



1995 ASSEMBLY BILL 777

January 9, 1996 - Introduced by Representatives LADWIG, OWENS, NASS, PORTER, OLSEN, GOETSCH, GROTHMAN, SERATTI, WARD, HASENOHRL, OTT, SPRINGER, ALBERS and BRANDEMUEHL, cosponsored by Senators SCHULTZ, A. LASEE and DECKER. Referred to Committee on Government Operations.

1 **AN ACT to amend** 60.61 (2) (intro.), 60.61 (3) (intro.), 62.23 (7a) (a), 66.021 (2) (in-
2 tro.), 66.024 (intro.), 66.32 and 236.02 (5); and **to create** 60.10 (1) (g) and 60.225
3 of the statutes; **relating to:** the powers of certain towns.

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 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, under certain circumstances, allows the town board to exercise certain zoning powers and exempts the town from being subject to certain city and village annexation and extraterritorial powers, 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, on average, 200 persons per square mile.
2. The equalized value of the town must exceed \$159,000,000.
3. The town must provide law enforcement services.
4. At least 20% of the town residents must receive water supply and sewage disposal services 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.

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 Certain towns. (1) PROCEDURE.** If a town board is authorized to exer-
6 cise 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 subject to this section if, on the date of
8 adoption of the resolution, all of the following conditions are satisfied:

9 (a) The population of the town is at least, on average, 200 persons per square
10 mile.

11 (b) The equalized value of the town exceeds, according to the most recent as-
12 sessment, \$159,000,000.

13 (c) The town provides law enforcement services under s. 60.56.

14 (d) The town exercises its zoning authority under subch. VIII and has ap-
15 pointed a zoning committee under s. 60.61 (4), or is subject to a county zoning ordi-
16 nance adopted under s. 59.97.

17 (e) At least 20% of the town residents receive water supply and sewage disposal
18 services from one of the following:

19 1. A town sanitary district created by the town under subch. IX.

20 2. A town utility district created under s. 66.072.

1 3. A metropolitan sewerage district created under ss. 66.20 to 66.26 or under
2 ss. 66.88 to 66.918.

3 4. A public utility as defined under s. 196.01 (5).

4 5. A town sanitary district created by another town under subch. IX.

5 6. A city or village.

6 **(2) RATIFICATION.** (a) If a town board adopts a resolution under sub. (1), the
7 town board shall call a special town meeting under s. 60.12 (1) (c) to vote on ratifica-
8 tion of the resolution, unless the annual town meeting will be held not less than 20
9 days nor more than 30 days after the resolution under sub. (1) is adopted. If the town
10 board calls a special town meeting, it shall be held not less than 20 days nor more
11 than 30 days after the resolution under sub. (1) is adopted.

12 (b) A resolution adopted by a town board under sub. (1) may not take effect until
13 the resolution is approved by a town meeting under s. 60.10 (1) (g).

14 **(3) POWERS.** (a) 1. Except for a shoreland zoning ordinance and subject to s.
15 60.627, no town may be subject to any county zoning ordinance that is enacted by a
16 county board after a town board adopts a resolution under sub. (1) unless the town
17 board approves the ordinance or until the resolution adopted by the town board un-
18 der sub. (1) is defeated in a ratification vote by the town meeting under sub. (2).

19 2. If a town board adopts a resolution under sub. (1) and the resolution is rati-
20 fied under sub. (2), a town board may adopt a resolution revoking its approval of any
21 county zoning ordinance, other than a shoreland zoning ordinance, if the town board
22 notifies the county board in writing at least 60 days before the resolution revoking
23 approval of a county zoning ordinance takes effect. On the effective date of the reso-
24 lution revoking town approval of a county zoning ordinance, the town board may act
25 under s. 60.61 (2).

1 (b) No town territory may be annexed by a city or village under s. 66.021 or
2 66.024 during the period beginning after a town board adopts a resolution under sub.
3 (1) and before a ratification vote under sub. (2) or at any time after the town meeting
4 approves such a resolution under sub. (2).

5 (c) No town may be subject to the extraterritorial zoning jurisdiction or extra-
6 territorial plat approval jurisdiction of a city or village during the period beginning
7 after a town board adopts a resolution under sub. (1) and before a ratification vote
8 under sub. (2) or at any time after the town meeting approves such a resolution under
9 sub. (2).

10 **SECTION 3.** 60.61 (2) (intro.) of the statutes is amended to read:

11 60.61 (2) EXTENT OF AUTHORITY. (intro.) Subject If a town board revokes its ap-
12 proval of a county zoning ordinance under s. 60.225 (3) (a) 2. or, subject to subs. (3)
13 and (3m), if a town is located in a county which has not adopted a county zoning ordi-
14 nance under s. 59.97, the town board, by ordinance, may:

15 **SECTION 4.** 60.61 (3) (intro.) of the statutes is amended to read:

16 60.61 (3) EXERCISE OF AUTHORITY. (intro.) Before exercising authority under
17 sub. (2), the town board of a town that is located in a county which has not adopted
18 a county zoning ordinance under s. 59.97 shall petition the county board to initiate,
19 at any regular or special meeting, action to adopt a county zoning ordinance under
20 s. 59.97. The town board may proceed under sub. (2) if:

21 **SECTION 5.** 62.23 (7a) (a) of the statutes is amended to read:

22 62.23 (7a) (a) Extraterritorial zoning jurisdiction means the unincorporated
23 area, except as provided in s. 60.225 (3) (c), within 3 miles of the corporate limits of
24 a first, second or third class city, or 1 1/2 miles of a fourth class city or a village. Wher-
25 ever extraterritorial zoning jurisdictions overlap, the provisions of s. 66.32 shall

1 apply and any subsequent alteration of the corporate limits of the city by annexation,
2 detachment or consolidation proceedings shall not affect the dividing line as initially
3 determined under s. 66.32. The governing body of the city shall specify by resolution
4 the description of the area to be zoned within its extraterritorial zoning jurisdiction
5 sufficiently accurate to determine its location and such area shall be contiguous to
6 the city. The boundary line of such area shall follow government lot or survey section
7 or fractional section lines or public roads, but need not extend to the limits of the ex-
8 traterritorial zoning jurisdiction. Within 15 days of the adoption of the resolution the
9 governing body shall declare its intention to prepare a comprehensive zoning ordi-
10 nance for all or part of its extraterritorial zoning jurisdiction by the publication of the
11 resolution in a newspaper having general circulation in the area proposed to be
12 zoned, as a class 1 notice, under ch. 985. The city clerk shall mail a certified copy of
13 the resolution and a scale map reasonably showing the boundaries of the extraterri-
14 torial jurisdiction to the clerk of the county in which the extraterritorial jurisdiction
15 area is located and to the town clerk of each town, any part of which is included in
16 such area.

17 **SECTION 6.** 66.021 (2) (intro.) of the statutes is amended to read:

18 66.021 (2) METHODS OF ANNEXATION. (intro.) Subject to s. 66.023 (7) and except
19 as provided in s. 60.225 (3) (b), territory contiguous to any city or village may be an-
20 nexed thereto in the following ways:

21 **SECTION 7.** 66.024 (intro.) of the statutes is amended to read:

22 **66.024 Annexation by referendum; court order.** (intro.) As a complete al-
23 ternative to any other annexation procedure, and subject to s. 66.023 (7) and except
24 as provided in s. 60.225 (3) (b), unincorporated territory which contains electors and

1 is contiguous to a city or village may be annexed thereto in the manner hereafter pro-
2 vided. The definitions in s. 66.021 (1) shall apply to this section.

3 **SECTION 8.** 66.32 of the statutes is amended to read:

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

13 **SECTION 9.** 236.02 (5) of the statutes is amended to read:

14 236.02 (5) "Extraterritorial plat approval jurisdiction" means the unincorpo-
15 rated area, except as provided in s. 60.225 (3) (c), within 3 miles of the corporate lim-
16 its of a first, second or third class city, or 1 1/2 miles of a fourth class city or a village.

17 (END)