

# State of Wisconsin



2005 Assembly Bill 79

Date of enactment: **August 17, 2005**  
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## 2005 WISCONSIN ACT 40

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

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

**SECTION 1.** 59.03 (2) (c) of the statutes is amended to read:

59.03 (2) (c) Whenever the request under par. (a) or acceptance under par. (b) of a municipality ~~shall be~~ is by resolution of its governing board, ~~such~~ the request or acceptance shall not go into effect until the expiration of 60 days from the adoption of the resolution or, in the case of county law enforcement services provided to a city as described in s. 62.13 (2s), as provided in s. 62.13 (2s) (d). If a petition under s. 9.20 for direct legislation on the request or acceptance ~~shall be~~ is filed before the expiration of said 60 days, the resolution of the governing board ~~shall be~~ is of no effect but the request or acceptance of such municipality shall be determined by direct legislation, except that no petition for direct legislation under s. 9.20 may be filed to approve or reject a contract entered into by a city and a county under s. 62.13 (2s).

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

59.26 (1) (intro.) Within 10 days after entering upon the duties of the office of sheriff, the sheriff shall appoint some proper person, who is a resident of the county, undersheriff. However, in counties with a population of 500,000 or more the appointment of an undersheriff is

optional. In counties where the sheriff's department is under civil service, the sheriff, in conformity with county ordinance, may, at the request of the affected deputy, grant a leave of absence to a deputy sheriff who the sheriff has appointed undersheriff, or to any other position in the sheriff's department, upon the deputy's acceptance of the appointment. Any deputy in a county under civil service granted leave of absence under this subsection upon completion of the appointive position shall immediately be returned to the position of deputy sheriff and shall continue therein without loss of any rights under the civil service law. The sheriff, however, may not grant such leave of absence to a deputy sheriff until the sheriff first secures the consent of the board by resolution duly adopted by the board. Within 10 days after entering upon the duties of the office of sheriff, the sheriff shall also appoint, subject to sub. (10), deputy sheriffs for the county as follows:

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

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

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

59.26 (3) ~~The~~ Subject to sub. (10), the sheriff may fill vacancies in the office of any such appointee, and he or she may appoint a person to take the place of any under-

\* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

sheriff or deputy who becomes incapable of executing the duties of that office.

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

59.26 (8) (a) In any county with a population of less than 500,000, the board, by ordinance, may fix the number of deputy sheriffs to be appointed in that county at not less than that number required by sub. (1) (a) and (b) and may set the salary of those deputies. ~~The Subject to sub. (10),~~ the board may provide by ordinance that deputy sheriff positions be filled by appointment by the sheriff from a list of all persons with the 3 highest scores for each position based on a competitive examination. Such competitive examinations may be by a county civil service commission or by the division of merit recruitment and selection in the office of state employment relations at the option of the board and it shall so provide by ordinance. The division of merit recruitment and selection in the office of state employment relations shall, upon request of the board, conduct such examination according to the methods used in examinations for the state civil service and shall certify an eligible list of the names of all persons with the 3 highest scores on that examination for each position to the sheriff of that county who shall, subject to sub. (10), make an appointment from that list to fill the position within 10 days after he or she receives the eligible list. The county for which such examination is conducted shall pay the cost of that examination. If a civil service commission is decided upon for the selection of deputy sheriffs, then ss. 63.01 to 63.17 shall apply so far as consistent with this subsection, except ss. 63.03, 63.04 and 63.15 and except the provision governing minimum compensation of the commissioners. The ordinance or an amending ordinance may provide for employee grievance procedures and disciplinary actions, for hours of work, for tours of duty according to seniority and for other administrative regulations. Any board provision consistent with this paragraph and existing on July 25, 1951, is validated. If the sheriff fills a deputy sheriff position by promotion, the sheriff shall, subject to sub. (10), make the appointment to the position from a list of 3 deputy sheriffs who receive the highest scores in a competitive examination. Such competitive examinations may be by a county civil service commission or by the division of merit recruitment and selection in the office of state employment relations at the option of the board and it shall so provide by ordinance.

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

59.26 (10) (a) Notwithstanding the provisions in subs. (1) (intro.), (2), (3), and (8) (a), and subject to par. (b), if a county provides law enforcement services to a city or village under ss. 59.03 (2) (e) and 62.13 (2s) and if the sheriff appoints additional deputies under sub. (2) to provide the services, the sheriff shall, to the greatest extent possible, fill the additional deputy positions from

the ranks of former police officers who lost their positions when their department was abolished under s. 62.13 (2s) (a). With regard to each contract that is entered into under s. 59.03 (2) (e), this provision does not apply on or after the first day of the 25th month beginning after the contract takes effect in the county.

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

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

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

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

61.65 (1) (a) (intro.) Except as provided under s. 61.66, each village with a population of 5,000 or more shall, and each village with a population of under 5,000 may, provide police protection services by one of the following methods:

**SECTION 9.** 61.65 (1) (a) 4. of the statutes is created to read:

61.65 (1) (a) 4. Abolishing its police department and entering into a contract with a county under s. 59.03 (2) (e) for the county sheriff to provide law enforcement services in all parts of the village. If the village is located in more than one county, it may not abolish its police department under this subdivision unless the village enters into a contract under this subdivision with the county in which the greatest amount of the village's equalized value, population, or territory is located. If a village wishes to abolish its police department under this subdivision, it shall act under s. 62.13 (2s), and s. 62.13 (2s), as it applies to cities, applies to villages.

**SECTION 10.** 62.09 (1) (a) of the statutes is amended to read:

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

**SECTION 11.** 62.13 (1) of the statutes is amended to read:

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

**SECTION 12.** 62.13 (2s) of the statutes is created to read:

62.13 (2s) ABOLITION OF POLICE DEPARTMENT, COUNTY LAW ENFORCEMENT. (a) Subject to pars. (b) to (d), a city may abolish its police department if it enters into a contract with a county under s. 59.03 (2) (e) for the county sheriff to provide law enforcement services in all parts of the city. If the city is located in more than one county, it may not abolish its police department under this paragraph unless the city enters into a contract under this paragraph with the county in which the greatest amount of the city's equalized value, population or territory is located. If a city that is located in more than one county enters into a contract with a county under this paragraph, the jurisdiction of the contracting county's sheriff and deputies includes the entire territory of the city.

(b) If a city wishes to contract with a sheriff for law enforcement services, the common council shall adopt a resolution, as described under s. 59.03 (2) (a), requesting

that such services be provided. The resolution shall provide that such services are to be provided exclusively by the county.

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

1. The division, with the county, of the city's assets and liabilities that relate to the city's police department and the amount that the county will pay, if any, for such assets.

2. A description of the level of law enforcement and the number of deputies that the county will provide to the city and the amount that the city will pay for the services in excess of the city's portion of the county's law enforcement levy.

3. A procedure for the city to request, or require, that the county provide additional law enforcement services and the cost the county may charge the city for providing additional services.

4. The term of the agreement and procedures for the renewal, extension, or termination of the agreement.

(d) No contract that is entered into under this subsection may take effect until all of the following occur:

1. The county board approves under s. 59.03 (2) (a) the resolution adopted under par. (b).

2. The governing bodies of the city and the county approve the contract.

3. The expiration of any collective bargaining agreement between the city and its police department employees.

4. The city and county discuss the provision of emergency "911" telephone service within the area to which the contract applies.