

1999 DRAFTING REQUEST

Bill

Received: **01/19/99**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Frank Lasee (608) 266-9870**

By/Representing: **Mark Wadium**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact: **WI Towns Assoc.**

Alt. Drafters:

Subject: **Munis - miscellaneous**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Annexation, boundary changes for towns

Instructions:

See Attached. Various limits on ability of cities and villages to annex town land. Based on 1997 LRB -4675/1

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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/P1			jfrantze 04/1/99	_____	lrb_docadmin 04/1/99		S&L
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/2	shoveme 06/8/99 shoveme	jgeller 06/9/99 jgeller	martykr 06/9/99	_____	lrb_docadmin 06/9/99		S&L

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FE Sent For (06/23/99.
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11 MES 4/20/99

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1?	shoveme	1/1 3/29 JLG	3/28/99	4/1/99	Submit		

FE Sent For:

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This is the same as the 2nd 2 paragraphs of this page are.

**Wisconsin Towns Association
1999-2000 Legislative Agenda
Priority List
Draft December 21, 1998**

Rep.
Lasker

I. Annexation/Boundary Changes

Wisconsin Towns Association supports those legislative initiatives with regard to annexation, boundary issues which place towns on the same level as cities and villages in boundary disputes.

Wisconsin Towns Association proposes no city or village may annex city or village owned land in the town without the Town Board approval. No town, village, or city should be allowed to condemn land or receive land by gift in another municipality without the consent of the municipality within which the land is located. No city or village should by annexation create a town island which is completely surrounded by the City or village, nor should any annexation be allowed if a "virtual town island" is created by annexation with one side being a railroad or limited access highway, drainage ditch, lake, river or stream, thus rendering the town island inaccessible except by traveling through another municipality to provide service. If any city or village annexes land adjacent to a town highway, the city or village should be required to annex to the center of the highway right of way and be responsible for the highway maintenance and care for one half of the right of way.

Wisconsin Towns Association proposes no annexation of town owned land which has been owned by the town for five or more years without the town board approval. No annexation of land zoned agricultural land for five or more years without the town board approval. No annexation of land assessed in the prior five years as agricultural use value land without the town board approval. No annexation of land from a city or village up to a newly constructed state or federal highway, including by-pass without the approval of the town board.

+ Natural Boundaries

MARC.

Any Questions please give me a call

Thanks

Mark Madini 6-9871



-1909/P1

JLH
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

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1 **AN ACT ...; relating to:** requiring town board approval for, and setting conditions
2 on, certain annexation actions and prohibiting the creation of town islands.

Analysis by the Legislative Reference Bureau

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

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

1. The land has been owned by the town for at least 5 years before the proposed annexation.

five

2. The land has been zoned for agricultural use for at least ~~3~~^{five} years before the proposed annexation.

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

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

SECTION 1. 66.021 (2) (intro.) of the statutes is amended to read:

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

History: 1973 c. 37, 90, 143, 333, 1977 c. 29 ss. 698, 1654 (8) (c), 1977 c. 187 s. 134; 1977 c. 315, 447; 1979 c. 323; 1979 c. 361 s. 112, 1983 a. 29, 189, 219; 1985 a. 225, 1987 a. 391, 1989 a. 192; 1991 a. 5, 39, 269, 316; 1993 a. 16, 247, 301, 329, 491; 1995 a. 27 ss. 3308 to 3312, 9116 (5), 9145 (1); 1995 a. 201, 225, 1997 a. 27.

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

66.021 (2e) LIMITS AND CONDITIONS ON ANNEXATION. (a) No city or village may, under this section, annex territory that is adjacent to a town highway unless the annexation includes territory that extends to the center of the highway.

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

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

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

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1 3. The territory that is proposed to be annexed ^{is agricultural land} has been assessed ^{which that} ~~as~~
 2 ~~agricultural~~ ^{under the} use-value ^{assessment of agricultural} land for at least five years before the petition under sub. (2)
 3 (a) or (b) is filed with the city or village clerk. ^{method} ~~for~~ ⁵

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4 SECTION 3. 66.024 (7) of the statutes is amended to read:

5 66.024 (7) LAW APPLICABLE, LIMITS AND CONDITIONS ON ANNEXATION. Section
 6 66.021 (2e) and (10) shall apply to annexations under this section except that, for the
 7 purposes of this section, the petitions described under s. 66.021 (2e) (b) shall mean
 8 the petition submitted to the circuit court under sub. (1) (b).

9 History: 1979 c. 89; 1987 a. 391; 1991 a. 269; 1993 a. 301, 329, 1995 a. 201.

(END)

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1906/dn
MES.....
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jg

Please review this bill carefully to ensure that it meets your intent, particularly all of the statutes that are amended by cross-referencing the provisions of created s. 62.22 (1) (b). I believe that all of these ~~statutes~~ ^{statutes} must be amended to comply with the instructions I've received, but some of the statutes that I've amended in accordance with the instructions, such as s. 30.21 (1), may be beyond the scope of your intent.

One of your instructions states that no "annexation of land from a city or village up to a newly constructed state or federal highway, including by-pass without the approval of the town board" may occur. I wasn't sure what this meant, so I did not execute this instruction. Do you mean annexation by a city or village of town land that includes (or is adjacent to?) a "newly" created state or federal highway? What constitutes "newly created?" Another instruction states that "In all matters respect for natural boundaries such as rivers and streams should be maintained." I wasn't sure what this meant either, so I did not execute this instruction. In particular, what does "respect" mean in this context? How is this "respect" supposed to be "maintained?" Please let me know exactly what you want these instructions to accomplish so I may include them in the next version of the bill.

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

²⁰ \$ You may want to check with the department of revenue as to whether the description of "use-value assessment" in s. 66.021(2e)(b)3. is appropriate.

1997 BILL

1 **AN ACT to renumber and amend** 62.22 (1) and 66.025; **to amend** 27.08 (2) (b),
 2 27.08 (2) (c), 28.20, 30.21 (1), 62.22 (1e), 66.021 (15), 66.065 (1), 66.077 (1),
 3 114.11 (1) and 114.12; and **to create** 62.22 (1) (b) and 66.025 (2) of the statutes;
 4 **relating to:** requiring town board approval for certain annexation actions and
 5 prohibiting the creation of town islands.

Analysis by the Legislative Reference Bureau

Generally, under current law, a city may acquire real or personal property within or outside the city, by gift, purchase or condemnation. The property may be acquired for any public purpose, such as parks, recreation, water systems, sewage or waste disposal, airports, cemeteries or vehicle parking areas. Under this bill, a city may not acquire real property that is located in a town, and that is not contiguous to the city, by gift, purchase or condemnation unless the town board of the town in which the real property is located approves the proposed acquisition.

Also under current law, a city or village may annex land that it owns in a town if the land is lying near but not necessarily contiguous to the city or village and if the use of the territory by the city or village is not contrary to any town or county zoning regulation. Under the bill, no city or village may annex territory that it owns in a town if the territory lies near but is not contiguous to the city or village unless the proposed annexation is approved by the town board of the town in which the owned territory is located.

Under current annexation law no city or village may, by annexation, create a town area which is completely surrounded by the city or village. This bill prohibits

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the creation of town islands by specifying that no city or village may, by annexation, create a town area where no part of the land remaining after annexation is contiguous with the town from which the annexation occurred.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill. *(end ins and)*

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

SECTION 1. 27.08 (2) (b) of the statutes is amended to read:

27.08 (2) (b) ~~To~~ Subject to s. 62.22 (1) (b), to acquire in the name of the city for park, parkway, boulevard or pleasure drive purposes by gift, devise, bequest or condemnation, either absolutely or in trust, money, real or personal property, or any incorporeal right or privilege. Gifts to any city of money or other property, real or personal, either absolutely or in trust, for park, parkway, boulevard or pleasure drive purposes shall be accepted only after they shall have been recommended by the board to the common council and approved by said council by resolution. Subject to the approval of the common council the board may execute every trust imposed upon the use of property or property rights by the deed, testament or other conveyance transferring the title of such property to the city for park, parkway, boulevard or pleasure drive purposes.

SECTION 2. 27.08 (2) (c) of the statutes is amended to read:

27.08 (2) (c) Subject to s. 62.22 (1) (b) and to the approval of the common council to buy or lease lands in the name of the city for park, parkway, boulevard or pleasure drive purposes within or without the city and, with the approval of the common council, to sell or exchange property no longer required for its purposes. Every city is authorized, subject to s. 62.22 (1) (b), upon recommendation of its officers, board or body having the control and management of its public parks, to acquire by

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cont*

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1 condemnation in the name of the city such lands within or without its corporate
2 boundaries as it may need for public parks, parkways, boulevards and pleasure
3 drives.

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

5 **28.20 Community forests.** Any city, subject to s. 62.22 (1)(b), village, town
6 or school district may acquire land, engage in forestry and appropriate funds for such
7 purpose. The forest property may be located outside the city, village, town or school
8 district limits.

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

10 **30.21 (1) WATER INTAKE FACILITIES.** Upon compliance with such applicable
11 regulations as may be imposed by the government of the United States and subject
12 to chs. 196 and 197 and rules and orders of the public service commission issued
13 pursuant thereto, any public utility may, pursuant to permit granted by resolution
14 of the governing body of any city, village or town situated on any waters of Lake
15 Michigan or Lake Superior or in the Great Lakes basin, construct, maintain and
16 operate, upon and under the bed thereof adjoining such city, village or town, all cribs,
17 intakes, basins, pipes and tunnels necessary or convenient for securing an adequate
18 supply of water suitable for the purposes of such utility, provided only, that
19 concurrently with the construction of facilities for the withdrawal of water from the
20 lakes, the city, town or village must construct sewage treatment and disposal works
21 adequate to treat completely all sewage of the municipality. Any city, village or town,
22 the limits of which are within 50 miles of any such waters and any public utility
23 serving the same shall be deemed to be situated on such waters within the meaning
24 of this section and such municipality or public utility serving the same shall, subject
25 to this section, have authority to acquire and own or lease sufficient real estate,

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1 subject to s. 62.22 (1) (b), not to exceed 50 miles beyond the corporate limits of such
 2 municipality, for the purpose of constructing, maintaining and operating thereon or
 3 thereunder, transmission facilities and structures, including cribs, intakes, basins,
 4 pipes and tunnels, necessary or convenient for securing an adequate supply of water
 5 suitable for the purposes of such municipality or utility. Such facilities shall be so
 6 constructed, maintained and operated as to avoid material obstruction to existing
 7 navigation or the use of private property not owned by such utility.

8 **SECTION 5.** 62.22 (1) of the statutes is renumbered 62.22 (1) (a) and amended
 9 to read:

10 62.22 (1) (a) ~~The~~ Subject to par. (b), the governing body of any city may by gift,
 11 purchase or condemnation acquire property, real or personal, within or outside the
 12 city, for parks, recreation, water systems, sewage or waste disposal, airports or
 13 approaches thereto, cemeteries, vehicle parking areas, and for any other public
 14 purpose; may acquire real property within or contiguous to the city, by means other
 15 than condemnation, for industrial sites; may improve and beautify the same; may
 16 construct, own, lease and maintain buildings on such property for public purposes;
 17 and may sell and convey such property. The power of condemnation for any such
 18 purpose shall be as provided by ch. 32.

19 **SECTION 6.** 62.22 (1) (b) of the statutes is created to read:

20 62.22 (1) (b) The governing body of a city may not acquire real property that
 21 is located in a town, and that is not contiguous to the city, by gift, purchase or
 22 condemnation, as described in par. (a), unless the town board of the town in which
 23 the real property is located approves the proposed acquisition.

24 **SECTION 7.** 62.22 (1e) of the statutes is amended to read:

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

8 **SECTION 8.** 66.021 (15) of the statutes, *as affected by 1997 Wisconsin Act 27*
 9 is amended to read:

10 66.021 (15) ANNEXATION OF TOWN ISLANDS. Upon its own motion, a city or village
 11 by a two-thirds vote of the entire membership of its governing body may enact an
 12 ordinance annexing territory which comprises a portion of a town or towns and which
 13 was completely surrounded by territory of the city or village on December 2, 1973.
 14 The ordinance shall include all surrounded town areas except those exempt by
 15 mutual agreement of all of the governing bodies involved. The annexation ordinance
 16 shall contain a legal description of the territory and the name of the town or towns
 17 from which the territory is detached. Upon enactment of the ordinance, the city or
 18 village clerk immediately shall file 6 certified copies of the ordinance in the office of
 19 the secretary of state, together with 6 copies of a scale map. The secretary of state
 20 shall forward 2 copies of the ordinance and scale map to the department of
 21 transportation, one copy to the department of natural resources, one copy to the
 22 department of revenue and one copy to the department of administration. This
 23 subsection does not apply if the town island was created only by the annexation of
 24 a railroad right-of-way or drainage ditch. This subsection does not apply to land
 25 owned by a town government which has existing town government buildings located

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1 thereon. No town island may be annexed under this subsection if the island consists
 2 of over 65 acres or contains over 100 residents. After December 2, 1973, no city or
 3 village may, by annexation, create a town area which is completely surrounded by
 4 the city or village. ^{On or} ~~After~~ the effective date of this subsection [revisor inserts date],
 5 no city or village may, by annexation, create a town area where no part of the land
 6 remaining after annexation is contiguous with the town from which the annexation
 7 occurred.

8 **SECTION 9.** 66.025 of the statutes, ~~as affected by 1997 Wisconsin Act 27,~~ is
 9 renumbered 66.025 (1) and amended to read:

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

24 **SECTION 10.** 66.025 (2) of the statutes is created to read:

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

4 **SECTION 11.** 66.065 (1) of the statutes is amended to read:

5 66.065 (1) Any town, village or city, subject to s. 62.22 (1) (b), may construct,
6 acquire or lease any plant and equipment located within or without the municipality,
7 and including interest in or lease of land, for furnishing water, light, heat, or power,
8 to the municipality, or to its inhabitants; may acquire a controlling portion of the
9 stock of any corporation owning private waterworks or lighting plant and
10 equipment; and may purchase the equity of redemption in a mortgaged or bonded
11 waterworks or lighting system, including the cases where the municipality shall in
12 the franchise have reserved right to purchase. The character or duration of the
13 franchise, permit or grant under which any public utility is operated, shall not affect
14 the power to acquire the same hereunder. Two or more public utilities owned by the
15 same person or corporation, or 2 or more public utilities subject to the same lien or
16 charge, may be acquired as a single enterprise under any proceeding heretofore
17 begun or hereafter commenced, and the board or council may at any time agree with
18 the owner or owners of any public utility or utilities as to the agreed value thereof,
19 and to contract to purchase or acquire the same hereunder at such value, upon such
20 terms and conditions as may be mutually agreed upon between said board or council
21 and said owner or owners.

PROOF W/STATS.

22 **SECTION 12.** 66.077 (1) of the statutes is amended to read:

23 66.077 (1) Any town, village, or city of the fourth class, subject to s. 62.22 (1)
24 (b), may construct, acquire, or lease, or extend and improve, a plant and equipment
25 within or without its corporate limits for the furnishing of water to the municipality

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1 or to its inhabitants, and for the collection, treatment, and disposal of sewage,
2 including the lateral, main and intercepting sewers, and all equipment necessary in
3 connection therewith. Such plant and equipment, whether the structures and
4 equipment for the furnishing of water and for the disposal of sewage shall be
5 combined or separate, may by ordinance be constituted a single public utility.

6 **SECTION 13.** 114.11 (1) of the statutes is amended to read:

7 114.11 (1) The governing body of any county, city, village or town in this state
8 is hereby authorized to acquire, establish, construct, own, control, lease, equip,
9 improve, maintain and operate airports or landing fields or landing and take-off
10 strips for the use of airplanes and other aircraft either within or without the limits
11 of such counties, cities, villages and towns, subject to s. 62.22 (1) (b), and may use for
12 such purpose or purposes any property suitable therefor that is now or may at any
13 time hereafter be owned or controlled by such county, city, village or town, and may
14 regulate the same, provided, such regulation shall not be in conflict with such rules
15 and regulations as may be made by the federal government. The governing body of
16 each and every county and municipality owning an airport or landing field or landing
17 and take-off strip in the state of Wisconsin shall cause the surroundings of such
18 airport, landing field or landing and take-off strip to be marked for aeronautical
19 purposes, and maintain such marking, subject to and in accordance with law and
20 such rules and regulations as may from time to time be made by the federal
21 government and in so doing may cooperate with other states and subdivisions thereof
22 and acquire rights and easements in property outside of the state.

23 **SECTION 14.** 114.12 of the statutes is amended to read:

24 **114.12 Condemnation of lands for airports.** Any lands acquired, owned,
25 controlled or occupied by such counties, cities, villages and towns for the purposes

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

(END)

(end ins)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1909/P1dn
MES:jlj:jf

April 1, 1999

Please review this bill carefully to ensure that it meets your intent, particularly all of the statutes that are amended by cross-referencing the provisions of created s. 62.22 (1) (b). I believe that all of these statutes must be amended to comply with the instructions I've received, but some of the statutes that I've amended in accordance with the instructions, such as s. 30.21 (1), may be beyond the scope of your intent. You may want to check with the department of revenue as to whether the description of "use-value assessment" in s. 66.021 (2e) (b) 3. is appropriate.

One of your instructions states that no "annexation of land from a city or village up to a newly constructed state or federal highway, including by-pass without the approval of the town board" may occur. I wasn't sure what this meant, so I did not execute this instruction. Do you mean annexation by a city or village of town land that includes (or is adjacent to?) a "newly" created state or federal highway? What constitutes "newly created?" Another instruction states that "In all matters respect for natural boundaries such as rivers and streams should be maintained." I wasn't sure what this meant either, so I did not execute this instruction. In particular, what does "respect" mean in this context? How is this "respect" supposed to be "maintained?" Please let me know exactly what you want these instructions to accomplish so I may include them in the next version of the bill.

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



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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

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

certain land in the town

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

1. The land has been owned by the town for at least five years before the proposed annexation.
2. The land has been zoned for agricultural use for at least five years before the proposed annexation.
3. The land has been assessed as agricultural use value land for at least five years before the proposed annexation.

and a village may also acquire real or personal property within or outside the village

Generally, under current law, a city may ~~acquire real or personal property within or outside the city, by gift, purchase or condemnation~~. The property may be acquired for any public purpose, such as parks, recreation, water systems, sewage or waste disposal, airports, cemeteries or vehicle parking areas. Under this bill, a city may not acquire real property that is located in a town, and that is not contiguous to the city, by gift, purchase or condemnation unless the town board of the town in which the real property is located approves the proposed acquisition.

Also under current law, a city or village may annex land that it owns in a town if the land is lying near but not necessarily contiguous to the city or village and if the use of the territory by the city or village is not contrary to any town or county zoning regulation. Under the bill, no city or village may annex territory that it owns in a town if the territory lies near but is not contiguous to the city or village unless the proposed annexation is approved by the town board of the town in which the owned territory is located.

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

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 27.08 (2) (b) of the statutes is amended to read:

2 27.08 (2) (b) ~~To~~ Subject to s. 62.22 (1) (b), to acquire in the name of the city for

3 park, parkway, boulevard or pleasure drive purposes by gift, devise, bequest or

4 condemnation, either absolutely or in trust, money, real or personal property, or any

5 incorporeal right or privilege. Gifts to any city of money or other property, real or

NO PP The bill places a similar restriction on a village's ability to acquire real property that is located in a town, and that is not contiguous to the village.

1 personal, either absolutely or in trust, for park, parkway, boulevard or pleasure drive
2 purposes shall be accepted only after they shall have been recommended by the board
3 to the common council and approved by said council by resolution. Subject to the
4 approval of the common council the board may execute every trust imposed upon the
5 use of property or property rights by the deed, testament or other conveyance
6 transferring the title of such property to the city for park, parkway, boulevard or
7 pleasure drive purposes.

8 **SECTION 2.** 27.08 (2) (c) of the statutes is amended to read:

9 27.08 (2) (c) Subject to s. 62.22 (1) (b) and to the approval of the common council
10 to buy or lease lands in the name of the city for park, parkway, boulevard or pleasure
11 drive purposes within or without the city and, with the approval of the common
12 council, to sell or exchange property no longer required for its purposes. Every city
13 is authorized, subject to s. 62.22 (1) (b), upon recommendation of its officers, board
14 or body having the control and management of its public parks, to acquire by
15 condemnation in the name of the city such lands within or without its corporate
16 boundaries as it may need for public parks, parkways, boulevards and pleasure
17 drives.

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

19 **28.20 Community forests.** Any city, subject to s. 62.22 (1) (b), village, town
20 or school district may acquire land, engage in forestry and appropriate funds for such
21 purpose. The forest property may be located outside the city, village, town or school
22 district limits.

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

24 **30.21 (1) WATER INTAKE FACILITIES.** Upon compliance with such applicable
25 regulations as may be imposed by the government of the United States and subject

1 to chs. 196 and 197 and rules and orders of the public service commission issued
2 pursuant thereto, any public utility may, pursuant to permit granted by resolution
3 of the governing body of any city, village or town situated on any waters of Lake
4 Michigan or Lake Superior or in the Great Lakes basin, construct, maintain and
5 operate, upon and under the bed thereof adjoining such city, village or town, all cribs,
6 intakes, basins, pipes and tunnels necessary or convenient for securing an adequate
7 supply of water suitable for the purposes of such utility, provided only, that
8 concurrently with the construction of facilities for the withdrawal of water from the
9 lakes, the city, town or village must construct sewage treatment and disposal works
10 adequate to treat completely all sewage of the municipality. Any city, village or town,
11 the limits of which are within 50 miles of any such waters and any public utility
12 serving the same shall be deemed to be situated on such waters within the meaning
13 of this section and such municipality or public utility serving the same shall, subject
14 to this section, have authority to acquire and own or lease sufficient real estate,
15 subject to s. 62.22 (1) (b), not to exceed 50 miles beyond the corporate limits of such
16 municipality, for the purpose of constructing, maintaining and operating thereon or
17 thereunder, transmission facilities and structures, including cribs, intakes, basins,
18 pipes and tunnels, necessary or convenient for securing an adequate supply of water
19 suitable for the purposes of such municipality or utility. Such facilities shall be so
20 constructed, maintained and operated as to avoid material obstruction to existing
21 navigation or the use of private property not owned by such utility.

22 **SECTION 5.** ^{new 7} 62.22 (1) of the statutes is renumbered 62.22 (1) (a) and amended
23 to read:

24 62.22 (1) (a) The Subject to par. (b), the governing body of any city may by gift,
25 purchase or condemnation acquire property, real or personal, within or outside the

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1 city, for parks, recreation, water systems, sewage or waste disposal, airports or
2 approaches thereto, cemeteries, vehicle parking areas, and for any other public
3 purpose; may acquire real property within or contiguous to the city, by means other
4 than condemnation, for industrial sites; may improve and beautify the same; may
5 construct, own, lease and maintain buildings on such property for public purposes;
6 and may sell and convey such property. The power of condemnation for any such
7 purpose shall be as provided by ch. 32.

8 **SECTION 6.** 62.22 (1) (b) of the statutes is created to read:

9 62.22 (1) (b) The governing body of a city may not acquire real property that
10 is located in a town, and that is not contiguous to the city, by gift, purchase or
11 condemnation, as described in par. (a), unless the town board of the town in which
12 the real property is located approves the proposed acquisition.

13 **SECTION 7.** 62.22 (1e) of the statutes is amended to read:

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

21 **SECTION 8.** 66.021 (2) (intro.) of the statutes is amended to read:

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

25 **SECTION 9.** 66.021 (2e) of the statutes is created to read:

1 66.021 (2e) LIMITS AND CONDITIONS ON ANNEXATION. (a) No city or village may,
2 under this section, annex territory that is ^{contiguous} ~~adjacent~~ to a town highway unless the
3 annexation includes territory that extends to the center of the highway.

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

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

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

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

17 SECTION 10. 66.021 (15) of the statutes is amended to read:

18 66.021 (15) ANNEXATION OF TOWN ISLANDS. Upon its own motion, a city or village
19 by a two-thirds vote of the entire membership of its governing body may enact an
20 ordinance annexing territory which comprises a portion of a town or towns and which
21 was completely surrounded by territory of the city or village on December 2, 1973.
22 The ordinance shall include all surrounded town areas except those exempt by
23 mutual agreement of all of the governing bodies involved. The annexation ordinance
24 shall contain a legal description of the territory and the name of the town or towns
25 from which the territory is detached. Upon enactment of the ordinance, the city or

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

16 **SECTION 11.** 66.024 (7) of the statutes is amended to read:

17 66.024 (7) LAW APPLICABLE, LIMITS AND CONDITIONS ON ANNEXATION. Section
18 66.021 (2e) and (10) shall apply to annexations under this section except that, for the
19 purposes of this section, the petitions described under s. 66.021 (2e) (b) shall mean
20 the petition submitted to the circuit court under sub. (1) (b).

21 **SECTION 12.** 66.025 of the statutes is renumbered 66.025 (1) and amended to
22 read:

23 66.025 (1) In addition to other methods provided by law and subject to sub. (2)
24 and ss. 59.692 (7) and 66.023 (7), territory owned by and lying near but not
25 necessarily contiguous to a village or city may be annexed to a village or city by

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

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

13 66.025 (2) No city or village may annex owned territory under sub. (1) that lies
14 near but is not contiguous to the city or village unless the proposed annexation is
15 approved by the town board of the town in which the owned territory is located.

16 **SECTION 14.** 66.065 (1) of the statutes is amended to read:

17 66.065 (1) Any town, village or city, subject to s. 62.22 (1)(b), may construct,
18 acquire or lease any plant and equipment located within or without the municipality,
19 and including interest in or lease of land, for furnishing water, light, heat, or power,
20 to the municipality, or to its inhabitants; may acquire a controlling portion of the
21 stock of any corporation owning private waterworks or lighting plant and
22 equipment; and may purchase the equity of redemption in a mortgaged or bonded
23 waterworks or lighting system, including the cases where the municipality shall in
24 the franchise have reserved right to purchase. The character or duration of the
25 franchise, permit or grant under which any public utility is operated, shall not affect

1 the power to acquire the same hereunder. Two or more public utilities owned by the
2 same person or corporation, or 2 or more public utilities subject to the same lien or
3 charge, may be acquired as a single enterprise under any proceeding heretofore
4 begun or hereafter commenced, and the board or council may at any time agree with
5 the owner or owners of any public utility or utilities as to the agreed value thereof,
6 and to contract to purchase or acquire the same hereunder at such value, upon such
7 terms and conditions as may be mutually agreed upon between said board or council
8 and said owner or owners.

9 **SECTION 15.** 66.077 (1) of the statutes is amended to read:

10 66.077 (1) Any town, village, or city of the fourth class, subject to s. 62.22 (1)
11 (b), may construct, acquire, or lease, or extend and improve, a plant and equipment
12 within or without its corporate limits for the furnishing of water to the municipality
13 or to its inhabitants, and for the collection, treatment, and disposal of sewage,
14 including the lateral, main and intercepting sewers, and all equipment necessary in
15 connection therewith. Such plant and equipment, whether the structures and
16 equipment for the furnishing of water and for the disposal of sewage shall be
17 combined or separate, may by ordinance be constituted a single public utility.

18 **SECTION 16.** 114.11 (1) of the statutes is amended to read:

19 114.11 (1) The governing body of any county, city, village or town in this state
20 is hereby authorized to acquire, establish, construct, own, control, lease, equip,
21 improve, maintain and operate airports or landing fields or landing and take-off
22 strips for the use of airplanes and other aircraft either within or without the limits
23 of such counties, cities, villages and towns, subject to s. 62.22 (1)(b), and may use for
24 such purpose or purposes any property suitable therefor that is now or may at any
25 time hereafter be owned or controlled by such county, city, village or town, and may

1 regulate the same, provided, such regulation shall not be in conflict with such rules
2 and regulations as may be made by the federal government. The governing body of
3 each and every county and municipality owning an airport or landing field or landing
4 and take-off strip in the state of Wisconsin shall cause the surroundings of such
5 airport, landing field or landing and take-off strip to be marked for aeronautical
6 purposes, and maintain such marking, subject to and in accordance with law and
7 such rules and regulations as may from time to time be made by the federal
8 government and in so doing may cooperate with other states and subdivisions thereof
9 and acquire rights and easements in property outside of the state.

10 **SECTION 17.** 114.12 of the statutes is amended to read:

11 **114.12 Condemnation of lands for airports.** Any lands acquired, owned,
12 controlled or occupied by such counties, cities, villages and towns for the purposes
13 enumerated in s. 114.11 shall and are hereby declared to be acquired, owned,
14 controlled and occupied for a public purpose, and as a matter of public necessity, and
15 such cities, villages, towns or counties shall have the right, subject to s. 62.22 (1) (b),
16 to acquire property for such purpose or purposes under the power of eminent domain
17 as and for a public necessity including property owned by other municipal
18 corporations and political subdivisions and including any street, highway, park,
19 parkway or alley, provided that no state trunk highway shall be so acquired without
20 the prior consent of the department. Whenever the county, city, village or town as
21 the case may be shall own all land or access rights on both sides of such street,
22 highway, park, parkway or alley, it may, within the limits where it has ownership or
23 access rights on both sides, notwithstanding any other provisions of law, vacate and
24 close such public way by resolution of the governing body of the county, city, village
25 or town acquiring it and no damages shall be assessed against such county, city,

1 village or town by reason of such closing, except as may be allowed in a particular
2 condemnation action where the lands or rights in lands necessary for such airport
3 are so acquired. If such closing shall leave any part of such street, highway, parkway
4 or alley without access to another public street or highway, the county, town, city or
5 village effecting such closing shall immediately provide such access at its expense.

6 (END)



1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

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MES:jlgr

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SECTION 1. 61.34 (3) of the statutes is renumbered 61.34 (3) (a) and amended to read:

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

History: 1983 a. 192; 1987 a. 395; 1995 a. 27, 378; 1997 a. 27.

SECTION 2. 61.34 (3) (b) of the statutes is created to read:

61.34 (3) (b) The village board may not acquire real property that is located in a town, and that is not contiguous to the village, as described in par. (a), unless the town board of the town in which the real property is located approves the proposed acquisition.



State of Wisconsin
1999 - 2000 LEGISLATURE

wfo:NOTE
- 1909/2
LRB-1906/2
MES:jlg:ky
Pmk
SOON

1999 BILL .

P-note

regen

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

Analysis by the Legislative Reference Bureau

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

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

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

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

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

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

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

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

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

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

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

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 27.08 (2) (b) of the statutes is amended to read:

2 27.08 (2) (b) ~~To~~ Subject to s. 62.22 (1) (b), to acquire in the name of the city for
3 park, parkway, boulevard or pleasure drive purposes by gift, devise, bequest or
4 condemnation, either absolutely or in trust, money, real or personal property, or any
5 incorporeal right or privilege. Gifts to any city of money or other property, real or
6 personal, either absolutely or in trust, for park, parkway, boulevard or pleasure drive
7 purposes shall be accepted only after they shall have been recommended by the board
8 to the common council and approved by said council by resolution. Subject to the
9 approval of the common council the board may execute every trust imposed upon the
10 use of property or property rights by the deed, testament or other conveyance
11 transferring the title of such property to the city for park, parkway, boulevard or
12 pleasure drive purposes.

13 **SECTION 2.** 27.08 (2) (c) of the statutes is amended to read:

14 27.08 (2) (c) Subject to s. 62.22 (1) (b) and to the approval of the common council
15 to buy or lease lands in the name of the city for park, parkway, boulevard or pleasure
16 drive purposes within or without the city and, with the approval of the common

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 62.22 (1) (b) 1. The governing body of a city may not acquire real property that
24 is located in a town, and that is not contiguous to the city, by gift, purchase or

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1 condemnation, as described in par. (a), unless the town board of the town in which
2 the real property is located approves the proposed acquisition.

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

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

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

19 **SECTION 11.** 66.021 (2) (intro.) of the statutes is amended to read:

20 66.021 (2) METHODS OF ANNEXATION. (intro.) Subject to sub. (2e) and to s. 66.023
21 (7), territory contiguous to any city or village may be annexed thereto in the following
22 ways:

23 **SECTION 12.** 66.021 (2e) of the statutes is created to read:

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1 66.021 **(2e)** LIMITS AND CONDITIONS ON ANNEXATION. (a) No city or village may,
2 under this section, annex territory that is contiguous to a town highway unless the
3 annexation includes territory that extends to the center of the highway.

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

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

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

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

17 **SECTION 13.** 66.021 (15) of the statutes is amended to read:

18 66.021 **(15)** ANNEXATION OF TOWN ISLANDS. Upon its own motion, a city or village
19 by a two-thirds vote of the entire membership of its governing body may enact an
20 ordinance annexing territory which comprises a portion of a town or towns and which
21 was completely surrounded by territory of the city or village on December 2, 1973.
22 The ordinance shall include all surrounded town areas except those exempt by
23 mutual agreement of all of the governing bodies involved. The annexation ordinance
24 shall contain a legal description of the territory and the name of the town or towns
25 from which the territory is detached. Upon enactment of the ordinance, the city or

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

16 **SECTION 14.** 66.024 (7) of the statutes is amended to read:

17 66.024 (7) LAW APPLICABLE, LIMITS AND CONDITIONS ON ANNEXATION. Section
18 66.021 (2e) and (10) shall apply to annexations under this section except that, for the
19 purposes of this section, the petitions described under s. 66.021 (2e) (b) shall mean
20 the petition submitted to the circuit court under sub. (1) (b).

21 **SECTION 15.** 66.025 of the statutes is renumbered 66.025 (1) and amended to
22 read:

23 66.025 (1) In addition to other methods provided by law and subject to sub. (2)
24 and ss. 59.692 (7) and 66.023 (7), territory owned by and lying near but not
25 necessarily contiguous to a village or city may be annexed to a village or city by

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

12 **SECTION 16.** 66.025 (2) of the statutes is created to read:

13 66.025 (2) No city or village may annex owned territory under sub. (1) that lies
14 near but is not contiguous to the city or village unless the proposed annexation is
15 approved by the town board of the town in which the owned territory is located.

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

17 66.065 (1) Any town, subject to s. 60.625 (2), any village, subject to s. 61.34 (3)
18 (b), or any city, subject to s. 62.22 (1) (b), may construct, acquire or lease any plant
19 and equipment located within or without the municipality, and including interest in
20 or lease of land, for furnishing water, light, heat, or power, to the municipality, or to
21 its inhabitants; may acquire a controlling portion of the stock of any corporation
22 owning private waterworks or lighting plant and equipment; and may purchase the
23 equity of redemption in a mortgaged or bonded waterworks or lighting system,
24 including the cases where the municipality shall in the franchise have reserved right
25 to purchase. The character or duration of the franchise, permit or grant under which

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

9 **SECTION 18.** 66.076 (1) (a) of the statutes is amended to read:

10 66.076 (1) (a) In addition to all other methods provided by law and subject to
11 s. 60.625 (2), 61.34 (3) (b) or 62.22 (1) (b), any municipality may construct, acquire
12 or lease, extend or improve any plant and equipment within or without its corporate
13 limits for the collection, transportation, storage, treatment and disposal of sewage
14 or storm water and surface water, including the lateral, main and interceptor sewers
15 necessary in connection therewith, and any town, village or city may arrange for the
16 service to be furnished by a metropolitan sewerage district or joint sewerage system.
17 Except as provided in s. 66.60 (6m), payment for a sewerage project or service
18 described in this paragraph, or any part of the ~~such~~ project or service, may be
19 provided from the general fund, from taxation, special assessments, sewerage
20 service charges, or from the proceeds of either municipal obligations, revenue bonds
21 or from any combination of these enumerated methods of financing.

22 **SECTION 19.** 66.077 (1) of the statutes is amended to read:

23 66.077 (1) Any town, subject to s. 60.625 (2), any village, subject to s. 61.34 (3)
24 (b), or city of the fourth class, subject to s. 62.22 (1) (b), may construct, acquire, or
25 lease, or extend and improve, a plant and equipment within or without its corporate

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1 limits for the furnishing of water to the municipality or to its inhabitants, and for the
2 collection, treatment, and disposal of sewage, including the lateral, main and
3 intercepting sewers, and all equipment necessary in connection therewith. Such
4 plant and equipment, whether the structures and equipment for the furnishing of
5 water and for the disposal of sewage shall be combined or separate, may by ordinance
6 be constituted a single public utility.

7 **SECTION 20.** 114.11 (1) of the statutes is amended to read:

8 114.11 (1) The governing body of any county, city, village or town in this state
9 is hereby authorized to acquire, establish, construct, own, control, lease, equip,
10 improve, maintain and operate airports or landing fields or landing and take-off
11 strips for the use of airplanes and other aircraft either within or without the limits
12 of such counties, cities, villages and towns, subject to s. 60.25 (2), 61.34 (3) (b) or 62.22
13 (1) (b), and may use for such purpose or purposes any property suitable therefor that
14 is now or may at any time hereafter be owned or controlled by such county, city,
15 village or town, and may regulate the same, provided, such regulation shall not be
16 in conflict with such rules and regulations as may be made by the federal
17 government. The governing body of each and every county and municipality owning
18 an airport or landing field or landing and take-off strip in the state of Wisconsin shall
19 cause the surroundings of such airport, landing field or landing and take-off strip
20 to be marked for aeronautical purposes, and maintain such marking, subject to and
21 in accordance with law and such rules and regulations as may from time to time be
22 made by the federal government and in so doing may cooperate with other states and
23 subdivisions thereof and acquire rights and easements in property outside of the
24 state.

25 **SECTION 21.** 114.12 of the statutes is amended to read:

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

22 **SECTION 22.** 196.58 (7) of the statutes is amended to read:

23 **196.58 (7) (a)** If a municipality operating a water system seeks to serve
24 consumers of an area which is part of the municipality and in the same county, but
25 in order to serve such consumers it is necessary or economically prudent for the

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

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

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

6 **SECTION 23. Initial applicability.**

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

9 (END)

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

-1909/2dh
LRB-1906/2dn
MES:jlg:km

June 7, 1999 } new
date

Rep. LaSee

Please review this bill very carefully to ensure that it is consistent with your intent.

In keeping with my understanding of your goal of protecting the territorial integrity of towns, particularly with regard to sewer extensions, I amended s. 66.076 (1) (a), but I did not amend s. 62.175 (1) or 66.916, which apply only to 1st class cities or the Milwaukee metropolitan sewerage district. Is this consistent with your intent?

Also, I based created s. 60.625 on s. 62.22 (1). Although this seems like a broad grant of new authority to towns, I believe it reflects your intent. Is it OK?

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



!
DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1909/2dn
MES;jlg:km

June 9, 1999

Representative Lasee:

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In keeping with my understanding of your goal of protecting the territorial integrity of towns, particularly with regard to sewer extensions, I amended s. 66.076 (1) (a), but I did not amend s. 62.175 (1) or 66.916, which apply only to 1st class cities or the Milwaukee metropolitan sewerage district. Is this consistent with your intent?

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Marc E. Shovers
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E-mail: Marc.Shovers@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

-1909/3
LRB-1906/3
MES:jlm

1999 BILL

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

Analysis by the Legislative Reference Bureau

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

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

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

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

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

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

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

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

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

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

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

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 27.08 (2) (b) of the statutes is amended to read:

2 27.08 (2) (b) ~~To~~ Subject to s. 62.22 (1) (b), to acquire in the name of the city for
3 park, parkway, boulevard or pleasure drive purposes by gift, devise, bequest or
4 condemnation, either absolutely or in trust, money, real or personal property, or any
5 incorporeal right or privilege. Gifts to any city of money or other property, real or
6 personal, either absolutely or in trust, for park, parkway, boulevard or pleasure drive
7 purposes shall be accepted only after they shall have been recommended by the board
8 to the common council and approved by said council by resolution. Subject to the
9 approval of the common council the board may execute every trust imposed upon the
10 use of property or property rights by the deed, testament or other conveyance
11 transferring the title of such property to the city for park, parkway, boulevard or
12 pleasure drive purposes.

13 **SECTION 2.** 27.08 (2) (c) of the statutes is amended to read:

14 27.08 (2) (c) Subject to s. 62.22 (1) (b) and to the approval of the common council
15 to buy or lease lands in the name of the city for park, parkway, boulevard or pleasure
16 drive purposes within or without the city and, with the approval of the common

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 **SECTION 24. Initial applicability.**

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

10 (END)

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
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: 6/18/99

To: Representative F. Lasee

Relating to LRB drafting number: LRB-1909

Topic

Annexation, boundary changes for towns

Subject(s)

Munis - miscellaneous

1. **JACKET** the draft for introduction _____

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