

1999 DRAFTING REQUEST**Bill**Received: **09/8/98**Received By: **shoveme**Wanted: **As time permits**

Identical to LRB :

For: **Carol Owens (608) 267-7990**By/Representing: **Rep. Owens**

This file may be shown to any legislator: NO

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Munis - miscellaneous
Munis - tax incrmntal financing
Counties**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Charter towns act, increase town powers

Instructions:

Redraft 1997 -1183/P1; loosely based on Mich. charter towns bill. In general, charter towns have all the powers of cities and villages except the power to annex land and zone extraterritorially.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/P2	shoveme 01/13/99	chanaman 01/20/99	lpaasch 01/21/99	_____	lrb-docadmin 01/21/99		Local
/1	shoveme 02/6/99	chanaman 02/8/99	jfrantze 02/8/99	_____	lrb-docadmin 02/8/99	lrb-docadmin 03/9/99	

Vers. Drafted Reviewed Typist Proofed Submitted Jacketed Required

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Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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Handwritten initials 'JS' and '<ENB>'.

Handwritten note: Submit 1 P2

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B I L L
REQUEST FORM

LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

Use of this form is optional. It is often better to talk **directly** with the **LRB** attorney who will draft the bill.

Use this form only for **BILL drafts**. Attach more pages if necessary.

Legislator, agency or other body requesting this **draft**: Carol Owens 53rd Assembly

Date: 8/26/98 Person submitting request (name, phone number): Carol Owens
1-888-534-0053 608-267-7990

Persons to contact for questions about this draft (names, phone numbers): Jacque Zilbrouski
feel free to call me at home, 920-589-4262

Describe the problem, including any helpful examples. Charter Towns Bill

How do you want to solve the problem?

get it drafted so it will be out early in January of '99.

Please attach a copy of any correspondence or other material that may help us.

If you know of any **statute sections** that might be affected, list them or **provide a marked-up** (not re-typed) copy. I think it is already drafted - at least in part

You may attach a **marked-up** (not retyped) copy of any LRB draft, or provide its number (e.g., 1995 LRB-2345/1 or 1993 AB-67): _____

Requests are confidential unless stated otherwise.

- May we tell others that we are working on this for you? Yes No
- If yes: Anyone who asks? Yes No Any legislator? Yes No Only the following persons: _____

Do you consider this request urgent? Yes No If yes, please indicate why: two years ago we started this draft.

Should we give this request priority over any other pending request of this legislator, agency or body? Yes No If yes, sign your name here: Carol Owens



August 3, 1998

18: 12:15

Most current drafts delivered to: Owens

Subject	Topic	LRB No.	Introduced As	LRB received initial request	Most recent draft sent to requester	Date placed on hold or cancelled	Attorney - Phone No.
Criminal Law - sentencing Criminal Law - procedure	Guilty but mentally ill	-1174/1	AR - 59	11/20/96	12/05/96		Jefren E. Olsen 266-8906
Munis - tax incremental financing Munis - miscellaneous	Charter town act	-1183/P1		11/21/96	12/03/96		Marc E. Shovers 266-0129
Tax - individual income	Taxation of certain veterans disability benefits.	-1184/2	AR-272	11/21/96	03/13/97		Marc E. Shovers 266-0129
Tax - individual income	Index individual income tax brackets	-1185/1	AR-107	11/21/96	11/26/96		Marc E. Shovers 266-0129
Military Affairs	National guard tuition grants	-1195/2	AR - 108	11/21/96	01/09/97		Robert P. Nelson 267-7511
Nat. Res. - wet/shore/flood Environment - water quality	Floodplain and shoreland zoning	-1201/1	AR-58	11/22/96	12/05/96		Mary Gibson-Glass 267-3215
Children - delinquency	Parental involvement in delinquency cases	-124312		11/23/96	01/23/97		Gordon M. Malaise 266-9738
Counties Munis - miscellaneous	Land use issues	-1738/?		01/02/97		11/03/97	Marc E. Shovers 266-0129
Transportation - motor vehicles	Outdoor storage of vehicles by collectors	-2326/1	AR-27 1	01/28/97	03/13/97		Timothy N. Fast 266-9739
Memorials - miscellaneous	St. David's Day	-233 1/1	AJR-27	01/29/97	01/31/97		Jack Stark 266-729 1
Gambling - miscellaneous	The playing of bingo by persons under the age of 18	-2685/1	AR-216	02/25/97	02/26/97		Richard A. Champagne 266-9930

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Topic:

Charter town act

Instructions:

Same as 1995 LRB -2025/P1. Create charter towns that have village powers, may not be annexed by cities or villages, are not subject to most county zoning ordinances and may create TIF districts. See attached.

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<END>

To Marc
Shovers

CHARTER TOWN ACT

December 6, 1994 (Draft 5)

Amend Chapter 60 and add subchapter XI

Section 1 Charter Towns Incorporation;

a) A Town, having a population of more than 2000 residents according to the most recent regular or special federal or state census of the inhabitants of the Town may incorporate as a Charter Town. The Charter Town shall be a municipal corporation, to be known and designated as the Charter Town of _____, and shall be subject to this act, which is the charter of the Charter Town. The Charter Town, its residents and its officers shall have, except as otherwise provided in this act, all the powers, privileges, immunities, and liabilities possessed by any other town, its residents, and its officers by law.

No Town may incorporate and remain an incorporated Charter Town unless:

- 1) The population in the Charter Town is more than 2000 residents as noted herein.
- 2) The Charter Town has enacted and maintains a comprehensive zoning ordinance, has **drafted** and maintains an official town map and has adopted a comprehensive land use plan.
- 3) The Charter Town has enacted and maintains a subdivision ordinance in accordance with sec. 236.45 Wis Stats.
- 4) The Charter Town has appointed and maintains a Town Plan Commission in accordance with **secs. 60.22(3)**, 61.35, 62.23 and **236.02(13)** Wis Stats.
- 5) The Charter Town has enacted and maintains a construction site control and storm water management ordinance consistent with and at least as restrictive as any ordinance enacted by the county
- 6) The Charter Town has and maintains-a Building Inspector and maintains compliance with any building inspection requirements pursuant to state law and regulation established for cities, villages, or Towns over 2500 in population.

b) For purposes of this section, a “comprehensive land use plan” shall encompass, at minimum, a long-range (at least 15 years) plan for all physical land use elements of the community, including, but not limited to:

- 1) Residential areas
- 2) Commercial areas
- 3) Industrial areas, including extraction
- 4) Institutional areas (private/public)
- 5) Governmental areas
- 6) Transportation routes, corridors and lands
- 7) Agricultural areas
- 8) Wetlands/water bodies/lowlands/flood plains

- 9) Woodlands/and areas of upland protection
- 10) Park and open space lands

Such plan should be based on demographic and economic studies and forecast of population, households, employment, and governmental funding and should include historical trends in land use development, existing inventories of land/water use, community objectives and standards and methods and procedure for plan implementation.

Section 2 Incorporation; Vote; Duties of Town Clerk; Finality of Proceedings; Term of Incumbent Officers; Dis-incorporation

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~~Any eligible Town shall become~~ a Charter Town when the residents thereof shall, by a majority vote of the electors thereof, voting on such proposition, declare in favor thereof at any annual or special town meeting at which the proposition to incorporate as a Charter Town shall be submitted to the electors of the Town. The Town Board by resolution shall approve by majority vote the proposition to be submitted to the electors. At the Town meeting the Town Clerk shall prepare and provide a ballot for the submission of such proposition. "Shall the Town of _____ incorporate as a Charter Town?"

- Yes()
- No ()

If on the vote being canvassed on the question of incorporation as a Charter Town, the result is determined to be in favor of such incorporation, the Town Clerk shall file with the Department of Administration and with the County Clerk of the County within which the Town is located a copy of the resolution of the Town Board initiating the move to become a Charter Town, together with a copy of notice of the election at which such question was submitted to the electors of the Town, a copy of the ballot upon which such question was submitted, and a certificate of the Town Board showing that the proposition have been approved by a majority of the electors of the Town voting thereon, which certificate shall also give the number of votes cast on such proposition and the number cast for and against the same. From the last date of such filings, the Town shall be duly and legally incorporated as a Charter Town. After the filing of such resolution and the other papers herein above required, neither the sufficiency thereof nor the legality of the incorporation of the Town as a Charter Town may be questioned in any proceeding except by proceedings in the nature of quo **warranto** to which shall be brought within 40 days after the date of such last filings. All elected or appointed officers of any Town which shall elect to become a Charter Town shall serve in the offices to which they have been elected or appointed for the balance of the terms for which they were elected or appointed and until their successors elect or to be elected shall qualify and assume their respective offices.

Any Charter Town may be dis-incorporated and returned to its previous status as a Town governed under the other sections of this Chapter by following the same procedures therefor as provided herein for becoming a Charter Town. No election to dis-incorporate shall be held until 4 years **after** incorporation nor more often than once each 4 years. A Town that does not comply

with the provisions in Section 1 shall be disincorporated as a Charter Town but only after a public hearing and upon a written determination of non-compliance with Section 1 by the Department of Administration.

Section 3 Notice That Town May Be Incorporated

a) After each regular or special federal or state census, the Department of Administration shall notify the Town Clerk of a Town which is not incorporated as a Charter Town pursuant to this act and which has a population of more than 2000 residents, according to the most recently made regular or special federal or state census that the Town may be incorporated as the Charter Town of _____ under this act.

Section 4 Nomination and Election of Candidates; Charter Town Board; Powers;

a) Candidates for Town office in Charter Towns shall be nominated by nomination papers under s. 8.05 Wis Stats at the general primary election held in the Town before each general election at which other Town officers are to be elected. Candidates shall be elected at the same time in the general election as other Town Officers.

b) Except as otherwise provided in this act, all legislative authority and powers of each Charter Town shall be vested in and shall be exercised and determined by a Town Board of five (5) members composed of the Town Chair and four (4) Board members who shall be electors in the Town. If the provisions of this Charter are adopted, the Town Board as constituted at the time of the adoption of this Charter shall constitute the Town Board until the first general election at which Town officers are elected after the adoption of this act. All members of the Town Board shall be elected under the provisions of the Wisconsin election law. If two (2) additional Board Members are required to be elected, they shall be elected at the next general Town election.

c) The elected Town Board described in (b) shall be the successor to the prior Town Board of the Town and shall possess the powers and perform the duties and have the rights of Town Boards in other Towns under in addition to the powers, duties and rights granted by law to Charter Towns.

d) The elected town officers and any appointed town officers constituted at the time of the adoption of the Charter shall constitute the town officers of the Charter Town and shall have the powers, duties and rights established in other towns.

Section 5 Town Clerk; Town Treasurer; Assessors; Appointment, Powers and Duties, Compensation

a) In any Charter Town, the Charter Town Board may provide for the appointment of the Town Assessor, the Town Clerk, the Town Treasurer and the Town Clerk/Treasurer for such Charter Town, Such persons, when appointed by the Town Board, shall be clothed with all the

powers and duties of the elected Town Assessor, Town Clerk, Town Treasurer, or Town Clerk/Treasurer within such Town and shall receive for their services such compensation as may be allowed by the Charter Town Board. Whenever the Town Assessor, Town Clerk, Town Treasurer or Town Clerk/Treasurer shall be appointed, as in this act provided, such officers shall in all cases be subordinate to the Charter Town Board. Once appointed, the persons holding those offices may not be removed by the Charter Town Board without just cause. These offices may not be created as appointed officers without Town meeting approval and may be returned to elected offices by approval of the Town meeting.

Section 6 Village Powers/Zoning Authority

a) Charter Towns shall have and possess and may exercise the same powers as are possessed by villages under Chapter 61 Wis Stats unless in conflict with this Chapter. No Town meeting approval or town board approval will be necessary for a Charter Town to obtain and maintain Village powers under Chapter 61 Wis. Stats. or zoning authority under s. 60.62 Wis. Stats.

Section 7 Ordinances, Resolutions, Rules and Regulations or Former Town, Continuation, Repeal

a) All ordinances, resolutions, rules and regulations of a Charter Town which were in effect at the same time such Towns became Charter Towns and which are not inconsistent with the laws of the state applicable to Charter Towns shall continue in MI force as the ordinances, resolutions, rules, and regulations of the Charter Towns until repealed or amended by action of the proper authorities.

Section 8 Succession to Properties of Former Town; Suits or Prosecutions; Debts or Liabilities; Uncollected Taxes or Assessments

a) All Charter Towns created under the provisions of this act shall succeed to and be vested with all the property, real and personal, moneys, rights, credits and effects, and of all records, files, books and papers belonging to such Town as it formerly existed, and no rights or liabilities of the Town which existed at the time it became a Charter Town, and no suit or prosecution of any kind commenced prior to and continuing at such time, shall be, in any manner, affected by such change, but the same shall continue, stand or progress as if no such change had been made, and all debts and liabilities of the Town and all taxes and assessments levied and uncollected at the time of such change shall stand until discharged or collected the same as if such change had not been made.

Section 9 Construction of Act

a) The provisions of this act shall be liberally construed in the interest of the public health and welfare and the safety of persons and property within such Towns as shall incorporate under the provisions of this act.

Section 10 Charter Town; No Annexation to City or Village

a). A Charter Town that complies with the provisions of Section 1 and with the following standards, is exempt from any annexation, including annexation under ss. 66.021, 66.024 and 66.025 Wis Stats of any lands in the Charter Town to any city or village unless by written agreement pursuant to s. 66.023 Wis Stats.

- (1) Has a state equalized valuation of not less than one hundred million dollars (\$100,000,000).
- (2) Provides town-wide fire protection service by contract, by its own fire department or otherwise
- (3) Provides for town-wide solid waste disposal services for Town residents by contract, license, town sanitary district or municipal ownership or otherwise
- (4) Provides for water or sanitary sewer services by contract, license, town sanitary district, municipal ownership or otherwise
- (5) Provides town-wide police protection by contract with the sheriff, in addition to normal sheriff patrol, by other contract, through its own police department or otherwise.

b) Failure to comply with Section 1 and the standards noted above may remove from a Charter Town such exemption but only **after** a public hearing and a written determination of non-compliance by the Department of Administration.

Section 11 Prior Approvals and Appointments

a) Each Charter Town, upon incorporation, shall not be subject to any county zoning with the exception of shoreland or flood plain zoning under Chapter 59 Wis Stats. Each Charter Town, notwithstanding the requirements of County approval in Chapter 59 Wis. Stats and Chapter 236 Wis. Stats. shall, prior to approval by the Town Board for the proposition submitted to the electors, have the power by its Town Board and shall have enacted by its Town Board a comprehensive land use plan, official town map, subdivision ordinance, construction site control and stormwater management ordinance and comprehensive zoning ordinance in compliance with **Section 1**. Prior to this submittal to the electors, the Town Board shall have appointed the Town Plan Commission and the Building Inspector in compliance with Section 1.

b) Each Charter Town, upon incorporation, shall not need the approval of the County for the implementation or enforcement of these above noted plans, maps or ordinances or any amendments or revisions to these plans, maps or ordinances.

c) Each Charter Town, upon incorporation, shall not be subject to extraterritorial plat review under Chapter 236 Wis. Stats nor shall it be subject to any extraterritorial zoning and regulations previously enacted under **secs.** 62.23, 66.052 and 66.032 Wis. Stats. Charter Towns

may not exercise any extraterritorial zoning or extraterritorial plat review over any other municipality, including another town or Charter Town.

Section 12 Incorporation as City or Village

a.) No Charter Town or part of any Charter Town may be incorporated as a city or village under Chapter 66 Wis Stats unless the referendum to approve the incorporation is a referendum providing- that all electors residing in the Charter Town at the time of the election shall be eligible to vote for or against the proposed incorporation.

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ARTICLE XI CORPORATIONS

Section

1. **Corporations; how formed.**
2. **Property taken by municipality.**
3. **Municipal home rule; debt limit; tax to pay debt.**
- 3a **Acquisition of lands by state and subdivisions; sale of excess**
4. **General banking law.**
5. **Repealed.**

§ 1. Corporations; how formed

Section 1. Corporations without banking powers or privileges may be formed under general laws, but shall not be created by special act, except for municipal purposes. All general laws or special acts enacted under the provisions of this section may be altered or repealed by the legislature at any time after their passage.

(As amended April 1981).

§ 2. Property taken by municipality

Section 2. No municipal corporation shall take private property for public use, against the consent of the owner, without the necessity thereof being first established in the manner prescribed by the legislature.

(As amended April 1961)

§ 3. Municipal home rule; debt limit; tax to pay debt

Section 3. (1) Cities and villages organized pursuant to state law may determine their local affairs and government, subject only to this constitution and to such enactments of the legislature of statewide concern as with uniformity shall affect every city or every village. The method of such determination shall be prescribed by the legislature.

(2) No county, city, town, village, school district, sewerage district or other municipal corporation may become indebted in an amount that exceeds an allowable percentage of the taxable property located therein equalized for state purposes as provided by the legislature. In all cases the allowable percentage shall be 5 percent except as specified in pars. (a) and (b):

(a) For any city authorized to issue bonds for school purposes, an additional 10 percent shall be permitted for school purposes only, and in such cases the territory attached to the city for school purposes shall be included in the total taxable property supporting the bonds issued for school purposes.

legislature, nor for fifteen days next before the commencement and after the termination of each session.

§ 16. Privilege in debate

Section 16. No member of the legislature shall be liable in any civil action, or criminal prosecution whatever, for words spoken in debate.

§ 17. Enactment of laws

Section 17. (1) The style of all laws of the state shall be "The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:".

(2) No law shall be enacted except by bill. No law shall be in force until published.

(3) The legislature shall provide by law for the speedy publication of all laws.

(As amended April 1977).

§ 18. Title of private bills

Section 18. No private or local bill which may be passed by the legislature shall embrace more than one subject, and that shall be expressed in the title.

§ 19. Origin of bills

Section 19. Any bill may originate in either house of the legislature, and a bill passed by one house may be amended by the other.

§ 20. Yeas and nays

Section 20. The yeas and nays of the members of either house on any question shall, at the request of one-sixth of those present, be entered on the journal.

§ 21. [Compensation of members] Repealed (1927 J.R. 57; 1929 J.R. 6; vote April 1929. As amended Nov. 1867; Nov. 1881)

§ 22. Powers of county boards

Section 22. The legislature may confer upon the boards of supervisors of the several counties of the state such powers of a local, legislative and administrative character as they shall from time to time prescribe.

§ 23. Town and county government

Section 23. The legislature shall establish but one system of town government, which shall be as nearly uniform as practicable; but the legislature may provide for the election at large once in every 4 years of a chief executive officer in any county with such powers of an adminis-

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(As amended Nov. 1962; April 1969; April 1972).

§ 23a. Chief executive officer to approve or veto resolutions or ordinances; proceedings on veto

Section 23a. Every resolution or ordinance passed by the county board in any county shall, before it becomes effective, be presented to the chief executive officer. If he approves, he shall sign it; if not, he shall return it with his objections, which objections shall be entered at large upon the journal and the board shall proceed to reconsider the matter. Appropriations may be approved in whole or in part by the chief executive officer and the part approved shall become law, and the part objected to shall be returned in the same manner as provided for in other resolutions or ordinances. If, after such reconsideration, two-thirds of the members-elect of the county board agree to pass the resolution or ordinance or the part of the resolution or ordinance objected to, it shall become effective on the date prescribed but not earlier than the date of passage following reconsideration. In all such cases, the votes of the members of the county board shall be determined by ayes and noes and the names of the members voting for or against the resolution or ordinance or the part thereof objected to shall be entered on the journal. If any resolution or ordinance is not returned by the chief executive officer to the county board at its first meeting occurring not less than 6 days, Sundays excepted, after it has been presented to him, it shall become effective unless the county board has recessed or adjourned for a period in excess of 60 days, in which case it shall not be effective without his approval.

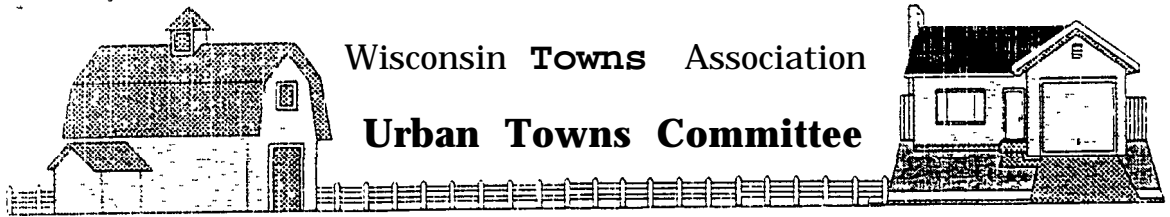
(Created Nov. 1962. 1959 J.R. 68; 1961 J.R. 64; vote Nov. 1962. As amended April 1969).

§ 24. Lotteries and divorces

Section 24. The legislature shall never authorize any lottery or grant any divorce.

(1) The legislature may authorize bingo games licensed by the state, and operated by religious, charitable, service, fraternal or veterans' organizations or those to which contributions are deductible for federal or state income tax purposes. All profits must inure to the licensed organization and no salaries, fees or profits shall be paid to any other organization or person.

(2) The legislature may authorize raffle games licensed by the state, and operated by local religious, charitable, service, fraternal or veterans' organizations or those to which contributions are deductible for federal or state income tax purposes. The legislature shall limit the number of raffles conducted by any such organization. All profits must inure to the licensed local organization and no salaries, fees or profits shall be paid to any other organization or person.



(608) 251-1314 • Rt. 4. Box 319, Shawano, WI 54166-9313 • (715) 526-3157

February 24, 1995

Mr . Marc Shovers
Legislative Reference Bureau
100 North Hamilton Street
P.O. Box 2037
Madison, Wisconsin 53701-2037

Dear Marc:

Enclosed are two outlines which summarize the goals and main features of our **proposed "Charter Town"** bill and the proposed **"Municipal Revenue Sharing"** bill. I hope these summaries will assist you in the initial drafting of these bills.

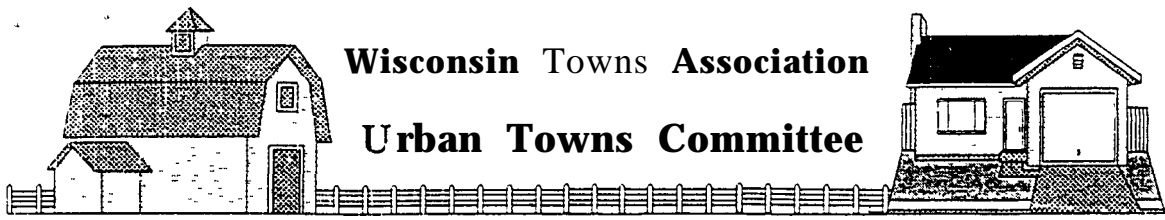
I have also provided Representative Carol Owens with a copy of the "Charter Towns" summary and Representative Michael Lehman with a copy of the "Municipal Revenue Sharing" summary.

Should you need additional information or if I can be of further assistance, please contact me at 251-1314. **Thank** you.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Mary Lou McClain', written over the typed name.

Mary Lou McClain
Legislative Representative
Urban Towns



(608) 251-1314 · Rt. 4, Box 319, Shawano, WI 54166-9313 · (715) 526-3157

Outline of the Proposed “Charter Town” Bill

The WTA has been exploring the potential merits of adopting a “Charter Town” statute loosely patterned after similar legislation in place in Michigan for many years. This report summarizes the goals and key features of this concept:

The goals of the bill are to:

1. Offer an incentive for urban towns to prepare comprehensive land use plans and form a planning commission.
2. Encourage urban towns to provide, directly or by contract, a full range of municipal services.
3. Improve intergovernmental relations and planning in metropolitan areas by replacing forced annexations with other boundary adjustment methods for charter towns that meet specified criteria.
4. Allow long-term organizational and staff development in urban towns by preventing the unpredictable loss of tax base due to forced annexations.
5. Preserve the option of retaining town status (versus incorporation as a city or village) as population growth and tax base expansion occur.
6. Create a level playing field for charter towns, villages and cities in terms of zoning authority.
7. Permit the appointment (versus election) of clerks and treasurers in urban towns.

8. Allow charter- towns to exercise the municipal powers delegated to villages under Ch. 61, *Wisc. Stats.*

Key features of the bill include:

1. Authority for towns to adopt “charter town” status if they have the following characteristics:
 - a) **Population:** 2,000 or more;
 - b) **Zoning Ordinance:** Enacted and maintains a comprehensive zoning ordinance and an official town map (transitional provisions will be required for otherwise qualifying towns currently under county zoning j;
 - c) **Planning:** Adopted and maintains a “comprehensive land use plan” with a duration of at least 15 years that plans for all physical land use elements and incorporates demographic, economic and forecasts.
 - d) **Plan Commission:** Created and maintains a town plan commission as provided in ss. 60.22(3), 61.35, 62.23 and 236.02(13) *Wisc. Stats.*
 - e) **Storm Water:** Enacted and maintains a construction site control and storm water management ordinances consistent with and at least as restrictive as any ordinance enacted by the county in which the town is located.
 - f) **Fire Protection:** Provides town-wide fire protection services directly or by contract.
 - g) **Subdivision Ordinance:** Enacted and maintains a subdivision ordinance as provided in s. 236.45 *Wisc. Stats.*

2. Adoption of charter status shall require:
 - a) **Ordinance:** Adoption of an ordinance by the town board approving charter status and submitting the question to voters.
 - b) **Notice:** Notice of the referendum vote.
 - c) **Referendum:** Approval by majority vote of town electors.
 - d) **Review:** Procedure for legal review of proceedings.

SOON

AMNR

F - NOT READY FOR INTRODUCTION

emb/kg

0044/P1

Type and return
to editing

NOTE

Proof of all
amended states
w/ state.

0044/P1

w/po:
This is the
edited version;
draft has been
acquired typed by
a w/po.

1

AN ACT ...; relating to: ???

Analysis by the Legisla.

The people of the state of Wisconsin, re
enact as follows:

KG

... and assembly, do

2

(END)

~~PRELIMINARY DRAFT- NOT READY FOR INTRODUCTION~~

regem

1 **AN ACT** to amend 60.61 (2) (intro.), 60.61 (3) (intro.), 60.62 (2), 60.62 (3), 62.23
 2 (7a) (a), 66.021 (2) (intro.), 66.024 (intro.), 66.025, 66.32, 70.99 (8) and 236.02
 3 (5); to **create** 60.10 (1) (g), 60.225 and 60.23 (32) of the statutes; and **to affect**
 4 Laws of 1975, chapter 105, section 1 (1) and (2); **relating to:** the powers of
 5 certain towns. *and authorizing the creation of charter towns by certain town boards*

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** create a tax incremental financing district, 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 is subject to ratification in a referendum that the town board must call, declaring that it is a "charter town" and that, under certain circumstances and subject to several limitations, allows the town board to exercise any statutory power that a village may exercise, including the power to create a tax

incremental financing district and a housing authority for the elderly. The bill also allows a charter town board to exercise certain zoning powers, and exempts the town from being subject to certain city and village extraterritorial powers. Also under the bill, town residents may attempt to enact direct legislation. This bill does not extend constitutional or statutory home rule powers to charter towns, nor does it allow such towns to annex territory or to engage in extraterritorial zoning or plat approval.

The powers granted to towns in this bill apply only 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 at least 2,000.
2. The town board creates a town plan commission and adopts a comprehensive land use plan.
3. The town must provide fire protection services 24 hours a day.
4. The town board enacts a construction site erosion control and storm water management zoning ordinance.

In addition, certain charter towns are exempt from being subject to city and village annexation powers if certain conditions are met. Some of the conditions that must be met include the following:

1. 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.
2. The equalized value of the town must exceed \$100,000,000.
3. The town must provide law enforcement services 24 hours a day.

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 **Charter towns. (1) PROCEDURE.** If a town board is authorized to
6 exercise 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 a charter town that is subject to this

1 section if, on the date of adoption of the resolution, all of the following conditions are
2 satisfied:

3 (a) The population of the town is at least 2,000.

4 (b) The town board creates and maintains a town plan commission under s.
5 62.23.


6 (c) The town board enacts a comprehensive zoning ordinance under s. 60.61,
7 60.62 or 62.23, and establishes an official town map under s. 62.23 (6).

8 (d) The town board adopts a comprehensive land use plan that is similar to a
9 county development plan described under s. 59.69 (3) (b) and (c)

10 (e) The town board enacts a construction site erosion control and storm water
11 management zoning ordinance under s. 60.627.

12 (f) The town board enacts a subdivision ordinance under s. 236.45.

13 (g) The town provides fire protection services, 24 hours a day, by establishing
14 a town fire department or by creating a joint fire department with another city,
15 village or town under s. 60.55.

16 (2) RATIFICATION. (a) If a town board adopts a resolution under sub. (1), the
17 town board shall call a referendum to ~~ratify~~ ^{ratify} the resolution at the next spring primary
18 or election or September primary or general election, to be held not sooner than 45
19 days after the ratification referendum is called by the town board. The referendum
20 question shall be: "Do you approve ~~of~~ [✓] the town board resolution declaring [name of
21 town] to be a charter town?," _____ 

22 (b) A resolution adopted by a town board under sub. (1) may not take effect until
23 the resolution is approved by the electors in a ratification referendum under par. (a).
24 If the resolution is ratified, the town clerk shall certify that fact to the secretary of

*Only the question mark and
circle to be needed here.*

1 state. The secretary of state shall issue a certificate of charter town status and shall
2 record that status in a book kept for that purpose.

3 (c) If a resolution adopted by a town board under sub. (1) takes effect under par.
4 (b), the town board may adopt a resolution, not sooner than 4 years after the effective
5 date of the resolution declaring the town to be a charter town, that revokes the town's
6 charter town status. The revocation resolution may not take effect until the
7 resolution is approved by the electors in a ratification referendum called by the town
8 board for that purpose. The referendum shall comply with the requirements for a
9 ratification referendum that is held under par. (a), except that the referendum
10 question shall be: "Do you approve ~~of~~ the town board resolution that revokes the
11 status of [name of town] as a charter town?".

****NOTE: If a town returns to "regular" status, am I correct in assuming that county zoning ordinances that apply to regular towns, but not to charter towns, would automatically apply to a town that returns to regular town status? If so, what if there is a conflict between a county ordinance and an ordinance that was enacted by the charter town?

12 (3) POWERS. (a) A town that is subject to this section may exercise any statutory
13 power that a village may exercise, except as follows:

14 1. A town acting under this section does not have home rule powers under
15 article XI, section 3, of the constitution.

16 2. A town acting under this section may not exercise extraterritorial zoning
17 powers under s. 62.23(7a) or 66.32, offensive industry regulation under s. 66.052 (1),
18 extraterritorial plat approval under s. 236.10 or wetlands in shorelands zoning
19 authority under s. 61.351.

20 3. A town acting under this section may not exercise annexation territory
21 powers under s. 66.021, 66.024 or 66.025.

1 (b) 1. **Except** for a wetlands in shorelands zoning ordinance, no town may be
2 subject to any county zoning ordinance that is enacted by a county board after a town
3 board adopts a resolution under sub. (1) unless the town board approves the
4 ordinance or until the resolution adopted by the town board under sub. (1) is defeated
5 in a ratification vote by the referendum under sub. (2).

6 2. If a town board adopts a resolution under sub. (1) and the resolution is
7 ratified under sub. (2), a town board may adopt a resolution revoking its approval of
8 any county zoning ordinance, other than a wetlands in shorelands zoning ordinance,
9 if the town board notifies the county board in writing at least 60 days before the
10 resolution revoking approval of a county zoning ordinance takes effect. On the
11 effective date of the resolution revoking town approval of a county zoning ordinance,
12 the town board may act under s. 60.61 (2) or 60.62 (1).

13 (c) No town may be subject to the extraterritorial zoning jurisdiction or
14 extraterritorial plat approval jurisdiction of a city or village during the period
15 beginning after a town board adopts a resolution under sub. (1) and before a
16 ratification vote under sub. (2) or at any time after the electors of the town approve
17 the resolution under sub. (2).

18 (4) **PROTECTED STATUS.** If all of the following apply, no town territory may be
19 annexed by a city or village under s. 66.021, 66.024 or 66.025 during the period
20 beginning after a town board adopts a resolution under sub. (1) and before a
21 ratification vote under sub. (2) or at any time after the electors of the town approve
22 such a resolution under sub. (2), unless the town board approves the proposed
23 annexation:

24 (a) The equalized value of the town exceeds \$100,000,000, according to the most
25 recent assessment.

1 (b) The town residents receive water supply and sewage disposal services from
2 one of the following:

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

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

5 3. A metropolitan sewerage district created under ss. 66.20 to 66.26 or under
6 ss. 66.8% to 66.918.

7 4. A public utility created under s. 196.01 (5).

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

9 6. A city or village.

10 (c) The town provides law enforcement services, 24 hours a day, by establishing
11 a town police department or by creating a joint police department with another city,
12 village or town under s. 60.56.

13 (d) The town enacts and enforces building code ordinances under s. 60.61 (lm).

****NOTE: I'm not sure what your instructions mean with respect to "a building inspection program in compliance with statutory building inspection requirements established for municipalities with a population of 2,500 or more". Does par. (d) meet your intent?

14 SECTION 3. 60.23 (32) of the statutes is created to read:

15 60.23 (32) TOWN TAX INCREMENT POWERS. Exercise all powers of cities under s.
16 66.46. If the town board exercises the powers of a city under s. 66.46, it is subject to
17 the same duties as a common council under s. 66.46 and the town is subject to the
18 same duties and liabilities as a city under s. 66.46.

19 SECTION 4. 60.61 (2) (intro.) of the statutes is amended to read:

20 60.61 (2) EXTENT OF AUTHORITY, (intro.) ~~Subject~~ If a town board revokes its
21 approval of a county zoning ordinance under s. 60.225 (3) (b) 2. or, subject to subs.
22 (3) and (3m), if a town is located in a county which has not enacted a county zoning
23 ordinance under s. 59.69, the town board, by ordinance, may:

Proposed

1 **SECTION 5.** 60.61 (3) (intro.) of the statutes is amended to read:

2 60.61 (3) **EXERCISE OF AUTHORITY** (intro.) Before exercising authority under
3 sub. (2), the town board of a town that is located in a county which has not adopted
4 a county zoning ordinance under s. 59.69 shall petition the county board to initiate,
5 at any regular or special meeting, action to enact a county zoning ordinance under
6 s. 59.69. The town board may proceed under sub. (2) if:

7 **SECTION 6.** 60.62(2) of the statutes is amended to read:

8 60.62 (2) If the county in which the town is located has enacted a zoning
9 ordinance under s. 59.69, the exercise of the authority under sub. (1) is subject to
10 approval by the town meeting or by a referendum vote of the electors of the town held
11 at the time of any regular or special election, except that this subsection does not
12 apply if a town board revokes its approval of a county zoning ordinance under s.
13 60.225 (3) (b) 2.

14 **SECTION 7.** 60.62 (3) of the statutes is amended to read:

15 60.62 (3) In counties having a county zoning ordinance, no zoning ordinance
16 or amendment of a zoning ordinance may be adopted under this section unless
17 approved by the county board, except that this subsection does not apply if a town
18 board revokes its approval of a county zoning ordinance under s. 60.225 (3) (b) 2.

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

20 62.23 (7a) (a) Extraterritorial zoning jurisdiction means the unincorporated
21 area, except as provided in s. 60.225 (3) (c), within 3 miles of the corporate limits of
22 a first, second or third class city, or 1 1/2 miles of a fourth class city or a village.
23 Wherever extraterritorial zoning jurisdictions overlap, the provisions of s. 66.32
24 shall apply and any subsequent alteration of the corporate limits of the city by
25 annexation, detachment or consolidation proceedings shall not affect the dividing

Proof
w/ state

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

15 **SECTION 9. 66.021 (2) (intro.)** of the statutes is amended to read:

16 **66.021 (2) METHODS OF ANNEXATION.** (intro.) Subject to s. 66.023 (7) and except
17 as provided in s. 60.225 (4), territory contiguous to any city or village may be annexed
18 thereto in the following ways:

19 **SECTION 10. 66.024** (intro.) of the statutes is amended to read:

20 **66.024 Annexation by referendum; court order.** (intro.) As a complete
21 alternative to any other annexation procedure, and subject to s. 66.023 (7) and except
22 as provided in s. 60.225 (4), unincorporated territory which contains electors and is
23 contiguous to a city or village may be annexed thereto in the manner hereafter
24 provided. The definitions in s. 66.021 (1) shall apply to this section.

25 **SECTION 11. 66.025** of the statutes is amended to read:

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1 **66.025 Annexation of owned territory.** In addition to other methods
2 provided by law and subject to ss. 59.692 (7) and 66.023 (7) and except as provided
3 in s. 60.225 (4), territory owned by and lying near but not necessarily contiguous to
4 a village or city may be annexed to a village or city by ordinance enacted by the board
5 of trustees of the village or the common council of the city, provided that in the case
6 of noncontiguous territory the use of the territory by the city or village is not contrary
7 to any town or county zoning regulation. The ordinance shall contain the exact
8 description of the territory annexed and the names of the towns from which
9 detached, and shall operate to attach the territory to the village or city upon the filing
10 of 6 certified copies thereof in the office of the secretary of state, together with 6 copies
11 of a plat showing the boundaries of the territory attached. Two copies of the
12 ordinance and plat shall be forwarded by the secretary of state to the department of
13 transportation, one copy to the department of natural resources, one copy to the
14 department of revenue and one copy to the department of ~~education~~ public
15 instruction.

16 **SECTION 12. 66.32** of the statutes is amended to read:

17 **66.32 Extraterritorial powers.** The extraterritorial powers granted to cities
18 and villages by statute, including ss. 30.745, 62.23 (2) and (7a), 66.052, 236.10 and
19 254.57, may not be exercised within the corporate limits of another city or village and
20 may not be exercised within the corporate limits of a town whose board has adopted
21 a resolution under s. 60.225 (1) unless a majority of the votes cast in
22 the ratification vote on the resolution. Wherever these statutory extraterritorial powers
23 overlap, the jurisdiction over the overlapping area shall be divided on a line all points
24 of which are equidistant from the boundaries of each municipality concerned so that
25 not more than one municipality shall exercise power over any area.

SECTION 13. 70.99 (8) of the statutes is amended to read:

Handwritten note: do not approve the resolution

1 70.99 (8) Each city, town and village assessor duly appointed or elected and
 2 qualified to make the assessment for a city, town or village shall continue in office
 3 for all purposes of completing the functions of assessor with respect to such current
 4 year's assessment, but is divested of all authority in respect to the January 1
 5 assessment that comes under the jurisdiction of the county assessor, except that a
 6 town assessor of any charter town under s. 60.225 is not divested of his or her
 7 authority under this subsection and a county assessor does not have jurisdiction in
 8 a charter town.

9 **SECTION 14.** 236.02 (5) of the statutes is amended to read:

10 236.02 (5) "Extraterritorial plat approval jurisdiction" means the
 11 unincorporated area, except as provided in s. 60.225 (3)(c), within 3 miles of the
 12 corporate limits of a first, second or third class city, or 1112 miles of a fourth class city
 13 or a village.

14 **SECTION 15.** Laws of 1975, chapter 105, section 1 (1) and (2) are amended to
 15 read:

16 [Laws of 1975, chapter 1051 Section 1(1) The legislature finds that the existing
 17 **system** of allocating aggregate property tax revenues among tax levying
 18 municipalities has resulted in significant inequities and disincentives. The cost of
 19 public works or improvements within a city, town or village has been borne entirely
 20 by the city, town or village, while the expansion of tax base which is stimulated,
 21 directly or indirectly, by such improvements, benefits not only the city, town or village
 22 but also all municipalities which share such tax base. This situation is inequitable.
 23 Moreover, when the cost to a city, town or village of a public improvement project
 24 exceeds the future benefit to the city, town or village resulting therefrom, the city,

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1 ~~town or village may decide not to undertake~~ such project. r e s u l t e d
2 in the postponement or cancellation of socially desirable projects.

3 (2) The legislature further finds that accomplishment of the vital and beneficial
4 public purposes of sections 66.405 to **66.425, 66.43, 66.431, 66.435** and 66.52 of the
5 **statutes**, is being frustrated because of a lack of incentives and financial resources.
6 The purpose of this act is to create a viable procedure by which a city ~~or~~, village or
7 town, through its own initiative and efforts, may finance projects which will tend to
8 accomplish these laudable objectives.

9 (END)

-0249/rdh
LRB-1183/P1dn
MES:mfd:kat
cmf/2kg

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

~~Tuesday, December 3, 1996~~

It could also be argued that the mere existence of "charter towns" and "regular towns" creates more than one system of town government" and violates article IV, section 23 of the constitution

Please review this bill very carefully to ensure that it is consistent with your intent. In addition there are several issues, indicated by "****NOTES", in the bill that must be resolved before the bill may become a "1". This bill is based loosely on the 1994 "sample draft" submitted by the Wisconsin Towns Association and a summary document submitted in 1995 by WTA's Urban Towns committee.

It appears that your basic instruction is to grant "charter towns" all of the authority of villages, except the power to annex territory and to exercise extraterritorial zoning authority. The general, broad grant of authority is contained in s. 60.225 (3) (a) (intro.) in the bill. I assumed that you did not want to grant "charter towns" home rule authority, as specified in s. 60.225 (3) (a) 1. If you do want to grant "charter towns" home rule authority, it would probably be easier for the towns that you believe are eligible to become charter towns to just become cities or villages. Ifs. 60.225 (3) (a) 1. is not consistent with your intent, please let me know, although you will need to amend the constitution if you really want to grant home rule authority to "charter towns". See article XI, section 3, of the constitution.

It seems to me that the broad language in s. 60.225 (3) (a) (intro.) may have some unintended results. For example, do you want "charter towns" to be subject to direct legislation under s. 9.20, through s. 61.342, as this bill provides? As drafted, it seems to me that once a town becomes a "charter town" it could adopt the village form of governance under ss. 61.197 to 61.34. Is this your intent? Authorizing charter towns to adopt a village form of governance could result in a constitutional challenge to the bill. It could be argued that authorizing such a form of governance violates article IV, section 23, of the constitution, which requires the legislature to establish "...but one system of town government, which shall be as nearly uniform as practicable...".

If "charter towns" have the powers of villages, including zoning powers under s. 62.23, it seems to me that ss. 60.225 (3) (b), 60.61 and 60.62 are somewhat inconsistent with an entity that may act under s. 62.23. What changes would you like in these sections? Would you like ss. 60.61 and 60.62 to apply only to "regular" towns and require charter towns to act under ss. 61.35 and 62.23, subject to the limitations in s. 60.225 (3) (a)? Are the changes that I've made in s. 60.62 (2) and (3) consistent with your intent?

Marc E. Shovers
Senior Staff Counsel Legislative Attorney
266-0129

Wisconsin

any changes

11/11/11

11/11/11

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0044/P1dn
MES:cmh&kg:hmh

Tuesday, October 13, 1998

Please review this bill very carefully to ensure that it is consistent with your intent. In addition there are several issues, indicated by "****Notes", in the bill that must be resolved before the bill may become a "/1". This bill is based loosely on the 1994 "sample draft" submitted by the Wisconsin Towns Association and a summary document submitted in 1995 by WTA's Urban Towns committee.

It appears that your basic instruction is to grant "charter towns" all of the authority of villages, except the power to annex territory and to exercise extraterritorial zoning authority. The general, broad grant of authority is contained in s. 60.225 (3) (a) (intro.) in the bill. I assumed that you did not want to grant "charter towns" home rule authority, as specified in s. 60.225 (3) (a) 1. If you do want to grant "charter towns" home rule authority, it would probably be easier for the towns that you believe are eligible to become charter towns to just become cities or villages. Ifs. 60.225 (3) (a) 1. is not consistent with your intent, please let me know, although you will need to amend the Wisconsin Constitution if you really want to grant home rule authority to "charter towns". See article XI, section 3, of the Wisconsin Constitution.

It seems to me that the broad language in s. 60.225 (3) (a) (intro.) may have some unintended results. For example, do you want "charter towns" to be subject to direct legislation under s. 9.20, through s. 61.342, as this bill provides? As drafted, it seems to me that once a town becomes a "charter town" it could adopt the village form of governance under ss. 61.197 to 61.34. Is this your intent? Authorizing charter towns to adopt a village form of governance could result in a constitutional challenge to the bill. It could be argued that authorizing such a form of governance violates article IV, section 23, of the Wisconsin Constitution, which requires the legislature to establish "...but one system of town government, which shall be as nearly uniform as practicable...". It could also be argued that the mere existence of "charter towns" and "regular towns" creates more than "one system of town government" and violates article IV, section 23 of the Wisconsin Constitution.

If "charter towns" have the powers of villages, including zoning powers under s. 62.23, it seems to me that ss. 60.225 (3) (b), 60.61 and 60.62 are somewhat inconsistent with an entity that may act under s. 62.23. Would you like any changes in these sections? Would you like ss. 60.61 and 60.62 to apply only to "regular" towns and require charter towns to act under ss. 61.35 and 62.23, subject to the limitations in s. 60.225 (3) (a)? Are the changes that I've made in s. 60.62 (2) and (3) consistent with your intent?

Marc E. Shovers
Senior Legislative Attorney
266-0129



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0044/PD
MES:cmh&kg:bmh

stamp
RMP

PRELIMINARY **DRAFT - NOT READY FOR** INTRODUCTION

NOTE

refer

1 **AN ACT to amend** 60.61 (2) (intro.), 60.61 (3) (intro.), 60.62 (2), 60.62 (3), 62.23
2 (7a) (a), 66.021 (2) (intro.), 66.024 (intro.), 66.025, 66.32, 70.99 (8) and 236.02
3 (5); **to create** 60.10 (1) (g), 60.225 and 60.23 (32) of the statutes; and **to affect**
4 Laws of 1975, chapter 105, section 1 (1) and (2); **relating to:** the powers of
5 certain towns and authorizing the creation of charter towns by certain town
6 boards.

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 create a tax incremental financing district, 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 is subject to ratification in a referendum that the town board must call, declaring that it is a "charter town" and that, under certain

circumstances and subject to several limitations, allows the town board to exercise any statutory power that a village may exercise, including the power to create a tax incremental financing district and a housing authority for the elderly. The bill also allows a charter town board to exercise certain zoning powers, and exempts the town from being subject to certain city and village extraterritorial powers. Also under the bill, town residents may attempt to enact direct legislation. This bill does not extend constitutional or statutory home rule powers to charter towns, nor does it allow such towns to annex territory or to engage in extraterritorial zoning or plat approval.

The powers granted to towns in this bill apply only 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 at least ~~20,000~~ ^{25,000}
2. The town board creates a town plan commission and adopts a comprehensive land use plan.
3. The town ~~must provide fire protection services 24 hours a day~~ ^{enacts and enforces building code ordinances}
4. The town board enacts a construction site erosion control and storm water management zoning ordinance.

In addition, certain charter towns are exempt from being subject to city and village annexation powers if certain conditions are met. Some of the conditions that must be met include the following:

1. ^{At least 10% of} The town residents ~~must~~ receive water supply ^{and/or} sewage disposal services, ^{or both,} 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.
2. The equalized value of the town must exceed \$100,000,000.
3. The town must provide law enforcement services 24 hours a day.

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 Charter towns. (1) PROCEDURE.** If a town board is authorized to
6 exercise 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 a charter town that is subject to this

1 section if, on the date of adoption of the resolution, all of the following conditions are
2 satisfied:

3 (a) The population of the town is at least ~~2,000~~ ^{2,500}

4 (b) The town board creates and maintains a town plan commission under s.
5 62.23.

6 (c) The town board enacts a comprehensive zoning ordinance under s. 60.61,
7 60.62 or 62.23, and establishes an official town map under s. 62.23 (6).

8 (d) The town board adopts a comprehensive land use plan that is similar to a
9 county development plan described under s. 59.69 (3) (b) and (c).

10 (e) The town board enacts a construction site erosion control and storm water
11 management zoning ordinance under s. 60.627.

12 (f) The town board enacts a subdivision ordinance under s. 236.45.

13 (g) The town ^{enacts and enforces building code ordinances} ~~provides fire protection services, 24 hours a day, by establishing~~

14 ~~a town fire department or by creating a joint fire department with another city,~~

15 ~~village or town~~ under s. 60.45 ^{61 (1m)}

16 (2) RATIFICATION. (a) If a town board adopts a resolution under sub. (1), the
17 town board shall call a referendum to ratify the resolution at the next spring primary
18 or election or September primary or general election, to be held not sooner than 45
19 days after the ratification referendum is called by the town board. The referendum
20 question shall be: "Do you approve the town board resolution declaring [name of
21 town] to be a charter town?"

22 (b) A resolution adopted by a town board under sub. (1) may not take effect until
23 the resolution is approved by the electors in a ratification referendum under par. (a).
24 If the resolution is ratified, the town clerk shall certify that fact to the secretary of

1 state. The secretary of state shall issue a certificate of charter town status and shall
2 record that status in a book kept for that purpose.

3 (c) If a resolution adopted by a town board under sub. (1) takes effect under par.
4 (b), the town board may adopt a resolution, not sooner than 4 years after the effective
5 date of the resolution declaring the town to be a charter town, that revokes the town's
6 charter town status. The revocation resolution may not take effect until the
7 resolution is approved by the electors in a ratification referendum called by the town
8 board for that purpose. The referendum shall comply with the requirements for a
9 ratification referendum that is held under par. (a), except that the referendum
10 question shall be: "Do you approve the town board resolution that revokes the status
11 of . . . [name of town] as a charter town?"

****NOTE: If a town returns to "regular" status, am I correct in assuming that county zoning ordinances that apply to regular towns, but not to charter towns, would automatically apply to a town that returns to regular town status? If so, what if there is a conflict between a county ordinance and an ordinance that was enacted by the charter town?

12 (3) POWERS. (a) A town that is subject to this section may exercise any statutory
13 power that a village may exercise, except as follows:

14 1. A town acting under this section does not have home rule powers under
15 article XI, section 3, of the constitution.

16 2. A town acting under this section may not exercise extraterritorial zoning
17 powers under s. 62.23 (7a) or 66.32, offensive industry regulation under s. 66.052 (1),
18 extraterritorial plat approval under s. 236.10 or wetlands in shorelands zoning
19 authority under s. 61.351.

20 3. A town acting under this section may not annex territory under s. 66.021,
21 66.024 or 66.025.

1 (b) 1. Except for a wetlands in shorelands zoning ordinance, no town may be
2 subject to any county zoning ordinance that is enacted by a county board after a town
3 board adopts a resolution under sub. (1) unless the town board approves the
4 ordinance or until the resolution adopted by the town board under sub. (1) is defeated
5 in a ratification vote by the referendum under sub. (2).

6 2. If a town board adopts a resolution under sub. (1) and the resolution is
7 ratified under sub. (2), a town board may adopt a resolution revoking its approval of
8 any county zoning ordinance, other than a wetlands in shorelands zoning ordinance,
9 if the town board notifies the county board in writing at least 60 days before the
10 resolution revoking approval of a county zoning ordinance takes effect. On the
11 effective date of the resolution revoking town approval of a county zoning ordinance,
12 the town board may act under s. 60.61 (2) or 60.62 (1).

13 (c) No town may be subject to the extraterritorial zoning jurisdiction or
14 extraterritorial plat approval jurisdiction of a city or village during the period
15 beginning- after a town board adopts a resolution under sub. (1) and before a
16 ratification vote under sub. (2) or at any time after the electors of the town approve
17 the resolution under sub. (2).

18 **(4) PROTECTED STATUS.** If all of the following apply, no town territory may be
19 annexed by a city or village under s. 66.021, 66.024 or 66.025 during the period
20 beginning after a town board adopts a resolution under sub. (1) and before a
21 ratification vote under sub. (2) or at any time after the electors of the town approve
22 such a resolution under sub. (2), unless the town board approves the proposed
23 annexation:

24 (a) The equalized value of the town exceeds \$100,000,000, according to the most
25 recent assessment.

At least 10% of

either ~~and~~ *or*

1

(b) The town residents receive (water supply and sewage disposal services) from one of the following:

2

3

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

4

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

5

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

6

4. A public utility created under s. 196.01 (5).

7

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

8

6. A city or village.

9

(c) The town provides law enforcement services, 24 hours a day, by establishing a town police department or by creating a joint police department with another city, village or town under s. 60.56.

10

11

12

13

~~(d) The town enacts and enforces building code ordinances under s. 60.61 (1m).~~

~~****NOTE: I'm not sure what your instructions mean with respect to "a building inspection program in compliance with statutory building inspection requirements established for municipalities with a population of 2,500 or more." Does par. (d) meet your intent?~~

14

SECTION 3. 60.23(32) of the statutes is created to read:

15

60.23 (32) TOWN TAX INCREMENT POWERS. Exercise all powers of cities under s. 66.46. If the town board exercises the powers of a city under s. 66.46, it is subject to the same duties as a common council under s. 66.46 and the town is subject to the same duties and liabilities as a city under s. 66.46.

16

17

18

19

SECTION 4. 60.61 (2) (intro.) of the statutes is amended to read:

20

60.61 (2) EXTENT OF AUTHORITY. (intro.) Subject If a town board revokes its approval of a county zoning ordinance under s. 60.225 (3) (b) 2. or ~~ject~~ to subs. (3) and (3m), if a town is located in a county which has not enacted a county zoning ordinance under s. 59.69, the town board, by ordinance, may:

21

22

23

1 **SECTION 5.** 60.61 (3) (intro.) of the statutes is amended to read:

2 60.61 (3) **EXERCISE OF AUTHORITY.** (intro.) Before exercising authority under
3 sub. (2), the town board of a town that is located in a county which has not adopted
4 a county zoning ordinance under s. 59.69 shall petition the county board to initiate,
5 at any regular or special meeting, action to enact a county zoning ordinance under
6 s. 59.69. The town board may proceed under sub. (2) if:

7 **SECTION 6.** 60.62 (2) of the statutes is amended to read:

8 60.62 (2) If the county in which the town is located has enacted a zoning
9 ordinance under s. 59.69, the exercise of the authority under sub. (1) is subject to
10 approval by the town meeting or by a referendum vote of the electors of the town held
11 at the time of any regular or special election, ~~except that this sub. does not~~
12 apply if a town board revokes its approval of a county zoning ordinance under s.
13 60.225 (3) (b) 2.

14 **SECTION 7.** 60.62 (3) of the statutes is amended to read:

15 60.62 (3) In counties having a county zoning ordinance, no zoning ordinance
16 or amendment of a zoning ordinance may be adopted under this section unless
17 approved by the county board, ~~except that it~~ does not apply if a town
18 board revokes its approval of a county zoning ordinance under s. 60.225 (3) (b) 2.

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

20 62.23 (7a) (a) Extraterritorial zoning jurisdiction means the unincorporated
21 area, except as provided in s. 60.225 (3) (c), within 3 miles of the corporate limits of
22 a first, second or third class city, or 1 1/2 miles of a fourth class city or a village.
23 Wherever extraterritorial zoning jurisdictions overlap, the provisions of s. 66.32
24 shall apply and any subsequent alteration of the corporate limits of the city by
25 annexation, detachment or consolidation proceedings shall not affect the dividing

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

15 SECTION 9. **66.021 (2)** (intro.) of the statutes is amended to read:

16 66.021 (2) **METHODS OF ANNEXATION.** (intro.) Subject to s. 66.023 (7) and except
17 as provided in s. 60.225 (4), territory contiguous to any city or village may be annexed
18 thereto in the following ways:

19 SECTION 10. 66.024 (intro.) of the statutes is amended to read:

20 **66.024 Annexation by referendum; court order.** (intro.) As a complete
21 alternative to any other annexation procedure, and subject to s. 66.023 (7) and except
22 as provided in s. 60.225 (4), unincorporated territory which contains electors and is
23 contiguous to a city or village may be annexed thereto in the manner hereafter
24 provided. The definitions in s. 66.021 (1) shall apply to this section.

25 SECTION 11. 66.025 of the statutes is amended to read;

1 **66.025 Annexation of owned territory.** In addition to other methods
2 provided by law and subject to ss. 59.692 (7) and 66.023 (7) and except as provided
3 in s. 60.225 (4), territory owned by and lying near but not necessarily contiguous to
4 a village or city may be annexed to a village or city by ordinance enacted by the board
5 of trustees of the village or the common council of the city, provided that in the case
6 of noncontiguous territory the use of the territory by the city or village is not contrary
7 to any town or county zoning regulation. The ordinance shall contain the exact
8 description of the territory annexed and the names of the towns from which
9 detached, and shall operate to attach the territory to the village or city upon the filing
10 of 6 certified copies thereof in the office of the secretary of state, together with 6 copies
11 of a plat showing the boundaries of the territory attached. Two copies of the
12 ordinance and plat shall be forwarded by the secretary of state to the department of
13 transportation, one copy to the department of natural resources, one copy to the
14 department of revenue and one copy to the department of public instruction.

15 **SECTION 12.** 66.32 of the statutes is amended to read:

16 **66.32 Extraterritorial powers.** The extraterritorial powers granted to cities
17 and villages by statute, including ss. 30.745, 62.23 (2) and (7a), 66.052, 236.10 and
18 254.57, may not be exercised within the corporate limits of another city or village &
19 may not be exercised within the corporate limits of a town whose board has adopted
20 a resolution under s. 60.225 (1) unless a majority of the votes cast in the ratification
21 vote on the resolution do not approve the resolution. Wherever these statutory
22 extraterritorial powers overlap, the jurisdiction over the overlapping area shall be
23 divided on a line all points of which are equidistant from the boundaries of each
24 municipality concerned so that not more than one municipality shall exercise power
25 over any area.

1 **SECTION 13.** 70.99 (8) of the statutes is amended to read:

2 70.99 (8) Each city, town and village assessor duly appointed or elected and
3 qualified to make the assessment for a city, town or village shall continue in office
4 for all purposes of completing the functions of assessor with respect to such current
5 year's assessment, but is divested of all authority in respect to the January 1
6 assessment that comes under the jurisdiction of the county assessor, ~~except that a~~
7 town assessor of any charter town under s. 60.225 is not divested of his or her
8 authority under this subsection and a county assessor does not have jurisdiction in
9 a charter town.

10 **SECTION 14.** 236.02 (5) of the statutes is amended to read:

11 236.02 (5) "Extraterritorial plat approval jurisdiction" means the
12 unincorporated area, ~~except as provided in s. 60.225(3)(c),~~ within 3 miles of the
13 corporate limits of a first, second or third class city, or 1 1/2 miles of a fourth class city
14 or a village.

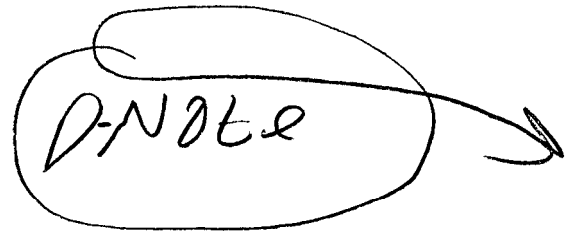
15 **SECTION 15.** Laws of 1975, chapter 105, section 1 (1) and (2) are amended to
16 read:

17 [Laws of 1975, chapter 105] Section 1 (1) The legislature finds that the existing
18 system of allocating aggregate property tax revenues among tax levying
19 municipalities has resulted in significant inequities and disincentives. The cost of
20 public works or improvements within a city, town or village has been borne entirely
21 by the city, town or village, while the expansion of tax base which is stimulated,
22 directly or indirectly, by such improvements, benefits not only the city, town or village
23 but also all municipalities which share such tax base. This situation is inequitable.
24 Moreover, when the cost to a city, town or village of a public improvement project
25 exceeds the future benefit to the city, town or village resulting therefrom, the city,

1 town or village may decide not to undertake such project. This situation has resulted
2 in the postponement or cancellation of socially desirable projects.

3 (2) The legislature further finds that accomplishment of the vital and beneficial
4 public purposes of sections 66.405 to 66.425, 66.43, 66.431, 66.435 and 66.52 of the
5 statutes, is being frustrated because of a lack of incentives and financial resources.
6 The purpose of this act is to create a viable procedure by which a city ~~or~~, village or
7 town, through its own initiative and efforts, may finance projects which will tend to
8 accomplish these laudable objectives.

9 (END)



D-NOTE



DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0044/P11n
MES:cmh&kg:llh

✓
Stacy

Tuesday, October 13, 1998

Please review this bill very ^{is one} carefully to ensure that it is consistent with your intent. In addition there ~~are several~~ issues, indicated by "****Note@", in the bill that must be resolved before the bill may become a "/1". This bill is based loosely on the 1994 "sample draft" submitted by the Wisconsin Towns Association and a summary document submitted in 1995 by WTA's Urban Towns committee:

It appears that your basic instruction is to grant "charter towns" all of the authority of villages, except the power to annex territory and to exercise extraterritorial zoning authority. The general, broad grant of authority is contained in s. 60.225 (3) (a) (intro.) in the bill. I assumed that you did not want to grant "charter towns" home rule authority, as specified in s. 60.225 (3) (a) 1. If you do want to grant "charter towns" home rule authority, it would probably be easier for the towns that you believe are eligible to become charter towns to just become cities or villages. If s. 60.225 (3) (a) 1. is not consistent with your intent, please let me know, although you will need to amend the Wisconsin Constitution if you really want to grant home rule authority to "charter towns". See article XI, section 3, of the Wisconsin Constitution.

It seems to me that the broad language in s. 60.225 (3) (a) (intro.) may have some unintended results. For example, do you want "charter towns" to be subject to direct legislation under s. 9.20, through s. 61.342, as this bill provides? As drafted, it seems to me that once a town becomes a "charter town" it could adopt the village form of governance under ss. 61.197 to 61.34. Is this your intent? Authorizing charter towns to adopt a village form of governance could result in a constitutional challenge to the bill. It could be argued that authorizing such a form of governance violates article IV, section 23, of the Wisconsin Constitution, which requires the legislature to establish "...but one system of town government, which shall be as nearly uniform as practicable...". It could also be argued that the mere existence of "charter towns" and "regular towns" creates more than "one system of town government" and violates article IV, section 23 of the Wisconsin Constitution.

If "charter towns" have the powers of villages, including zoning powers under s. 62.23, it seems to me that ss. 60.225 (3) (b), 60.61 and 60.62 are somewhat inconsistent with an entity that may act under s. 62.23. Would you like any changes in these sections? Would you like ss. 60.61 and 60.62 to apply only to "regular" towns and require charter towns to act under ss. 61.35 and 62.23, subject to the limitations in s. 60.225 (3) (a)? Are the changes that I've made in s. 60.62 (2) and (3) consistent with your intent?

Marc E. Shovers
Senior Legislative Attorney
266-0129



DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0044/P2dn
MES:cmh&kg:lp

January 21, 1999

Please review this bill very carefully to ensure that it is consistent with your intent. In addition there is one issue, indicated by "****Note", in the bill that must be resolved before the bill may become a "/1". This bill is based loosely on the 1994 "sample draft" submitted by the Wisconsin Towns Association and a summary document submitted in 1995 by WTA's Urban Towns committee.

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Marc E. Shovers
Senior Legislative Attorney
266-0129



State Representative
Carol Owens

531-d Assembly District

CI In response to your recent request.

CI I thought you might be interested in
the enclosed material.

Marc,

Please note the changes
made on 4, hopefully this will
allow the bill to receive a //

If you have any further questions,
please call:

- Tom Turnish, WI Towns Assoc.
(715) 743-7477

Thanks, Carol

P.O. Box 8953 • Madison, Wisconsin 53708-8953
(608) 267-7990 • Fax: (608) 2667038
Toll-Free Legislative Hotline: 1 (800) 362-9472
Rep.Owens@legis.state.wi.us • District: (414) 589-4262

1 (c) If a resolution adopted by a town board under sub. (1) takes effect under par.
 2 (b), the town board may adopt a resolution, not sooner than 4 years after the effective
 3 date of the resolution declaring the town to be a charter town, that revokes the town's
 4 charter town status. The revocation resolution may not take effect until the
 5 resolution is approved by the electors in a ratification referendum called by the town
 6 board for that purpose. The referendum shall comply with the requirements for a
 7 ratification referendum that is held under par. (a), except that the referendum
 8 question shall be: "Do you approve the town board resolution that revokes the status
 9 of . . . [name of town] as a charter town?"

****NOTE: If a town returns to "regular" status, am I correct in assuming that county zoning ordinances that apply to regular towns, but not to charter towns, would automatically apply to a town that returns to regular town status? If so, what if there is a conflict between a county ordinance and an ordinance that was enacted by the charter town?

10 (3) **POWERS.** ~~(a) A town that is subject to this section may exercise only such powers~~
 11 ~~power than a village may exercise except as follows:~~

- 12 1. ~~A town acting under this section~~ does not have home rule powers under
 13 article XI, section 3, of the constitution.
- 14 2. ~~A town acting under this section~~ may not exercise extraterritorial zoning
 15 powers under s. 62.23 (7a) or 66.32, offensive industry regulation under s. 66.052 (1),
 16 extraterritorial plat approval under s. 236.10' or wetlands in shorelands zoning
 17 authority under s. 61.351.
- 18 3. ~~A town acting under this section~~ may not annex territory under s. 66.021,
 19 66.024 or 66.025.

20 (b) 1. Except for a wetlands in shorelands zoning ordinance, no town may be
 21 subject to any county zoning ordinance that is enacted by a county board after a town
 22 board adopts a resolution under sub. (1) unless the town board approves the



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-004470
MES:cmh&kg:lp

PMK

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

D-NOTE

Refer

1 **AN ACT to amend** 60.61 (2) (intro.), 60.61 (3) (intro.), **60.62 (2), 60.62 (3), 62.23**
2 (7a) (a), **66.021 (2) (intro.), 66.024 (intro.), 66.025, 66.32, 70.99 (8) and 236.02**
3 **(5); to create** 60.10 (1) (g), 60.225 and 60.23 (32) of the statutes; and **to affect**
4 **Laws of 1975, chapter 105, section 1 (1) and (2); relating to:** the powers of
5 certain towns and authorizing the creation of charter towns by certain town
6 boards.

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 create a tax incremental financing district, 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 is subject to ratification in a referendum that the town board must call, declaring that it is a "charter town" and that, under certain

circumstances and subject to several limitations, allows the town board to ~~exercise any statutory power that a village may exercise, including the power to~~ create a tax incremental financing district ~~and a housing authority for the elderly.~~ The bill also allows a charter town board to exercise certain zoning powers, and exempts the town from being subject to certain city and village extraterritorial powers. ~~Also under the bill, town residents may attempt to enact direct legislation.~~ This bill does not ~~extend constitutional or statutory home rule powers to charter towns, nor does it~~ allow such towns to annex territory or to engage in extraterritorial zoning or plat approval.

The powers granted to towns in this bill apply only 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 at least 2,500.
2. The town board creates a town plan commission and adopts a comprehensive land use plan.
3. The town enacts and enforces building code ordinances.
4. The town board enacts a construction site erosion control and storm water management zoning ordinance.

In addition, certain charter towns are exempt from being subject to city and village annexation powers if certain conditions are met. Some of the conditions that must be met include the following:

1. At least 10% of the town residents receive water supply or sewage disposal services, or both, 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.
2. The equalized value of the town must exceed \$100,000,000.
3. The town must provide law enforcement services 24 hours a day.

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 **Charter towns. (1) PROCEDURE.** If a town board is authorized to
6 exercise 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 a charter town that is subject to this

1 section if, on the date of adoption of the resolution, all of the following conditions are
2 \ satisfied:

3 (a) The population of the town is at least 2,500.

4 (b) The town board creates and maintains a town plan commission under s.
5 **62.23**.

6 (c) The town board enacts a comprehensive zoning ordinance under s. 60.61,
7 60.62 or 62.23, and establishes an official town map under s. 62.23 (6).

8 (d) The town board adopts a comprehensive land use plan that is similar to a
9 county development plan described under s. 59.69 (3) (b) and (c).

10 (e) The town board enacts a construction site erosion control and storm water
11 management zoning ordinance under s. 60.627.

12 (f) The town board enacts a subdivision ordinance under s. 236.45.

13 (g) The town enacts and enforces building code ordinances under s. 60.61 (lm).

14 **(2) RATIFICATION.** (a) If a town board adopts a resolution under sub. (1), the
15 town board shall call a referendum to ratify the resolution at the next spring primary
16 or election or September primary or general election, to be held not sooner than 45
17 days after the ratification referendum is called by the town board. The referendum
18 question shall be: "Do you approve the town board resolution declaring [name of
19 town] to be a charter town?".

20 (b) A resolution adopted by a town board under sub. (1) may not take effect until
21 the resolution is approved by the electors in a ratification referendum under par. (a).
22 If the resolution is ratified, the town clerk shall certify that fact to the secretary of
23 state. The secretary of state shall issue a certificate of charter town status and shall
24 record that status in a book kept for that purpose.

1 (c) If a resolution adopted by a town board under sub. (1) takes effect under par.
 2 (b), the town board may adopt a resolution, not sooner than 4 years after the effective
 3 date of the resolution declaring the town to be a charter town, that revokes the town's
 4 charter town status. The revocation resolution may not take effect until the
 5 resolution is approved by the electors in a ratification referendum called by the town
 6 board for that purpose. The referendum shall comply with the requirements for a
 7 ratification referendum that is held under par. (a), except that the referendum
 8 question shall be: "Do you approve the town board resolution that revokes the status
 9 of [name of town] as a charter town?"

NO #

4-9

***NOTE: If a town returns to "regular" status, am I correct in assuming that county zoning ordinances that apply to regular towns, but not to charter towns, would automatically apply to a town that returns to regular town status? If so, what if there is a conflict between a county ordinance and an ordinance that was enacted by the charter town?

Zoning YES

10 (3) ~~However~~ (a) A town that is subject to this section may exercise any statutory
 11 power that a village may exercise, except as follows:

- 12 1. A town acting under this section does not have home rule powers under
 13 article XI, section 3, of the constitution.
- 14 2. A town acting under this section may not exercise extraterritorial zoning
 15 powers under s. 62.23 (7a) or 66.32, offensive industry regulation under s. 66.052 (1),
 16 extraterritorial plat approval under s. 236.10 or wetlands in shorelands zoning
 17 authority under s. 61.351.
- 18 3. A town acting under this section may not annex territory under s. 66.021,
 19 66.024 or 66.025.

20 NO #

(a) 1. Except for a wetlands in shorelands zoning ordinance, no town may be
 21 subject to any county zoning ordinance that is enacted by a county board after a town
 22 board adopts a resolution under sub. (1) unless the town board approves the

1 ordinance or until the resolution adopted by the town board under sub. (1) is defeated
2 in a ratification vote by the referendum under sub. (2).

3 2. If a town board adopts a resolution under sub. (1) and the resolution is
4 ratified under sub. (2), a town board may adopt a resolution revoking its approval of
5 any county zoning ordinance, other than a wetlands in shorelands zoning ordinance,
6 if the town board notifies the county board in writing at least 60 days before the
7 resolution revoking approval of a county zoning ordinance takes effect. On the
8 effective date of the resolution revoking town approval of a county zoning ordinance,
9 the town board may act under s. 60.61 (2) or 60.62 (1).

10 (b) ~~is~~ No town may be subject to the extraterritorial zoning jurisdiction or
11 extraterritorial plat approval jurisdiction of a city or village during the period
12 beginning after a town board adopts a resolution under sub. (1) and before a
13 ratification vote under sub. (2) or at any time after the electors of the town approve
14 the resolution under sub. (2).

15 (4) **PROTECTED STATUS.** If all of the following apply, no town territory may be
16 annexed by a city or village under s. 66.021, 66.024 or 66.025 during the period
17 beginning after a town board adopts a resolution under sub. (1) and before a
18 ratification vote under sub. (2) or at any time after the electors of the town approve
19 such a resolution under sub. (2), unless the town board approves the proposed
20 annexation:

21 (a) The equalized value of the town exceeds \$100,000,000, according to the most
22 recent assessment.

23 (b) At least 10% of the town residents receive either water supply or sewage
24 disposal services, or both, from one of the following:

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

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

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

4 4. A public utility created under s. 196.01 (5).

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

6 6. A city or village.

7 (c) The town provides law enforcement services, 24 hours a day, by establishing
8 a town police department or by creating a joint police department with another city,
9 village or town under s. 60.56.

10 **SECTION 3.** 60.23 (32) of the statutes is created to read:

11 60.23 (32) **TOWN TAX INCREMENT POWERS.** Exercise all powers of cities under s.
12 66.46. If the town board exercises the powers of a city under s. 66.46, it is subject to
13 the same duties as a common council under s. 66.46 and the town is subject to the
14 same duties and liabilities as a city under s. 66.46.

15 **SECTION 4.** 60.61 (2) (intro.) of the statutes is amended to read:

16 60.61 (2) **EXTENT OF AUTHORITY.** (intro.) ~~Subject~~ If a town board revokes its
17 approval of a county zoning ordinance under s. 60.225 (3) ^(a) ~~or~~ subject to subs.
18 (3) and (3m), if a town is located in a county which has not enacted a county zoning
19 ordinance under s. 59.69, the town board, by ordinance, may:

20 **SECTION 5.** 60.61 (3) (intro.) of the statutes is amended to read:

21 60.61 (3) **EXERCISE OF AUTHORITY.** (intro.) Before exercising authority under
22 sub. (2), the town board ~~of a town that is located in a county which has not adopted~~
23 ~~g. ordinance~~ under s. 59.69 shall petition the county board to initiate,
24 at any regular or special meeting, action to enact a county zoning ordinance under
25 s. 59.69. The town board may proceed under sub. (2) if:

1 **SECTION 6.** 60.62 (2) of the statutes is amended to read:

2 60.62 (2) If the county in which the town is located has enacted a zoning
3 ordinance under s. 59.69, the exercise of the authority under sub. (1) is subject to
4 approval by the town meeting or by a referendum vote of the electors of the town held
5 at the time of any regular or special election, ~~except that this subsection does not~~
6 ~~apply if a town board revokes its approval of a county zoning ordinance under s.~~
7 60.225 (3) ~~sub. 2.~~ (a)

8 **SECTION 7.** 60.62 (3) of the statutes is amended to read:

9 60.62 (3) In counties having a county zoning ordinance, no zoning ordinance
10 or amendment of a zoning ordinance may be adopted under this section unless
11 approved by the county board, ~~except that this subsection does not apply if a town~~
12 board revokes its approval of a county zoning ordinance under s. 60.225 (3) ~~sub. 2.~~ (a)

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

14 62.23 (7a) (a) Extraterritorial zoning jurisdiction means the unincorporated
15 area, ~~except as provided in s. 60.225 (3) ~~sub. 2.~~~~ (b) within 3 miles of the corporate limits of
16 a first, second or third class city, or 1 1/2 miles of a fourth class city or a village.
17 Wherever extraterritorial zoning jurisdictions overlap, the provisions of s. 66.32
18 shall apply and any subsequent alteration of the corporate limits of the city by
19 annexation, detachment or consolidation proceedings shall not affect the dividing
20 line as initially determined under s. 66.32. The governing body of the city shall
21 specify by resolution the description of the area to be zoned within its extraterritorial
22 zoning jurisdiction sufficiently accurate to determine its location and such area shall
23 be contiguous to the city. The boundary line of such area shall follow government lot
24 or survey section or fractional section lines or public roads, but need not extend to
25 the limits of the extraterritorial zoning jurisdiction. Within 15 days of the adoption

1 of the resolution the governing body shall declare its intention to prepare a
2 comprehensive zoning ordinance for all or part of its extraterritorial zoning
3 jurisdiction by the publication of the resolution in a newspaper having general
4 circulation in the area proposed to be zoned, as a class 1 notice, under ch. 985. The
5 city clerk shall mail a certified copy of the resolution and a scale map reasonably
6 showing the boundaries of the extraterritorial jurisdiction to the clerk of the county
7 in which the extraterritorial jurisdiction area is located and to the town clerk of each
8 town, any part of which is included in such area.

9 **SECTION 9.** 66.021 (2) (intro.) of the statutes is amended to read:

10 **66.021 (2) METHODS OF ANNEXATION.** (intro.) Subject to s. 66.023 (7) and except
11 as provided in s. 60.225 (4), territory contiguous to any city or village may be annexed
12 thereto in the following ways:

13 **SECTION 10.** 66.024 (intro.) of the statutes is amended to read:

14 **66.024 Annexation by referendum; court order.** (intro.) As a complete
15 alternative to any other annexation procedure, and subject to s. 66.023 (7) and except
16 as provided in s. 60.225 (4), unincorporated territory which contains electors and is
17 contiguous to a city or village may be annexed thereto in the manner hereafter
18 provided. The definitions in s. 66.021 (1) shall apply to this section.

19 **SECTION 11.** 66.025 of the statutes is amended to read:

20 **66.025 Annexation of owned territory.** In addition to other methods
21 provided by law and subject to ss. 59.692 (7) and 66.023 (7) and except as provided
22 in s. 60.225 (4), territory owned by and lying near but not necessarily contiguous to
23 a village or city may be annexed to a village or city by ordinance enacted by the board
24 of trustees of the village or the common council of the city, provided that in the case
25 of noncontiguous territory the use of the territory by the city or village is not contrary

1 to any town or county zoning regulation. The ordinance shall contain the exact
2 description of the territory annexed and the names of the towns from which
3 detached, and shall operate to attach the territory to the village or city upon the filing
4 of 6 certified copies thereof in the office of the secretary of state, together with 6 copies
5 of a plat showing the boundaries of the territory attached. Two copies of the
6 ordinance and plat shall be forwarded by the secretary of state to the department of
7 transportation, one copy to the department of natural resources, one copy to the
8 department of revenue and one copy to the department of public instruction.

9 SECTION 12. 66.32 of the statutes is amended to read:

10 **66.32 Extraterritorial powers.** The extraterritorial powers granted to cities
11 and villages by statute, including ss. 30.745, 62.23 (2) and (7a), 66.052, 236.10 and
12 254.57, may not be exercised within the corporate limits of another city or village &
13 may not be exercised within the corporate limits of a town whose board has adopted
14 a resolution under s. 60.225 (1) unless a majority of the votes cast in the ratification
15 vote on the resolution do not approve the resolution. Wherever these statutory
16 extraterritorial powers overlap, the jurisdiction over the overlapping area shall be
17 divided on a line all points of which are equidistant from the boundaries of each
18 municipality concerned so that not more than one municipality shall exercise power
19 over any area.

20 SECTION 13. 70.99 (8) of the statutes is amended to read:

21 70.99 (8) Each city, town and village assessor duly appointed or elected and
22 qualified to make the assessment for a city, town or village shall continue in office
23 for all purposes of completing the functions of assessor with respect to such current
24 year's assessment, but is divested of all authority in respect to the January 1
25 assessment that comes under the jurisdiction of the county assessor, except that a

1 town assessor of any charter town under s 60.225 is not divested of his or her
2 authority under this subsection and a county assessor does not have jurisdiction in
3 a charter town.

4 SECTION 14. 236.02 (5) of the statutes is amended to read:

5 236.02 (5) "Extraterritorial plat approval jurisdiction" means the
6 unincorporated area ~~(3)~~ ^(b) ~~except as provided in s. 60.225~~ within 3 miles of the
7 corporate limits of a first, second or third class city, or 1 1/2 miles of a fourth class city
8 or a village.

9 SECTION 15. Laws of 1975, chapter 105, section 1 (1) and (2) are amended to
10 read:

11 [Laws of 1975, chapter 105] Section 1 (1) The legislature finds that the existing
12 system of allocating aggregate property tax revenues among tax levying
13 municipalities has resulted in significant inequities and disincentives. The cost of
14 public works or improvements within a city, town or village has been borne entirely
15 by the city, town or village, while the expansion of tax base which is stimulated,
16 directly or indirectly, by such improvements, benefits not only the city, town or village
17 but also all municipalities which share such tax base. This situation is inequitable.
18 Moreover, when the cost to a city, town or village of a public improvement project
19 exceeds the future benefit to the city, town or village resulting therefrom, the city,
20 town or village may decide not to undertake such project. This situation has resulted
21 in the postponement or cancellation of socially desirable projects.

22 (2) The legislature further finds that accomplishment of the vital and beneficial
23 public purposes of sections 66.405 to 66.425, 66.43, 66.431, 66.435 and 66.52 of the
24 statutes, is being frustrated because of a lack of incentives and financial resources.
25 The purpose of this act is to create a viable procedure by which a city ~~or~~, village or

1 town, through its own initiative and efforts, may finance projects which will tend to
2 accomplish these laudable objectives.

3 (END)



A handwritten note in a bubble that says "D-note" with an arrow pointing to the word "town" in the text above.

NOT → Ins 4-9

If the referendum revoking charter town status is approved, county zoning ordinances that did not apply to the town because of its former charter town status apply to the town on the effective date of the revocation resolution. If a county ordinance conflicts with an ordinance enacted by the former charter town board, the county ordinance shall take precedence over the former charter town ordinance on the effective date of the revocation resolution.

(END OF INSERT)
INSERT Drafter's note

cmm

9 Please see the last 2 sentences in s. 60.225 (2) (c). Do they meet your intent? I added these sentences because I removed the "****^{CS} Note" from page 4 of the /P2 version of the bill. Also, I removed the specific limitations on charter town authority from s. 60.225 (3) (a) of the /P2 version of the draft. Because you removed the general statement that "a charter town may exercise any power that a village may exercise", except as listed in s. 60.225 (3) (a) 1. to 3., there is no need to specifically list the powers that a charter town does not have.

AMZA

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0044/1dn
MES:cmh:jf

February 8, 1999

Please see the last 2 sentences in s. 60.225 (2) (c). Do they meet your intent? I added these sentences because I removed the "**** NOTE" from page 4 of the /P2 version of the bill. Also, I removed the specific limitations on charter town authority from s. 60.225 (3) (a) of the /P2 version of the draft. Because you removed the general statement that "a charter town may exercise any power that a village may exercise", except as listed in s. 60.225 (3) (a) 1. to 3., there is no need to list specifically the powers that a charter town does *not* have.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: Marc.Shovers@legis.state.wi.us

**SUBMITTAL
. FORM**

LEGISLATIVE REFERENCE BUREAU FEB 09 1999
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 2/8/99

To: Representative Owens

Relating to LRB drafting number: LRB-0044

Topic

Charter towns act, increase town powers

Subject(s)

Munis - miscellaneous, Munis - tax incremental financing, Counties

1. **JACKET** the draft for introduction Carol Owens

in the Senate _____ **or the Assembly** (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Marc E. Shovers, Senior Legislative Attorney
Telephone: (608) 266-0129