



1995 ASSEMBLY BILL 893

February 19, 1996 - Introduced by Representatives SKINDRUD, HAHN, JOHNSRUD, MUSSER, AINSWORTH, OWENS, GRONEMUS, SERATTI, LORGE, SILBAUGH, GUNDERSON, ALBERS, GROTHMAN, KAUFERT, ZUKOWSKI and POWERS, cosponsored by Senators SCHULTZ and A. LASEE. Referred to Committee on State Affairs.

1 **AN ACT to amend** 20.370 (3) (ma), 30.12 (4) (a), 30.202 (3), 30.204 (5), 30.44 (8)
2 (a), 30.44 (8) (c) (intro.), 30.44 (9) (a), 30.44 (9) (c) (intro.), 41.41 (8), 59.97 (5) (c),
3 59.971 (1) (c), 59.971 (1m), 59.971 (1r) (intro.), 59.971 (2) (a), 60.62 (1), 60.62 (2),
4 62.23 (7a) (intro.), 66.012 (7) (b), 66.014 (10), 66.019 (2) (b), 66.021 (7) (a), 66.023
5 (3) (e), 66.024 (5m), 66.025, 66.032 (1) (g), 66.052 (1), 66.32, 70.32 (1g), 70.32 (2)
6 (c) 4., 87.30 (1) (a), 87.30 (1) (b), 87.30 (1) (c), 87.30 (1m) (intro.), 87.30 (2), 87.31
7 (1), 87.31 (4) (intro.), 91.73 (3), 144.26 (2) (c) and (e) and (2m) (intro.), 144.26 (8),
8 144.44 (7) (f) 3., 144.46 and 236.10 (1) (intro.); **to repeal and recreate** 60.62
9 (3); and **to create** 59.97 (5m), 60.10 (1) (g), 60.61 (7), 60.625, 87.30 (1) (bm) and
10 236.10 (6) of the statutes; **relating to:** town withdrawal from county zoning,
11 town zoning powers, zoning of shorelands and flood plains by towns, granting
12 rule-making authority and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, a county board may enact a county zoning ordinance that is effective in a town if the town board approves the ordinance. There is currently no statutory authority that enables a town to withdraw from the application of the county zoning ordinance once a town board approves a county ordinance, nor is there current statutory authority for a county to enable a town to withdraw from the application of the county zoning ordinance.

If a town is located in a county that has not enacted a comprehensive zoning ordinance, the town may, under current law, enact a zoning ordinance if the town

petitions the county board in which the town is located to enact a comprehensive zoning ordinance and if the county board fails to enact such an ordinance within one year. Also under current law, a town board that is authorized by a town meeting to exercise village powers may enact a zoning ordinance if the town's ordinances are approved by the county board. Such a town must also obtain county board approval before the town may amend an existing ordinance.

Under this bill and without county board approval, if a town meeting authorizes the town board to do so, a town board may enact an ordinance rescinding the town board's approval of a county zoning ordinance. Also under this bill, the only way in which a town may enact a new zoning ordinance is for the town meeting to authorize the town board to exercise village powers, for the town board to rescind its approval of a county zoning ordinance and for the town board to then enact a zoning ordinance that is approved by a town meeting or a referendum. Under such a zoning ordinance, a town may exercise the same zoning authority, and is subject to the same zoning responsibilities, as a city or village, except that a town may not exercise extraterritorial zoning or the powers of a board of public land commissioners.

Under this bill, a town that has in effect any zoning ordinance is not subject to extraterritorial zoning, and a town, the town board of which rescinds its approval of a county zoning ordinance, is not subject to offensive industry regulation and extraterritorial plat approval. Such a town may enact its own shoreland zoning ordinance or flood plain zoning ordinance.

A town zoning ordinance that is enacted before the effective date of this bill by a town board that is not authorized to exercise village powers remains in effect until a town board repeals the ordinance, but such an ordinance may not be amended on after the effective date of the bill.

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.** 20.370 (3) (ma) of the statutes is amended to read:
2 20.370 (3) (ma) *General program operations — state funds.* From the general
3 fund, the amounts in the schedule for regulatory and enforcement operations under
4 chs. 30, 31, 144, 147, 159 and 162 and ss. 44.47, 59.971, 59.974, 60.625, 61.351,
5 61.354, 62.231, 62.234 and 87.30, for reimbursement of the conservation fund for
6 expenses incurred for actions taken under s. 166.04; for review of environmental
7 impact requirements under ss. 1.11 and 23.40; and for enforcement of the

1 treaty-based, off-reservation rights to fish, hunt and gather held by members of
2 federally recognized American Indian tribes or bands.

3 **SECTION 2.** 30.12 (4) (a) of the statutes is amended to read:

4 30.12 (4) (a) Activities affecting waters of the state as defined in s. 144.01 that
5 are carried out under the direction and supervision of the department of
6 transportation in connection with highway and bridge design, location, construction,
7 reconstruction, maintenance and repair are not subject to the prohibitions or permit
8 or approval requirements specified under this section or s. 29.29, 30.11, 30.123,
9 30.195, 30.20, 59.971, 60.625, 61.351, 62.231, or 87.30 or ch. 144 or 147. However,
10 at the earliest practical time prior to the commencement of these activities, the
11 department of transportation shall notify the department of the location, nature and
12 extent of the proposed work that may affect the waters of the state.

13 **SECTION 3.** 30.202 (3) of the statutes is amended to read:

14 30.202 (3) EXEMPTION FROM STATUTES AND RULES. Dredge spoil disposal activities
15 authorized under sub. (2) are exempt from any prohibition, restriction, requirement,
16 permit, license, approval, authorization, fee, notice, hearing, procedure or penalty
17 specified under ss. 29.29, 30.01 to 30.20, 30.21 to 30.99, 59.971, 60.625 or 87.30 or
18 ch. 144 or 147 or specified in any rule promulgated, order issued or ordinance adopted
19 under those sections or chapters.

20 **SECTION 4.** 30.204 (5) of the statutes is amended to read:

21 30.204 (5) EXEMPTION FROM CERTAIN STATUTES AND RULES. Activities of the
22 department in conducting the lake acidification experiment are exempt from any
23 prohibition, restriction, requirement, permit, license, approval, authorization, fee,
24 notice, hearing, procedure or penalty specified under ss. 29.29 (3), 30.01 to 30.03,
25 30.06 to 30.16, 30.18 to 30.29, 30.50 to 30.99, 59.971, 60.625, 87.30, 144.01 to 144.27,

1 144.43 to 144.79, 144.96 to 144.99 or 159.81 or ch. 147 or specified in any rule
2 promulgated, order issued or ordinance adopted under any of those sections or that
3 chapter.

4 **SECTION 5.** 30.44 (8) (a) of the statutes is amended to read:

5 30.44 (8) (a) Except as provided under sub. (1) (f), a person shall apply for and
6 be issued by the board a permit for an activity in subs. (1), (2) and (5) for land in the
7 riverway that is not zoned shorelands under s. 59.971 or 60.625.

8 **SECTION 6.** 30.44 (8) (c) (intro.) of the statutes is amended to read:

9 30.44 (8) (c) (intro.) The board may grant a waiver of a performance standard
10 for an activity in sub. (1) (b) and issue a permit under par. (a) or may grant a waiver
11 authorizing an activity prohibited under s. 30.45 (3) or (3m) for land in the riverway
12 that is not zoned shorelands under s. 59.971 or 60.625 if one of the following applies:

13 **SECTION 7.** 30.44 (9) (a) of the statutes is amended to read:

14 30.44 (9) (a) A person shall apply for and be issued by the county in which the
15 land is located a permit for an activity in subs. (1), (2) and (5) for land in the riverway
16 that is in the county and that is zoned shorelands under s. 59.971 or 60.625.

17 **SECTION 8.** 30.44 (9) (c) (intro.) of the statutes is amended to read:

18 30.44 (9) (c) (intro.) The county may grant a waiver of a performance standard
19 for an activity in sub. (1) (b) and issue a permit for the activity under par. (a) or may
20 grant a waiver authorizing an activity prohibited under s. 30.45 (3) or (3m) for land
21 in the riverway that is in the county and that is zoned shorelands under s. 59.971 or
22 60.625 if one of the following applies:

23 **SECTION 9.** 41.41 (8) of the statutes, as affected by 1995 Wisconsin Act 27, is
24 amended to read:

1 41.41 **(8)** ZONING. Notwithstanding ss. 13.48 (13) (a), 59.97 (4), 60.61 (2), 60.62
2 (1), 61.35 and 62.23 (7), the Kickapoo valley reserve is not subject to the zoning
3 ordinance of any county or municipality, except that any ordinance enacted under s.
4 59.971, 60.625, 61.351, 62.231 or 87.30 governing the zoning of floodplains,
5 shorelands or wetlands in shorelands and any ordinance that is required by law
6 under s. 59.974, 61.354 or ~~62.324~~ 62.234 governing construction site erosion control
7 or storm water management applies in the reserve.

8 **SECTION 10.** 59.97 (5) (c) of the statutes is amended to read:

9 59.97 **(5)** (c) A county ordinance enacted as provided by this section shall not
10 be effective in any town until it has been approved by the town board. If the town
11 board approves an ordinance enacted by the county board, as provided by this
12 section, a certified copy of the approving resolution attached to one of the copies of
13 such ordinance submitted to the town board shall promptly be filed with the county
14 clerk by the town clerk. Such ordinance shall become effective in such town as of the
15 date of such filing, which filing shall be recorded by the county clerk in the clerk's
16 office, reported to the town board and the county board, and printed in the
17 proceedings of the county board. Such ordinance shall supersede any prior town
18 ordinance in conflict therewith or which is concerned with zoning, except as provided
19 by in sub. (5m) or s. 60.62.

20 **SECTION 11.** 59.97 (5m) of the statutes is created to read:

21 59.97 **(5m)** TOWN WITHDRAWAL FROM COUNTY ZONING. (a) A town board may,
22 without county board approval, enact an ordinance rescinding the town board's
23 approval of a county zoning ordinance under sub. (5) (c) if the town meeting
24 authorizes the rescission under s. 60.10 (1) (g). A rescission of approval under this
25 paragraph takes effect on the effective date of a town zoning ordinance that is

1 enacted under this paragraph and s. 60.61 (2) or 61.35. A town zoning ordinance that
2 is enacted under this paragraph and s. 60.61 (2) or 61.35 shall contain a provision
3 that continues the effect of a county exclusive agricultural use zoning ordinance that
4 was enacted under ss. 59.97 to 59.99, and that provision may be amended under s.
5 91.77.

6 (b) A town, the town board of which enacts a rescission ordinance under par.
7 (a), is not subject to extraterritorial zoning under s. 62.23 (7a) or 66.32, offensive
8 industry regulation under s. 66.052 (1) and extraterritorial plat approval under s.
9 236.10.

10 (c) A town, the town board of which enacts a rescission ordinance under par.
11 (a), is not subject to a county shoreland zoning ordinance enacted under s. 59.971 if
12 the town board enacts a shoreland zoning ordinance under s. 60.625.

13 **SECTION 12.** 59.971 (1) (c) of the statutes is amended to read:

14 59.971 (1) (c) "Shoreland zoning standard" means a standard for ordinances
15 enacted under this section that are is promulgated as rules a rule by the department.

16 **SECTION 13.** 59.971 (1m) of the statutes is amended to read:

17 59.971 (1m) To effect the purposes of s. 144.26 and to promote the public health,
18 safety and general welfare, each county shall zone by ordinance all shorelands in its
19 unincorporated area, subject to s. 60.625 (2) (b). This ordinance may be enacted
20 separately from ordinances enacted under s. 59.97.

21 **SECTION 14.** 59.971 (1r) (intro.) of the statutes is amended to read:

22 59.971 (1r) (intro.) An ordinance enacted under this section or s. 60.625 may
23 not prohibit the maintenance of stairs, platforms or decks that were constructed
24 before August 15, 1991, and that are located in any of the following shorelands:

25 **SECTION 15.** 59.971 (2) (a) of the statutes is amended to read:

1 59.971 (2) (a) Except as otherwise specified, all provisions of s. 59.97 apply to
2 ordinances and their amendments enacted under this section whether or not enacted
3 separately from ordinances enacted under s. 59.97, ~~but. Except as provided in ss.~~
4 ~~59.97 (5m) and 60.625 (2) (b) and as otherwise specified,~~ the ordinances and
5 amendments shall not require approval or be subject to disapproval by any town or
6 town board.

7 **SECTION 16.** 60.10 (1) (g) of the statutes is created to read:

8 60.10 (1) (g) *Withdrawal from county zoning.* Authorize the town board to
9 rescind approval of a county zoning ordinance under s. 59.97 (5m) (a).

10 **SECTION 17.** 60.61 (7) of the statutes is created to read:

11 60.61 (7) SUNSET; GRANDFATHER CLAUSE. (a) No ordinance may be enacted or
12 amended, nor may a resolution be adopted or amended, under this section on or after
13 the effective date of this paragraph [revisor inserts date].

14 (b) An ordinance enacted or amended, or a resolution adopted or amended,
15 under this section before the effective date of this paragraph [revisor inserts date],
16 shall remain in effect until repealed by the town board.

17 **SECTION 18.** 60.62 (1) of the statutes is amended to read:

18 60.62 (1) Subject to subs. (2) and (3), if a town board has been granted authority
19 to exercise village powers under s. 60.10 (2) (c), the board may adopt zoning
20 ordinances under s. 61.35, ~~except that a board may not act under s. 62.23 (7a) or (9a).~~

21 **SECTION 19.** 60.62 (2) of the statutes is amended to read:

22 60.62 (2) ~~If the county in which the town is located has adopted a zoning~~
23 ~~ordinance under s. 59.97, the~~ The exercise of the authority under sub. (1) is subject
24 to approval by the town meeting or by a referendum vote of the electors of the town
25 held at the time of any regular or special election.

1 **SECTION 20.** 60.62 (3) of the statutes is repealed and recreated to read:

2 **60.62 (3)** The exercise of the authority under sub. (1) is subject to a town board’s
3 rescission of its approval of a county zoning ordinance under s. 59.97 (5m) (a). An
4 ordinance enacted under sub. (1) takes effect upon the enactment by the town board
5 of a rescission ordinance under s. 59.97 (5m) (a).

6 **SECTION 21.** 60.625 of the statutes is created to read:

7 **60.625 Zoning of shorelands. (1) DEFINITIONS.** In this section:

8 (a) “Department” means the department of natural resources.

9 (b) “Shorelands” has the meaning given in s. 59.971 (1) (b).

10 (c) “Shoreland zoning standard” has the meaning given in s. 59.971 (1) (c).

11 **(2) ENACTMENT AND EFFECT OF ORDINANCE.** (a) To effect the purposes of s. 144.26
12 and to promote the public health, safety and general welfare, if a town may enact
13 zoning ordinances under s. 60.62, the town may zone by ordinance all shorelands
14 that are within the town’s boundaries. An ordinance enacted under this section shall
15 be at least as restrictive as the county shoreland zoning ordinance to which the town
16 was subject.

17 (b) A county ordinance enacted under s. 59.971 does not apply and has no effect
18 in a town in which an ordinance enacted under this section is in effect.

19 (c) If an existing town ordinance relating to shorelands is more restrictive than
20 an ordinance later enacted under this section affecting the same shorelands, it
21 continues as a town ordinance in all respects to the extent of the greater restrictions,
22 but not otherwise.

23 **(3) APPLICABILITY OF COMPREHENSIVE ZONING PLAN OR GENERAL ZONING ORDINANCE.**

24 An ordinance enacted under this section shall accord and be consistent with any

1 comprehensive zoning plan or general zoning ordinance applicable to the enacting
2 town, so far as practicable.

3 (4) APPLICABILITY OF LOCAL SUBDIVISION REGULATION. All powers granted to a
4 town under s. 236.45 may be exercised by it with respect to shorelands, if the town
5 has or provides a planning commission or agency.

6 (5) INTERGOVERNMENTAL COOPERATION. (a) Section 66.30 applies to this section,
7 but for the purposes of this section any agreement under s. 66.30 shall be effected by
8 ordinance.

9 (b) If a town is served by a regional planning commission under s. 66.945 and
10 if the commission consents, the town may empower the commission by ordinance to
11 administer the ordinance enacted under this section throughout the town, whether
12 or not the area otherwise served by the commission includes all of that town.

13 (6) VARIANCES AND APPEALS. Variances and appeals regarding a shoreland
14 zoning ordinance enacted under this section are to be determined by the board of
15 appeals or similar agency for the town. To the extent specified under s. 61.35,
16 procedures under s. 62.23 (7) (e) apply to these determinations.

17 (7) DEPARTMENT REVIEW. If the department, after notice and hearing,
18 determines that a town has enacted an ordinance that fails to meet the shoreland
19 zoning standards, the department shall issue an order declaring the town ordinance
20 void and reinstating the applicability of the county shoreland zoning ordinance.

21 (8) ANNEXATION. (a) Provisions of a town shoreland zoning ordinance enacted
22 under this section that are applicable, prior to annexation, to any shorelands
23 annexed by a city or village shall continue in effect and shall be enforced after
24 annexation by the annexing city or village unless any of the following occurs:

1 1. The city or village enacts, administers and enforces a zoning ordinance, for
2 the annexed area, that complies with the shoreland zoning standards and that is at
3 least as restrictive as the town shoreland zoning ordinance.

4 2. After annexation, the city or village requests the town to amend the town
5 shoreland zoning ordinance as it applies to the annexed area to delete or modify
6 provisions that meet the specifications under par. (ag), the town enacts the
7 amendment and the city or village administers and enforces the amended ordinance
8 as it applies to the annexed area.

9 3. After annexation, the city or village requests that the town shoreland zoning
10 ordinance, as it applies to the annexed area, continue to be in effect and enforced by
11 the town and the town agrees to enforce the ordinance.

12 (ad) Provisions of a town shoreland zoning ordinance enacted under this
13 section that were applicable, prior to incorporation, to any shorelands that are part
14 of a town that incorporates as a city or village under s. 66.012, 66.014, 66.018 or
15 66.019 shall continue in effect and shall be enforced after incorporation by the
16 incorporated city or village unless any of the following occurs:

17 1. The city or village enacts, administers and enforces a zoning ordinance that
18 complies with the shoreland zoning standards and that is at least as restrictive as
19 the town shoreland zoning ordinance.

20 2. After incorporation, the city or village requests the town to amend the town
21 shoreland zoning ordinance as it applies to the incorporated area to delete or modify
22 provisions that meet the specifications under par. (ag), the town enacts the
23 amendment and the city or village administers and enforces the amended ordinance.

1 3. After incorporation, the city or village requests that the town shoreland
2 zoning ordinance, as it applies to the incorporated area, continue to be in effect and
3 enforced by the town and the town agrees to enforce the ordinance.

4 (ag) For purposes of pars. (a) 2. and (ad) 2., the types of provisions that may be
5 deleted or modified are those that establish specified land uses or requirements
6 associated with those uses and that are not necessary to effect the purposes of s.
7 144.26 (1) that relate to the protection of navigable waters.

8 (ar) The town may not enact an amendment under par. (a) 2. or (ad) 2. that is
9 less restrictive than the shoreland zoning standards.

10 (aw) Any amendment enacted under par. (a) 2. shall apply only to the annexed
11 area of the city or village requesting the amendment.

12 (b) If the department determines that a zoning ordinance enacted by a city or
13 village under par. (a) 1. or (ad) 1. does not meet the shoreland zoning standards or
14 is not as restrictive as the town shoreland zoning ordinance, the department shall,
15 after providing notice and conducting a hearing on the matter, either issue an order
16 declaring the city or village ordinance void and reinstating the applicability of the
17 town shoreland zoning ordinance to the annexed or incorporated area or issue an
18 order declaring the city or village ordinance void and adopting an ordinance for the
19 annexed or incorporated area for the city or village that does meet the shoreland
20 zoning standards and that is at least as restrictive as the town shoreland zoning
21 ordinance.

22 (c) If the department determines that an amendment enacted by a town under
23 par. (a) 2. or (ad) 2. does not meet the shoreland zoning standards, the department,
24 after providing notice and conducting a hearing on the matter, shall issue an order
25 declaring the amendment void and shall reinstate the applicability of the town

1 shoreland zoning ordinance, that was in effect prior to amending the ordinance, to
2 the annexed or incorporated area.

3 (d) As far as applicable, the procedures set forth in s. 87.30 apply to this
4 subsection.

5 (e) Paragraphs (a) and (ad) and ss. 66.012 (7) (b), 66.014 (10) and 66.019 (2) (b)
6 do not apply to wetlands in shorelands that are governed by the provisions in s.
7 61.351 or 62.231.

8 **SECTION 22.** 62.23 (7a) (intro.) of the statutes is amended to read:

9 62.23 **(7a)** EXTRATERRITORIAL ZONING. (intro.) The Subject to s. 59.97 (5m) (b),
10 the governing body of any city which has created a city plan commission under sub.
11 (1) and has adopted a zoning ordinance under sub. (7) may exercise extraterritorial
12 zoning power as set forth in this subsection. Insofar as applicable sub. (7) (a), (b), (c),
13 (ea), (h) and (i) shall apply to extraterritorial zoning ordinances enacted under this
14 subsection. This subsection shall also apply to the governing body of any village.

15 **SECTION 23.** 66.012 (7) (b) of the statutes is amended to read:

16 66.012 **(7)** (b) A county or town shoreland zoning ordinance enacted under s.
17 59.971 or 60.625 that is in force in any part of the territory shall continue in force
18 until altered under s. 59.971 (7) (ad) or 60.625 (8) (ad).

19 **SECTION 24.** 66.014 (10) of the statutes is amended to read:

20 66.014 **(10)** EXISTING ORDINANCES. A county or town shoreland zoning ordinance
21 enacted under s. 59.971 or 60.625 that is in force in any part of the territory shall
22 continue in force until altered under s. 59.971 (7) (ad) or 60.625 (8) (ad).

23 **SECTION 25.** 66.019 (2) (b) of the statutes is amended to read:

1 66.019 (2) (b) A county or town shoreland zoning ordinance enacted under s.
2 59.971 or 60.625 that is in force in any part of the territory shall continue in force
3 until altered under s. 59.971 (7) (ad) or 60.625 (8) (ad).

4 **SECTION 26.** 66.021 (7) (a) of the statutes is amended to read:

5 66.021 (7) (a) An ordinance for the annexation of the territory described in the
6 annexation petition may be enacted by a two-thirds vote of the elected members of
7 the governing body not less than 20 days after the publication of the notice of
8 intention to circulate the petition and not later than 120 days after the date of filing
9 with the city or village clerk of the petition for annexation or of the referendum
10 election if favorable to the annexation. If the annexation is subject to sub. (11) the
11 governing body shall first review the reasons given by the department of
12 administration that the proposed annexation is against the public interest. Subject
13 to ~~s. ss.~~ 59.971 (7) and 60.625 (8), such an ordinance may temporarily designate the
14 classification of the annexed area for zoning purposes until the zoning ordinance is
15 amended as prescribed in s. 62.23 (7) (d). Before introduction of an ordinance
16 containing such temporary classification, the proposed classification shall be
17 referred to and recommended by the plan commission. The authority to make such
18 temporary classification shall not be effective when the county ordinance prevails
19 during litigation as provided in s. 59.97 (7).

20 **SECTION 27.** 66.023 (3) (e) of the statutes is amended to read:

21 66.023 (3) (e) *Content of plan; compatibility with existing law.* The cooperative
22 plan shall describe how the plan is consistent with current state and federal laws,
23 county shoreland zoning ordinances under ~~s. ss.~~ 59.971 and 60.625, municipal
24 regulations and administrative rules that apply to the territory affected by the plan.

25 **SECTION 28.** 66.024 (5m) of the statutes is amended to read:

1 **66.024 (5m)** TEMPORARY ZONING OF AREA PROPOSED TO BE ANNEXED. An interim
2 zoning ordinance to become effective only upon approval of the annexation at the
3 referendum election may be enacted by the governing body of the city or village.
4 Subject to ~~s.~~ ss. 59.971 (7) and 60.625 (8), the ordinance may temporarily designate
5 the classification of the annexed area for zoning purposes until the zoning ordinance
6 is amended as prescribed in s. 62.23 (7) (d). The proposed interim zoning ordinance
7 shall be referred to and recommended by the plan commission prior to introduction.
8 Authority to make such temporary classification shall not be effective when the
9 county zoning ordinance prevails during litigation as provided in s. 59.97 (7).

10 **SECTION 29.** 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. 59.971 (7), 60.625 (8) and 66.023 (7), territory
13 owned by and lying near but not necessarily contiguous to a village or city may be
14 annexed to a village or city by ordinance enacted by the board of trustees of the village
15 or the common council of the city, provided that in the case of noncontiguous territory
16 the use of the territory by the city or village is not contrary to any town or county
17 zoning regulation. The ordinance shall contain the exact description of the territory
18 annexed and the names of the towns from which detached, and shall operate to
19 attach the territory to the village or city upon the filing of 6 certified copies thereof
20 in the office of the secretary of state, together with 6 copies of a plat showing the
21 boundaries of the territory attached. Two copies of the ordinance and plat shall be
22 forwarded by the secretary of state to the department of transportation, one copy to
23 the department of natural resources, one copy to the department of revenue and one
24 copy to the department of public instruction.

25 **SECTION 30.** 66.032 (1) (g) of the statutes is amended to read:

1 66.032 (1) (g) "Municipality" means any county with a zoning ordinance under
2 s. 59.97, any town with a zoning ordinance under s. 60.61 or 60.62, any city with a
3 zoning ordinance under s. 62.23 (7), any 1st class city or any village with a zoning
4 ordinance under s. 61.35.

5 **SECTION 31.** 66.052 (1) of the statutes is amended to read:

6 66.052 (1) ~~Any~~ Subject to s. 59.97 (5m) (b), any common council or village board
7 may direct the location, management and construction of, and license, regulate or
8 prohibit any industry, thing or place where any nauseous, offensive or unwholesome
9 business is carried on, that is within the city or village or within 4 miles of the
10 boundaries of the city or village, except that the Milwaukee, Menominee and
11 Kinnickinnic rivers with their branches to the outer limits of the county of
12 Milwaukee, and all canals connecting with said rivers, together with the lands
13 adjacent to said rivers and canals or within 100 yards of them, are deemed to be
14 within the jurisdiction of the city of Milwaukee. Any town board shall have the same
15 powers as are provided in this section for cities and villages, as to the area within the
16 town that is not licensed, regulated or prohibited by any city or village under this
17 section. Any business that is conducted in violation of any city, village or town
18 ordinance that is authorized to be enacted under this section is a public nuisance.
19 An action for the abatement or removal of the business or to obtain an injunction to
20 prevent operation of the business may be brought and maintained by the common
21 council or village or town board in the name of this state on the relation of such city,
22 village or town as provided in ss. 823.01, 823.02 and 823.07, or as provided in s.
23 254.58. Section 97.42 may not limit the powers granted by this section. Section 95.72
24 may not limit the powers granted by this section to cities or villages but powers

1 granted to towns by this section are limited by s. 95.72 and by any orders and rules
2 promulgated under s. 95.72.

3 **SECTION 32.** 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 or
7 within the corporate limits of a town that has in effect a zoning ordinance enacted
8 under s. 60.61 or 60.62, or an ordinance rescinding its approval of a county zoning
9 ordinance under s. 59.97 (5m) (a). Wherever these statutory extraterritorial powers
10 overlap, the jurisdiction over the overlapping area shall be divided on a line all points
11 of which are equidistant from the boundaries of each municipality concerned so that
12 not more than one municipality shall exercise power over any area.

13 **SECTION 33.** 70.32 (1g) of the statutes is amended to read:

14 70.32 (1g) In addition to the factors set out in sub. (1), the assessor shall
15 consider the effect on the value of the property of any zoning ordinance under s.
16 59.971, 60.625, 61.351 or 62.231, any conservation easement under s. 700.40, any
17 conservation restriction under an agreement with the federal government and any
18 restrictions under ch. 91.

19 **SECTION 34.** 70.32 (2) (c) 4. of the statutes is amended to read:

20 70.32 (2) (c) 4. "Swampland or wasteland" means bog, marsh, lowland brush,
21 uncultivated land zoned as shoreland under s. 59.971 or 60.625 and shown as a
22 wetland on a final map under s. 23.32 or other nonproductive lands not otherwise
23 classified under this subsection.

24 **SECTION 35.** 87.30 (1) (a) of the statutes is amended to read:

1 87.30 (1) (a) If any county, city or village does not ~~adopt~~ enact a reasonable and
2 effective floodplain zoning ordinance within one year after hydraulic and
3 engineering data adequate to formulate the ordinance becomes available, the
4 department shall, upon petition of an interested state agency or a municipality or
5 upon its own motion as soon as practicable and after public hearing, determine and
6 fix by order the limits of any or all floodplains within a county, city or village within
7 which serious damage may occur. Thereafter the department shall as soon as
8 practicable after public hearing adopt a floodplain zoning ordinance applicable to a
9 county, city or village, except that no floodplain zoning ordinance may be enacted or
10 adopted unless the hydraulic and engineering studies necessary to determine the
11 floodway or floodplain limits, or both, if both limits are deemed necessary by the
12 department, have been made at state or federal expense. If the department utilizes
13 hydraulic and engineering studies previously completed, the department shall be
14 responsible for ensuring that the studies are reasonable and accurate. Thirty days'
15 notice of all hearings on floodplain determination or zoning before the department
16 shall be given to the county, city or village clerk, the clerks of all towns where lands
17 may be affected and to the department of transportation. Exhibits and testimony
18 shall be a part of the official record. Failure of a county, city or village to ~~adopt~~ enact
19 a floodplain zoning ordinance for an area where appreciable damage from floods is
20 likely to occur or to ~~adopt~~ enact an ordinance which will result in a practical
21 minimum of flood damage in an area shall be prima facie proof of the necessity for
22 action specified under this paragraph by the department. The department shall
23 make a decision in writing of insufficiency of any county, city or village floodplain
24 zoning ordinance before adopting an ordinance superseding a county, village or city
25 ordinance. All orders of the department under this subsection which either fix the

1 limits of floodplains or ~~enact~~ adopt local floodplain zoning ordinances shall, when
2 they are in final draft form and before they are issued, be referred to the appropriate
3 committees of the legislature, where the procedure under s. 227.19 shall apply.
4 Section 227.15 does not apply to the orders of the department under this section.
5 Orders of the department under this section shall, after becoming effective, be
6 deemed rules for purposes of s. 227.26, and may be suspended by the joint committee
7 for review of administrative rules.

8 **SECTION 36.** 87.30 (1) (b) of the statutes is amended to read:

9 87.30 (1) (b) All final orders, determinations or decisions made under this
10 subsection shall be subject to review under ch. 227 and be effective 20 days after the
11 same have been served unless such order, determination and decision specifies a
12 different date upon which the same shall be effective. Such floodplain determination
13 and zoning ordinance shall be of the same effect as if ~~adopted~~ enacted by the county,
14 city or village. Thereafter it is the duty of the county, city, village and town officials
15 to administer and enforce the ordinance in the same manner as if the county, city or
16 village had ~~adopted~~ enacted it. Floodplain determinations and zoning ordinances so
17 adopted may be modified by the county, city or village concerned only with the
18 written consent of the department except that nothing in this subsection may be
19 construed to prohibit a county, city, village or town from ~~adopting~~ enacting a
20 floodplain ordinance more restrictive than that adopted by the state.

21 **SECTION 37.** 87.30 (1) (bm) of the statutes is created to read:

22 87.30 (1) (bm) A town that may enact zoning ordinances under s. 60.62 may
23 enact a floodplain zoning ordinance to supersede the county floodplain ordinance
24 enacted or adopted under this section that is applicable to that town. An ordinance
25 enacted under this paragraph shall be at least as restrictive as the county floodplain

1 zoning ordinance that it supersedes and at least as restrict as any ordinance relating
2 to floodplains enacted by the town before the effective date of this paragraph
3 [revisor inserts date].

4 **SECTION 38.** 87.30 (1) (c) of the statutes is amended to read:

5 87.30 (1) (c) Except as provided under par. (a), the cost of such floodplain
6 determination and ordinance promulgation and enforcement by the state shall be
7 assessed against the county, city or, village or town concerned and collected in
8 substantially the same manner as other taxes levied by the state.

9 **SECTION 39.** 87.30 (1m) (intro.) of the statutes is amended to read:

10 87.30 (1m) JURISDICTION OVER DRAINAGE DITCHES LIMITED. (intro.)
11 Notwithstanding any other provision of law or administrative rule promulgated
12 thereunder, a floodplain zoning ordinance ~~required~~ enacted or adopted under sub. (1)
13 does not apply to lands adjacent to farm drainage ditches if:

14 **SECTION 40.** 87.30 (2) of the statutes is amended to read:

15 87.30 (2) ENFORCEMENT AND PENALTIES. Every structure, building, fill, or
16 development placed or maintained within any floodplain in violation of a zoning
17 ordinance enacted or adopted under this section, or s. 59.97, 60.62, 61.35 or 62.23 is
18 a public nuisance and the creation thereof may be enjoined and maintenance thereof
19 may be abated by action at suit of any municipality, the state or any citizen thereof.
20 Any person who places or maintains any structure, building, fill or development
21 within any floodplain in violation of a zoning ordinance enacted or adopted under
22 this section, or s. 59.97, 60.62, 61.35 or 62.23 may be fined not more than \$50 for each
23 offense. Each day during which such violation exists is a separate offense.

24 **SECTION 41.** 87.31 (1) of the statutes is amended to read:

1 87.31 (1) DEPARTMENT TO ADMINISTER; PURPOSE. The department shall
2 administer a floodplain and shoreland mapping assistance program to provide
3 counties, cities and, villages and towns acting under s. 87.30 (1) (bm) with financial
4 assistance to produce adequate topographical mapping of floodplain and shoreland
5 areas and to delineate floodplain and floodway boundaries, to assist in the
6 establishment and administration of floodplain and shoreland ordinances.

7 **SECTION 42.** 87.31 (4) (intro.) of the statutes is amended to read:

8 87.31 (4) APPLICATION. (intro.) A county, city ~~or~~, village or town which seeks a
9 mapping grant shall submit a grant application which includes:

10 **SECTION 43.** 91.73 (3) of the statutes is amended to read:

11 91.73 (3) A majority of towns that have not enacted an ordinance under s. 59.97
12 (5m), in a county with a population density of 100 or more persons per square mile,
13 may reject adoption of a county exclusive agricultural use zoning ordinance under
14 this subchapter for all towns within the county only by filing within 6 months after
15 adoption of the ordinance by the county board certified copies of resolutions
16 disapproving the ordinance with the county clerk. Notwithstanding s. 59.97 (5) (c),
17 the procedure established in this subsection and the procedure in s. 59.97 (5m) shall
18 be the only ~~procedure~~ procedures by which a town in such a county with the
19 population density described in this subsection may reject the application of a county
20 exclusive agricultural use zoning ordinance in that town.

21 **SECTION 44.** 144.26 (2) (c) and (e) and (2m) (intro.) of the statutes are amended
22 to read:

23 144.26 (2) (c) "Municipality" or "municipal" means a ~~county, village or city,~~
24 village, town or county.

1 (e) "Regulation" means ordinances enacted under ss. 59.971, 60.625, 61.351,
2 62.23 (7) and 62.231 and refers to subdivision and zoning regulations which include
3 control of uses of lands under, abutting or lying close to navigable waters for the
4 purposes specified in sub. (1), pursuant to any of the zoning and subdivision control
5 powers delegated by law to cities, villages, towns and counties.

6 **(2m)** (intro.) Notwithstanding any other provision of law or administrative
7 rule, a shoreland zoning ordinance required under s. 59.971 or 60.625, a construction
8 site erosion control and storm water management zoning ordinance authorized
9 under s. 59.974, 60.627, 61.354 or 62.234 or a wetland zoning ordinance required
10 under s. 61.351 or 62.231 does not apply to lands adjacent to farm drainage ditches
11 if:

12 **SECTION 45.** 144.26 (8) of the statutes is amended to read:

13 144.26 (8) This section and ss. 59.971, 60.625, 61.351 and 62.231 shall be
14 construed together to accomplish the purposes and objective of this section.

15 **SECTION 46.** 144.44 (7) (f) 3. of the statutes is amended to read:

16 144.44 (7) (f) 3. The department shall approve the requester's exemption
17 proposal if the department finds that the proposal, as approved, will comply with this
18 chapter and chs. 30, 31, 147, 160 and 162 and ss. 1.11, 23.40, 59.971, 59.974, 60.625,
19 60.627, 61.351, 61.354, 62.231, 62.234 and 87.30. If the proposal does not comply
20 with one or more of the requirements specified in this subdivision, the department
21 shall provide a written statement describing how the proposal fails to comply with
22 those requirements. The department shall respond to an application for an
23 exemption under this paragraph within 90 days.

24 **SECTION 47.** 144.46 of the statutes is amended to read:

