



1999 SENATE BILL 228

September 9, 1999 - Introduced by Senators BRESKE, A. LASEE, SHIBILSKI and SCHULTZ, cosponsored by Representatives F. LASEE, MUSSER, HANDRICK, SERATTI, AINSWORTH, HASENOHRL, GOETSCH, LADWIG, SPILLNER, HUTCHISON, OLSEN, GRONEMUS, GUNDERSON, SYKORA, JOHNSRUD, KREIBICH, KESTELL, NASS, SKINDRUD, FREESE, KLUSMAN, ALBERS, PORTER and HAHN. Referred to Committee on Economic Development, Housing and Government Operations.

1 **AN ACT to renumber and amend** 61.34 (3), 62.22 (1) and 66.025; **to amend**
2 27.08 (2) (b), 27.08 (2) (c), 28.20, 30.21 (1), 62.22 (1e), 66.021 (2) (intro.), 66.021
3 (15), 66.024 (7), 66.065 (1), 66.076 (1) (a), 66.077 (1), 114.11 (1), 114.12 and
4 196.58 (7); and **to create** 60.625, 61.34 (3) (b), 62.22 (1) (b), 66.021 (1) (ae),
5 66.021 (2e) and 66.025 (2) of the statutes; **relating to:** requiring town board
6 approval for, and setting conditions on, certain annexation actions and
7 prohibiting the creation of town islands.

Analysis by the Legislative Reference Bureau

Currently, town territory that is contiguous to any city or village may be annexed to that city or village under several methods. Three of the methods are: 1) direct annexation, under which a petition for annexation that was signed by the required number of electors and landowners is filed with the city or village clerk; 2) annexation by referendum, under which a petition for referendum that was signed by the required number of electors and landowners is filed with the city or village clerk and a referendum is held and passes in the town; and 3) annexation by referendum and court order, under which the governing body of a city or village adopts a resolution declaring its intention to apply to the circuit court for an order for an annexation referendum. If the city or village submits the resolution and the proper supporting documents and if no petition of protest is filed with the court or

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if the petition is found by the court to be insufficient, the court shall order the referendum to be held. If the referendum passes in the town, the annexation occurs.

This bill places a number of limits and conditions on the authority of a city or village to annex town land. Under the bill, if a city or village annexes land that is adjacent to a town highway, the annexation must extend to the center of the highway. Also under the bill, no annexation of certain land in the town may occur without the approval of the town board if any of the following conditions exist:

1. The land has been owned by the town for at least five years before the proposed annexation.

2. The land has been zoned for agricultural use for at least five years before the proposed annexation.

3. The land has been assessed as agricultural use value land for at least five years before the proposed annexation.

Generally, under current law, a city may acquire real or personal property within or outside the city, by gift, purchase or condemnation, and a village may also acquire real or personal property within or outside the village. The property may be acquired for any public purpose, such as parks, recreation, water systems, sewage or waste disposal, airports, cemeteries or vehicle parking areas. This bill grants similar property acquisition rights to a town, for real and personal property within or outside the town. Under this bill, a city, village or town (municipality) may not acquire real property that is located in another municipality, and that is not contiguous to that municipality, by gift, purchase or condemnation unless the governing body of the municipality in which the real property is located approves the proposed acquisition. The bill also limits the right of a municipality to extend sewer or water lines through property in another municipality unless the extension is approved by the governing body of the municipality on whose property the proposed extension is to be located. Under the bill, before a municipality's governing body may disapprove a proposed acquisition of property or deny a request for a sewer or water line extension, the municipality is required to hold a public hearing on the proposed acquisition or extension and to provide written reasons to the requesting municipality for the governing body's disapproval or denial.

Also under current law, if a municipality operating a water system seeks to serve consumers in another part of that municipality and in the same county, but to serve such consumers it is necessary or economically prudent to install the pipes through another municipality, such installation may not occur unless the municipality through which the installation is to run approves. If that municipality does not approve, the municipality that seeks to install the pipes may ask the public service commission (PSC) to approve the installation, which the PSC may do. This bill removes PSC authority to approve such installations. Such a proposed installation is subject to the same approval and hearing requirements that the bill applies to any other proposal of a municipality to acquire property or extend sewer or water lines in another municipality.

Also under current law, a city or village may annex land that it owns in a town if the land is lying near but not necessarily contiguous to the city or village and if the use of the territory by the city or village is not contrary to any town or county zoning

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regulation. Under the bill, no city or village may annex territory that it owns in a town if the territory lies near but is not contiguous to the city or village unless the proposed annexation is approved by the town board of the town in which the owned territory is located.

Under current annexation law no city or village may, by annexation, create a town area which is completely surrounded by the city or village. This bill prohibits the creation of town islands by specifying that no city or village may, by annexation, create a town area where no part of the land remaining after annexation is contiguous with the town from which the annexation occurred.

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.** 27.08 (2) (b) of the statutes is amended to read:
- 2 27.08 (2) (b) ~~To~~ Subject to s. 62.22 (1) (b), to acquire in the name of the city for
- 3 park, parkway, boulevard or pleasure drive purposes by gift, devise, bequest or
- 4 condemnation, either absolutely or in trust, money, real or personal property, or any
- 5 incorporeal right or privilege. Gifts to any city of money or other property, real or
- 6 personal, either absolutely or in trust, for park, parkway, boulevard or pleasure drive
- 7 purposes shall be accepted only after they shall have been recommended by the board
- 8 to the common council and approved by said council by resolution. Subject to the
- 9 approval of the common council the board may execute every trust imposed upon the
- 10 use of property or property rights by the deed, testament or other conveyance
- 11 transferring the title of such property to the city for park, parkway, boulevard or
- 12 pleasure drive purposes.
- 13 **SECTION 2.** 27.08 (2) (c) of the statutes is amended to read:
- 14 27.08 (2) (c) Subject to s. 62.22 (1) (b) and to the approval of the common council
- 15 to buy or lease lands in the name of the city for park, parkway, boulevard or pleasure
- 16 drive purposes within or without the city and, with the approval of the common

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1 council, to sell or exchange property no longer required for its purposes. Every city
2 is authorized, subject to s. 62.22 (1) (b), upon recommendation of its officers, board
3 or body having the control and management of its public parks, to acquire by
4 condemnation in the name of the city such lands within or without its corporate
5 boundaries as it may need for public parks, parkways, boulevards and pleasure
6 drives.

7 **SECTION 3.** 28.20 of the statutes is amended to read:

8 **28.20 Community forests.** Any city, subject to s. 62.22 (1) (b), any village,
9 subject to s. 61.34 (3) (b), any town, subject to s. 60.625 (2), or school district may
10 acquire land, engage in forestry and appropriate funds for such purpose. The forest
11 property may be located outside the city, village, town or school district limits.

12 **SECTION 4.** 30.21 (1) of the statutes is amended to read:

13 30.21 (1) WATER INTAKE FACILITIES. Upon compliance with such applicable
14 regulations as may be imposed by the government of the United States and subject
15 to chs. 196 and 197 and rules and orders of the public service commission issued
16 pursuant thereto, any public utility may, pursuant to permit granted by resolution
17 of the governing body of any city, village or town situated on any waters of Lake
18 Michigan or Lake Superior or in the Great Lakes basin, construct, maintain and
19 operate, upon and under the bed thereof adjoining such city, village or town, all cribs,
20 intakes, basins, pipes and tunnels necessary or convenient for securing an adequate
21 supply of water suitable for the purposes of such utility, provided only, that
22 concurrently with the construction of facilities for the withdrawal of water from the
23 lakes, the city, town or village must construct sewage treatment and disposal works
24 adequate to treat completely all sewage of the municipality. Any city, village or town,
25 the limits of which are within 50 miles of any such waters and any public utility

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1 serving the same shall be deemed to be situated on such waters within the meaning
2 of this section and such municipality or public utility serving the same shall, subject
3 to this section, have authority to acquire and own or lease sufficient real estate,
4 subject to s. 60.625 (2), 61.34 (3) (b) or 62.22 (1) (b), not to exceed 50 miles beyond the
5 corporate limits of such municipality, for the purpose of constructing, maintaining
6 and operating thereon or thereunder, transmission facilities and structures,
7 including cribs, intakes, basins, pipes and tunnels, necessary or convenient for
8 securing an adequate supply of water suitable for the purposes of such municipality
9 or utility. Such facilities shall be so constructed, maintained and operated as to avoid
10 material obstruction to existing navigation or the use of private property not owned
11 by such utility.

12 **SECTION 5.** 60.625 of the statutes is created to read:

13 **60.625 Acquisition and disposal of property.** (1) Subject to sub. (2), the
14 governing body of any town may by gift, purchase or condemnation acquire property,
15 real or personal, within or outside the town, for parks, recreation, water systems,
16 sewage or waste disposal, airports or approaches thereto, cemeteries, vehicle
17 parking areas, and for any other public purpose; may acquire real property within
18 or contiguous to the town, by means other than condemnation, for industrial sites;
19 may improve and beautify the same; may construct, own, lease and maintain
20 buildings on such property for public purposes; and may sell and convey such
21 property. The power of condemnation for any such purpose shall be as provided by
22 ch. 32.

23 (2) (a) The governing body of a town may not acquire real property that is
24 located in a city, village or town, and that is not contiguous to the town, by gift,
25 purchase or condemnation, as described in sub. (1), unless the governing body of the

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1 city, village or town in which the real property is located approves the proposed
2 acquisition.

3 (b) Before a town board may disapprove a proposed acquisition of property
4 under par. (a) or s. 27.08 (2) (b) or (c), 28.20, 30.21 (1), 61.34 (3) (a), 62.22 (1) (a), 66.065
5 (1) or 66.077 (1) or deny a request for a sewer or water line extension under s. 30.21
6 (1), 60.52 (1) or 196.58 (7) (a), the town board shall hold a public hearing on the
7 proposed acquisition or extension and shall provide the city, village or town that has
8 requested the acquisition of property or extension of service with written reasons for
9 the town board's disapproval or denial. The town board shall publish a class 1 notice
10 under ch. 985 at least 10 days before holding the hearing described in this paragraph.

11 **SECTION 6.** 61.34 (3) of the statutes is renumbered 61.34 (3) (a) and amended
12 to read:

13 61.34 (3) (a) ~~The~~ Subject to par. (b), the village board may acquire property, real
14 or personal, within or outside the village, for parks, libraries, recreation,
15 beautification, streets, water systems, sewage or waste disposal, harbors,
16 improvement of watercourses, public grounds, vehicle parking areas, and for any
17 other public purpose; may acquire real property within or contiguous to the village,
18 by means other than condemnation, for industrial sites; may improve and beautify
19 the same; may construct, own, lease and maintain buildings on such property for
20 instruction, recreation, amusement and other public purposes; and may sell and
21 convey such property. Condemnation shall be as provided by ch. 32.

22 **SECTION 7.** 61.34 (3) (b) of the statutes is created to read:

23 61.34 (3) (b) 1. The village board may not acquire real property that is located
24 in a city, village or town, and that is not contiguous to the village, as described in par.

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1 (a), unless the governing body of the city, village or town in which the real property
2 is located approves the proposed acquisition.

3 2. Before the village board may disapprove a proposed acquisition of property
4 under par. (a) or s. 27.08 (2) (b) or (c), 28.20, 30.21 (1), 60.625 (1), 62.22 (1) (a), 66.065
5 (1) or 66.077 (1) or deny a request for a sewer or water line extension under s. 30.21
6 (1) or 196.58 (7) (a), the village board shall hold a public hearing on the proposed
7 acquisition or extension and shall provide the city, village or town that has requested
8 the acquisition of property or extension of service with written reasons for the village
9 board's disapproval or denial. The village board shall publish a class 1 notice under
10 ch. 985 at least 10 days before holding the hearing described in this subdivision.

11 **SECTION 8.** 62.22 (1) of the statutes is renumbered 62.22 (1) (a) and amended
12 to read:

13 62.22 (1) (a) ~~The~~ Subject to par. (b), the governing body of any city may by gift,
14 purchase or condemnation acquire property, real or personal, within or outside the
15 city, for parks, recreation, water systems, sewage or waste disposal, airports or
16 approaches thereto, cemeteries, vehicle parking areas, and for any other public
17 purpose; may acquire real property within or contiguous to the city, by means other
18 than condemnation, for industrial sites; may improve and beautify the same; may
19 construct, own, lease and maintain buildings on such property for public purposes;
20 and may sell and convey such property. The power of condemnation for any such
21 purpose shall be as provided by ch. 32.

22 **SECTION 9.** 62.22 (1) (b) of the statutes is created to read:

23 62.22 (1) (b) 1. The governing body of a city may not acquire real property that
24 is located in a city, village or town, and that is not contiguous to the city, by gift,
25 purchase or condemnation, as described in par. (a), unless common council of the city,

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1 village board of the village or the town board of the town in which the real property
2 is located approves the proposed acquisition.

3 2. Before the governing body of a city may disapprove a proposed acquisition
4 of property under s. 60.625 (1) or 61.34 (3) (b) or deny a request for a sewer or water
5 line extension under s. 30.21 (1) or 196.58 (7) (a), the common council shall hold a
6 public hearing on the proposed acquisition or extension and shall provide the city,
7 village or town that has requested the acquisition of property or extension of service
8 with written reasons for the common council's disapproval or denial. The common
9 council shall publish a class 1 notice under ch. 985 at least 10 days before holding the
10 hearing described in this subdivision.

11 **SECTION 10.** 62.22 (1e) of the statutes is amended to read:

12 62.22 (1e) CERTAIN INDUSTRIAL SITES. The governing body of a 2nd class city
13 which is adjacent to Lake Michigan and which is located in a county with a
14 population of less than 110,000, according to the most recent estimate by the
15 department of administration, may, subject to sub. (1) (b), acquire real property by
16 gift outside the city boundaries for industrial sites; may improve and beautify the
17 same; may construct, own, lease and maintain buildings on such property for public
18 purposes; and may sell and convey such property.

19 **SECTION 11.** 66.021 (1) (ae) of the statutes is created to read:

20 66.021 (1) (ae) "Contiguous" means touching or bordering.

21 **SECTION 12.** 66.021 (2) (intro.) of the statutes is amended to read:

22 66.021 (2) METHODS OF ANNEXATION. (intro.) Subject to sub. (2e) and to s. 66.023
23 (7), territory contiguous to any city or village may be annexed thereto in the following
24 ways:

25 **SECTION 13.** 66.021 (2e) of the statutes is created to read:

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1 66.021 **(2e)** LIMITS AND CONDITIONS ON ANNEXATION. (a) No city or village may,
2 under this section, annex territory, without town approval, that is contiguous to a
3 town highway unless the annexation includes territory that extends to the center of
4 the highway.

5 (b) No city or village may annex town territory under this section without
6 approval of the town board whose jurisdiction includes the territory proposed to be
7 annexed if any of the following apply:

8 1. The territory that is proposed to be annexed has been owned by the town for
9 at least 5 years before the petition under sub. (2) (a) or (b) is filed with the city or
10 village clerk.

11 2. The territory that is proposed to be annexed has been zoned for agricultural
12 use or conservancy use for at least 5 years before the petition under sub. (2) (a) or (b)
13 is filed with the city or village clerk.

14 3. The territory that is proposed to be annexed is agricultural land that has
15 been assessed under the use-value assessment of agricultural land method for at
16 least 5 years before the petition under sub. (2) (a) or (b) is filed with the city or village
17 clerk.

18 **SECTION 14.** 66.021 (15) of the statutes is amended to read:

19 66.021 **(15)** ANNEXATION OF TOWN ISLANDS. Upon its own motion, a city or village
20 by a two-thirds vote of the entire membership of its governing body may enact an
21 ordinance annexing territory which comprises a portion of a town or towns and which
22 was completely surrounded by territory of the city or village on December 2, 1973.
23 The ordinance shall include all surrounded town areas except those exempt by
24 mutual agreement of all of the governing bodies involved. The annexation ordinance
25 shall contain a legal description of the territory and the name of the town or towns

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1 from which the territory is detached. Upon enactment of the ordinance, the city or
2 village clerk immediately shall file 6 certified copies of the ordinance in the office of
3 the secretary of state, together with 6 copies of a scale map. The secretary of state
4 shall forward 2 copies of the ordinance and scale map to the department of
5 transportation, one copy to the department of natural resources, one copy to the
6 department of revenue and one copy to the department of administration. This
7 subsection does not apply if the town island was created only by the annexation of
8 a railroad right-of-way or drainage ditch. This subsection does not apply to land
9 owned by a town government which has existing town government buildings located
10 thereon. No town island may be annexed under this subsection if the island consists
11 of over 65 acres or contains over 100 residents. After December 2, 1973, no city or
12 village may, by annexation, create a town area which is completely surrounded by
13 the city or village. On or after the effective date of this subsection ... [revisor inserts
14 date], no city or village may, by annexation, create a town area where no part of the
15 land remaining after annexation is contiguous with the town from which the
16 annexation occurred.

17 **SECTION 15.** 66.024 (7) of the statutes is amended to read:

18 66.024 (7) LAW APPLICABLE, LIMITS AND CONDITIONS ON ANNEXATION. Section
19 66.021 (2e) and (10) shall apply to annexations under this section except that, for the
20 purposes of this section, the petitions described under s. 66.021 (2e) (b) shall mean
21 the petition submitted to the circuit court under sub. (1) (b).

22 **SECTION 16.** 66.025 of the statutes is renumbered 66.025 (1) and amended to
23 read:

24 66.025 (1) In addition to other methods provided by law and subject to sub. (2)
25 and ss. 59.692 (7) and 66.023 (7), territory owned by and lying near but not

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1 necessarily contiguous to a village or city may be annexed to a village or city by
2 ordinance enacted by the board of trustees of the village or the common council of the
3 city, provided that in the case of noncontiguous territory the use of the territory by
4 the city or village is not contrary to any town or county zoning regulation. The
5 ordinance shall contain the exact description of the territory annexed and the names
6 of the towns from which detached, and shall operate to attach the territory to the
7 village or city upon the filing of 6 certified copies thereof in the office of the secretary
8 of state, together with 6 copies of a plat showing the boundaries of the territory
9 attached. Two copies of the ordinance and plat shall be forwarded by the secretary
10 of state to the department of transportation, one copy to the department of natural
11 resources, one copy to the department of revenue and one copy to the department of
12 public instruction.

13 **SECTION 17.** 66.025 (2) of the statutes is created to read:

14 66.025 (2) No city or village may annex owned territory under sub. (1) that lies
15 near but is not contiguous to the city or village unless the proposed annexation is
16 approved by the town board of the town in which the owned territory is located.

17 **SECTION 18.** 66.065 (1) of the statutes is amended to read:

18 66.065 (1) Any town, subject to s. 60.625 (2), any village, subject to s. 61.34 (3)
19 (b), or any city, subject to s. 62.22 (1) (b), may construct, acquire or lease any plant
20 and equipment located within or without the municipality, and including interest in
21 or lease of land, for furnishing water, light, heat, or power, to the municipality, or to
22 its inhabitants; may acquire a controlling portion of the stock of any corporation
23 owning private waterworks or lighting plant and equipment; and may purchase the
24 equity of redemption in a mortgaged or bonded waterworks or lighting system,
25 including the cases where the municipality shall in the franchise have reserved right

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1 to purchase. The character or duration of the franchise, permit or grant under which
2 any public utility is operated, shall not affect the power to acquire the same
3 hereunder. Two or more public utilities owned by the same person or corporation,
4 or 2 or more public utilities subject to the same lien or charge, may be acquired as
5 a single enterprise under any proceeding heretofore begun or hereafter commenced,
6 and the board or council may at any time agree with the owner or owners of any public
7 utility or utilities as to the agreed value thereof, and to contract to purchase or
8 acquire the same hereunder at such value, upon such terms and conditions as may
9 be mutually agreed upon between said board or council and said owner or owners.

10 **SECTION 19.** 66.076 (1) (a) of the statutes is amended to read:

11 66.076 (1) (a) In addition to all other methods provided by law and subject to
12 s. 60.625 (2), 61.34 (3) (b) or 62.22 (1) (b), any municipality may construct, acquire
13 or lease, extend or improve any plant and equipment within or without its corporate
14 limits for the collection, transportation, storage, treatment and disposal of sewage
15 or storm water and surface water, including the lateral, main and interceptor sewers
16 necessary in connection therewith, and any town, village or city may arrange for the
17 service to be furnished by a metropolitan sewerage district or joint sewerage system.
18 Except as provided in s. 66.60 (6m), payment for a sewerage project or service
19 described in this paragraph, or any part of the ~~such~~ project or service, may be
20 provided from the general fund, from taxation, special assessments, sewerage
21 service charges, or from the proceeds of either municipal obligations, revenue bonds
22 or from any combination of these enumerated methods of financing.

23 **SECTION 20.** 66.077 (1) of the statutes is amended to read:

24 66.077 (1) Any town, subject to s. 60.625 (2), any village, subject to s. 61.34 (3)
25 (b), or city of the fourth class, subject to s. 62.22 (1) (b), may construct, acquire, or

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1 lease, or extend and improve, a plant and equipment within or without its corporate
2 limits for the furnishing of water to the municipality or to its inhabitants, and for the
3 collection, treatment, and disposal of sewage, including the lateral, main and
4 intercepting sewers, and all equipment necessary in connection therewith. Such
5 plant and equipment, whether the structures and equipment for the furnishing of
6 water and for the disposal of sewage shall be combined or separate, may by ordinance
7 be constituted a single public utility.

8 **SECTION 21.** 114.11 (1) of the statutes is amended to read:

9 114.11 (1) The governing body of any county, city, village or town in this state
10 is hereby authorized to acquire, establish, construct, own, control, lease, equip,
11 improve, maintain and operate airports or landing fields or landing and take-off
12 strips for the use of airplanes and other aircraft either within or without the limits
13 of such counties, cities, villages and towns, subject to s. 60.25 (2), 61.34 (3) (b) or 62.22
14 (1) (b), and may use for such purpose or purposes any property suitable therefor that
15 is now or may at any time hereafter be owned or controlled by such county, city,
16 village or town, and may regulate the same, provided, such regulation shall not be
17 in conflict with such rules and regulations as may be made by the federal
18 government. The governing body of each and every county and municipality owning
19 an airport or landing field or landing and take-off strip in the state of Wisconsin shall
20 cause the surroundings of such airport, landing field or landing and take-off strip
21 to be marked for aeronautical purposes, and maintain such marking, subject to and
22 in accordance with law and such rules and regulations as may from time to time be
23 made by the federal government and in so doing may cooperate with other states and
24 subdivisions thereof and acquire rights and easements in property outside of the
25 state.

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1 **SECTION 22.** 114.12 of the statutes is amended to read:

2 **114.12 Condemnation of lands for airports.** Any lands acquired, owned,
3 controlled or occupied by such counties, cities, villages and towns for the purposes
4 enumerated in s. 114.11 shall and are hereby declared to be acquired, owned,
5 controlled and occupied for a public purpose, and as a matter of public necessity, and
6 such cities, villages, towns or counties shall have the right, subject to s. 60.625 (2),
7 61.34 (3) (b) or 62.22 (1) (b), to acquire property for such purpose or purposes under
8 the power of eminent domain as and for a public necessity including property owned
9 by other municipal corporations and political subdivisions and including any street,
10 highway, park, parkway or alley, provided that no state trunk highway shall be so
11 acquired without the prior consent of the department. Whenever the county, city,
12 village or town as the case may be shall own all land or access rights on both sides
13 of such street, highway, park, parkway or alley, it may, within the limits where it has
14 ownership or access rights on both sides, notwithstanding any other provisions of
15 law, vacate and close such public way by resolution of the governing body of the
16 county, city, village or town acquiring it and no damages shall be assessed against
17 such county, city, village or town by reason of such closing, except as may be allowed
18 in a particular condemnation action where the lands or rights in lands necessary for
19 such airport are so acquired. If such closing shall leave any part of such street,
20 highway, parkway or alley without access to another public street or highway, the
21 county, town, city or village effecting such closing shall immediately provide such
22 access at its expense.

23 **SECTION 23.** 196.58 (7) of the statutes is amended to read:

24 196.58 (7) (a) If a municipality operating a water system seeks to serve
25 consumers of an area which is part of the municipality and in the same county, but

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1 in order to serve such consumers it is necessary or economically prudent for the
2 municipality to install mains, transmission lines, pipes or service connections
3 through, upon or under a public street, highway, road, public thoroughfare or alley
4 located within the boundaries of any adjacent municipality, the municipality seeking
5 the installation may file a petition with the clerk of the legislative body of the
6 adjacent municipality requesting approval for the installation of the mains,
7 transmission lines, pipes or service connections. The governing body of the adjacent
8 municipality shall act on the petition within 15 days after the petition is filed. If the
9 governing body of the adjacent municipality fails to act within the 15-day period, the
10 petition shall be deemed approved and the municipality may proceed with the
11 installations required for service to its consumers. ~~If, however, Before~~ the governing
12 body of the adjacent municipality rejects may reject the petition, ~~the that~~
13 ~~municipality may make application to the commission for authority to install within~~
14 ~~the boundaries of the adjacent municipality the installations necessary to provide~~
15 ~~service to its consumers. The commission shall hold a hearing upon the application~~
16 ~~of the municipality. If the commission determines that it is necessary or economically~~
17 ~~prudent that the municipality seeking to serve its consumers make the installations~~
18 ~~within the boundaries of the adjacent municipality, the commission shall promptly~~
19 ~~issue an order authorizing the municipality to proceed to make the installation. In~~
20 ~~the order, the commission may establish the manner of making the installation~~ shall
21 comply with the procedures described in s. 60.625 (2), 61.34 (3) (b) and 62.22 (1) (b).

22 (b) A municipality making an installation under this section shall restore the
23 land on or in which such installation has been made to the same condition as it
24 existed prior to the installation. Failure to make the restoration shall subject the
25 municipality to an action for damages by the adjacent municipality. The adjacent

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1 municipality may require a performance bond from the municipality seeking to
2 make the installation. If no agreement can be effected between the municipalities
3 as to the amount of the performance bond, the commission shall determine the
4 amount of the bond. ~~If the commission issues an order authorizing an installation~~
5 ~~under this subsection, the commission shall determine the amount of the~~
6 ~~performance bond which shall be required of the applicant municipality.~~

7 **SECTION 24. Initial applicability.**

8 (1) This act first applies to a proposed acquisition of property or request for a
9 sewer or water line extension that is made on the effective date of this subsection.

10 (END)