a) and (b) and may set the salary
9 of those deputies. The Subject to sub. (10), the board may provide by ordinance that
10 deputy sheriff positions be filled by appointment by the sheriff from a list of all
11 persons with the 3 highest scores for each position based on a competitive
12 examination. Such competitive examinations may be by a county civil service
13 commission or by the division of merit recruitment and selection in the department
14 of employment relations at the option of the board and it shall so provide by
15 ordinance. The division of merit recruitment and selection in the department of
16 employment relations shall, upon request of the board, conduct such examination
17 according to the methods used in examinations for the state civil service and shall
18 certify an eligible list of the names of all persons with the 3 highest scores on that
19 examination for each position to the sheriff of that county who shall, subject to sub.
20 (10), make an appointment from that list to fill the position within 10 days after he
21 or she receives the eligible list. The county for which such examination is conducted
22 shall pay the cost of that examination. If a civil service commission is decided upon
23 for the selection of deputy sheriffs, then ss. 63.01 to 63.17 shall apply so far as
24 consistent with this subsection, except ss. 63.03, 63.04 and 63.15 and except the
25 provision governing minimum compensation of the commissioners. The ordinance

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1 or an amending ordinance may provide for employee grievance procedures and
2 disciplinary actions, for hours of work, for tours of duty according to seniority and for
3 other administrative regulations. Any board provision consistent with this
4 paragraph and existing on July 25, 1951, is validated. If the sheriff fills a deputy
5 sheriff position by promotion, the sheriff shall, subject to sub. (10), make the
6 appointment to the position from a list of 3 deputy sheriffs who receive the highest
7 scores in a competitive examination. Such competitive examinations may be by a
8 county civil service commission or by the division of merit recruitment and selection
9 in the department of employment relations at the option of the board and it shall so
10 provide by ordinance.

11 **SECTION 6.** 59.26 (10) of the statutes is created to read:

12 59.26 (10) (a) Notwithstanding the provisions in subs. (1) (intro.), (2), (3), and
13 (8) (a), and subject to par. (b), if a county provides law enforcement services to a city
14 or village under ss. 59.03 (2) (e) and 62.13 (2s) and if the sheriff hires additional
15 deputies to provide the services, the sheriff shall, to the greatest extent possible, fill
16 the additional deputy positions from the ranks of former police officers who lost their
17 positions when their department was abolished under 62.13 (2s) (a). With regard to
18 each contract that is entered into under s. 59.03 (2) (e), this provision does not apply
19 on or after the first day of the 25th month beginning after the contract takes effect
20 in the county.

21 (b) Paragraph (a) applies only to the extent that it is not inconsistent with any
22 collective bargaining agreement that is in effect between a county and its employees.

23 **SECTION 7.** 59.27 (13) of the statutes is created to read:

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1 59.27 (13) Enforce all city, or village, ordinances in a city, or village, in which
2 the sheriff provides law enforcement services under a contract described under s.
3 62.13 (2s) (a).

4 **SECTION 8.** 61.65 (1) (a) 4. of the statutes is created to read:

5 61.65 (1) (a) 4. Abolishing its police department and entering into a contract
6 with a county under s. 59.03 (2) (e) for the county sheriff to provide law enforcement
7 services in all parts of the village that are located in the county. If the village is
8 located in more than one county, it may not abolish its police department under this
9 subsection unless the village enters into contracts under this subsection with each
10 county in which the village is located. If a village wishes to abolish its police
11 department under this subdivision, it shall act under s. 62.13 (2s), and s. 62.13 (2s),
12 as it applies to cities, applies to villages.

13 **SECTION 9.** 62.09 (1) (a) of the statutes is amended to read:

14 62.09 (1) (a) The officers shall be a mayor, treasurer, clerk, comptroller,
15 attorney, engineer, one or more assessors unless the city is assessed by a county
16 assessor under s. 70.99, one or more constables as determined by the common
17 council, a local health officer, as defined in s. 250.01 (5), or local board of health, as
18 defined in s. 250.01 (3), street commissioner, board of police and fire commissioners
19 except in cities where not applicable, chief of police except in a city that has abolished
20 its police department under s. 62.13 (2s), chief of the fire department, board of public
21 works, 2 alderpersons from each aldermanic district, and such other officers or
22 boards as are created by law or by the council. If one alderperson from each
23 aldermanic district is provided under s. 66.0211 (1), the council may, by ordinance
24 adopted by a two-thirds vote of all its members and approved by the electors at a

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1 general or special election, provide that there shall be 2 alderpersons from each
2 aldermanic district.

3 **SECTION 10.** 62.13 (1) of the statutes is amended to read:

4 62.13 (1) COMMISSIONERS. Except as provided in sub. ~~subs.~~ (2m) and (2s), each
5 city shall have a board of police and fire commissioners consisting of 5 citizens, 3 of
6 whom shall constitute a quorum. The mayor shall annually, between the last
7 Monday of April and the first Monday of May, appoint in writing to be filed with the
8 secretary of the board, one member for a term of 5 years. No appointment shall be
9 made which will result in more than 3 members of the board belonging to the same
10 political party. The board shall keep a record of its proceedings.

11 **SECTION 11.** 62.13 (2s) of the statutes is created to read:

12 62.13 (2s) ABOLITION OF POLICE DEPARTMENT, COUNTY LAW ENFORCEMENT. (a)
13 Subject to pars. (b) to (d), a city may abolish its police department if it enters into a
14 contract with a county under s. 59.03 (2) (e) for the county sheriff to provide law
15 enforcement services in all parts of the city that are located in the county. If the city
16 is located in more than one county, it may not abolish its police department under this
17 subsection unless the city enters into contracts under this subsection with each
18 county in which the city is located.

19 (b) If a city wishes to contract with a sheriff for law enforcement services, the
20 common council shall adopt a resolution, as described under s. 59.03 (2) (a),
21 requesting that such services be provided. The resolution shall provide that such
22 services are to be provided exclusively by the county.

23 (c) The contract described under par. (a) shall address at least all of the
24 following elements:

