

2001 ASSEMBLY BILL 501

September 19, 2001 – Introduced by Representatives LADWIG, STARZYK, HUEBSCH, McCORMICK, AINSWORTH, OWENS, FREESE, F. LASEE, NASS, KRAWCZYK and GUNDERSON, cosponsored by Senator SCHULTZ. Referred to Committee on Urban and Local Affairs.

1 **AN ACT to amend** 60.61 (2) (intro.), 60.62 (1), 60.62 (2), 60.62 (3), 62.23 (7a) (a),
2 66.0105, 66.0217 (3) (intro.), 66.0219 (intro.), 66.0223 and 236.02 (5); and **to**
3 **create** 60.10 (1) (g) and 60.225 of the statutes; **relating to:** the authority of
4 certain towns to become urban towns.

Analysis by the Legislative Reference Bureau

Under current law, if a town meeting authorizes a town board to do so, the town board may exercise powers that are related to villages and conferred on village boards by statute, except those powers that conflict with statutes relating to towns and town boards. For example, unless it is approved by the county board a town board exercising village powers may not create a tax incremental financing district; annex territory; exercise extraterritorial zoning jurisdiction over another town; or, in counties that have adopted a county zoning ordinance, enact a town zoning ordinance. If a town board exercises village powers, the town is still subject to annexation by a city or village and may be subject to extraterritorial zoning powers exercised by a city or village.

Subject to several conditions, this bill authorizes a town board that is authorized to exercise village powers to adopt a resolution declaring that the town is an urban town. Under certain circumstances and subject to several limitations, the bill allows a town board that has adopted such a resolution to exercise any statutory power that a village may exercise, including the power to create a housing authority for the elderly. Before the town board may adopt a resolution declaring that the town is an urban town, the town must do one of the following:

ASSEMBLY BILL 501

1. Attempt, and fail, to consolidate with a city or village and must have attempted to incorporate as a city or village between 1990 and 2000.

2. Attempt to consolidate with a city or village and attempt, and fail, to incorporate as a city or village within three years after commencing the procedures that are required to become an urban town.

The town board may adopt a resolution declaring that the town is an urban town only after its attempts to consolidate or incorporate fail. Once the town board adopts an urban town resolution, the resolution may take effect only after the resolution is approved by the electors of the town in a referendum.

The bill also allows the board of an urban town to exercise certain zoning powers and to remove the town from coverage of county zoning ordinances, other than a county shorelands zoning ordinance, and exempts the town from being subject to certain city and village annexation and extraterritorial powers. If the town is a party to a cooperative boundary plan or agreement on the date that it becomes an urban town, the terms of the plan or agreement remain in effect until the expiration of the plan or agreement. Also under the bill, town residents may attempt to enact direct legislation. This bill does not extend constitutional or statutory home rule powers to urban towns, nor does it allow such towns to create a tax incremental financing district, to adopt a village form of government, to annex territory, or to engage in extraterritorial zoning or plat approval.

The powers granted to urban towns in this bill apply only if certain conditions are met on the date on which the town board adopts the resolution. Some of the conditions that must be satisfied include the following:

1. The population of the town must be at least 7,500.
2. The equalized value of the town must exceed \$360,000,000 and must be at least \$40,000 on a per person basis.
3. The town must provide law enforcement, fire protection, and emergency medical services 24 hours a day.
4. At least 30% of the town residents must receive water supply and sewage disposal services from one of several entities, such as a town sanitary district, a town utility district, a metropolitan sewerage district, or another city, village, or town.
5. The town must adopt a comprehensive land use plan as part of a master plan.
6. The town board must consist of five supervisors.

The bill also contains a sunset provision so that the provisions allowing the creation of an urban town remain in effect for only five years.

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

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

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

ASSEMBLY BILL 501

1 60.10 (1) (g) *Approval of resolutions.* Approve a resolution adopted by the town
2 board under s. 60.225 (1).

3 **SECTION 2.** 60.225 of the statutes is created to read:

4 **60.225 Urban towns. (1) PROCESS; REQUIREMENTS.** Subject to sub. (1m), if a
5 town board is authorized to exercise village powers under s. 60.10 (2) (c), and subject
6 to sub. (2), a town board may adopt a resolution declaring its town to be an urban
7 town that is subject to this section if, on the date of adoption of the resolution, all of
8 the following conditions are satisfied:

9 (a) The population of the town is at least 7,500.

10 (b) The equalized value of the town exceeds all of the following amounts:

11 1. According to the most recent assessment, \$360,000,000.

12 2. On a per person basis, \$40,000 according to the most recent assessment.

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

16 (d) The town provides fire protection services, 24 hours a day, by establishing
17 a town fire department or by creating a joint fire department with another city,
18 village, or town under s. 60.55.

19 (e) The town provides emergency medical technician services, 24 hours a day,
20 by an emergency medical technician, as defined in s. 146.50 (1) (e).

21 (f) The town board adopts a comprehensive land use plan as part of a master
22 plan under s. 62.23 (2) and (3) that is administered by a planner who is employed by
23 the town.

24 (g) At least 30% of the town residents receive water supply and sanitary sewage
25 disposal services from one of the following:

ASSEMBLY BILL 501

- 1 1. A town sanitary district created by the town under subch. IX.
- 2 2. A town utility district created under s. 66.0827.
- 3 3. A metropolitan sewerage district created under ss. 200.01 to 200.15 or under
- 4 ss. 200.21 to 200.65.
- 5 4. A public utility created under s. 196.01 (5).
- 6 5. A town sanitary district created by another town under subch. IX.
- 7 6. A city or village.
- 8 7. A city-owned treatment works or village-owned treatment works in which
- 9 the town has an interest under an intergovernmental cooperation agreement under
- 10 s. 66.0301.

11 (h) The town board consists of 5 supervisors.

12 **(1m)** PROCEDURE. (a) Subject to par. (c) and except as provided in par. (b), a town

13 board may proceed under sub. (1) only if the town board adopts a resolution declaring

14 its intent to proceed under this paragraph and only if the town board institutes

15 proceedings under s. 66.0229 to consolidate the town with a city or village on or after

16 the effective date of this paragraph [revisor inserts date], and if, between 1990 and

17 2000, the town board has done one of the following:

- 18 1. Instituted proceedings to incorporate the town as a city under s. 66.0215.
- 19 2. Instituted proceedings to incorporate the town as a city or village under ss.
- 20 66.0201 to 66.0213.

21 (b) Subject to par. (c), if a town board has not instituted one of the proceedings

22 under par. (a) 1. or 2. between 1990 and 2000, the town board may proceed under sub.

23 (1) only if the town board adopts a resolution declaring its intent to proceed under

24 this paragraph and only if the town board, within a 3-year period beginning on the

25 date of the adoption of the resolution declaring its intent to proceed under this

ASSEMBLY BILL 501

1 paragraph, institutes proceedings under s. 66.0229 to consolidate the town with a
2 city or village and the town board institutes proceedings described under par. (a) 1.
3 or 2.

4 (c) The town board may adopt a resolution under sub. (1) only if the town board
5 institutes the proceedings under par. (a) or under par. (b) and the proceedings do not
6 result in either a consolidation under s. 66.0229 or the incorporation of the town as
7 a city under s. 66.0215 or as a city or village under ss. 66.0201 to 66.0213.

8 **(2) RATIFICATION.** (a) If a town board adopts a resolution under sub. (1), the
9 town board shall call a referendum to approve the resolution adopted under sub. (1).
10 The referendum shall be called for that purpose at the next spring primary or election
11 or September primary or general election, or the town board may call and conduct
12 a special referendum under s. 8.55, to be held not sooner than 45 days after the
13 referendum is called by the town board. The town board shall call for a referendum
14 under this subsection not later than 90 days after the adoption of a resolution under
15 sub. (1). The referendum question shall be: “Do you approve the town board’s
16 adoption of the resolution declaring the Town of [insert name of town] to be an
17 urban town?”

18 (b) A resolution adopted by a town board under sub. (1) may not take effect until
19 the resolution is approved in a referendum called for by the town board under par.

20 (a). If the referendum is approved by the electors of the town, the town clerk shall
21 certify that fact to the secretary of state. The secretary of state shall issue a
22 certificate of urban town status and shall record that status in a book kept for that
23 purpose.

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

ASSEMBLY BILL 501

1 1. A town acting under this section does not have home rule powers under
2 article XI, section 3, of the constitution or under s. 61.34 (5).

3 2. A town acting under this section may not exercise extraterritorial zoning
4 powers under s. 62.23 (7a) or 66.0105, offensive industry regulation under s. 66.0415
5 (1), extraterritorial plat approval under s. 236.10, or wetlands in shorelands zoning
6 authority under s. 61.351.

7 3. A town acting under this section may not exercise annexation of territory
8 powers under s. 66.0217, 66.0219, or 66.0223.

9 4. A town acting under this section may not create a tax incremental financing
10 district under s. 66.1105.

11 5. A town acting under this section may not adopt a village form of governance
12 by acting under ss. 61.19 to 61.325.

13 (b) 1. Except for a wetlands in shorelands zoning ordinance, no town may be
14 subject to any county zoning ordinance that is enacted by a county board after a town
15 board adopts a resolution under sub. (1) unless the town board approves the
16 ordinance or until the resolution adopted by the town board under sub. (1) is defeated
17 in a referendum that is held under sub. (2).

18 2. If a town board adopts a resolution under sub. (1) and the resolution is
19 ratified under sub. (2), a town board may adopt a resolution revoking its approval of
20 any county zoning ordinance, other than a wetlands in shorelands zoning ordinance,
21 if the town board notifies the county board in writing at least 60 days before the
22 resolution revoking approval of a county zoning ordinance takes effect.

23 3. Beginning on the effective date of the resolution revoking town approval of
24 a county zoning ordinance, a town that is subject to this section may enact zoning
25 ordinances only under s. 62.23.

ASSEMBLY BILL 501

1 (c) No town territory may be annexed by a city or village under s. 66.0217,
2 66.0219, or 66.0223 during the 3-year period described under sub. (1m) (b), during
3 the period beginning after a town board adopts a resolution under sub. (1) and before
4 a ratification vote under sub. (2) or at any time after the electors of the town approve
5 such a resolution under sub. (2), unless the town board approves the proposed
6 annexation or unless the land proposed to be annexed is less than 300 acres and at
7 least 85% of the border of such land is contiguous to the annexing city or village.

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

13 (e) 1. If a town is a party to a cooperative boundary plan under s. 66.0307 or
14 similar cooperative boundary agreement under s. 66.0301 on the date on which the
15 town becomes an urban town, the terms of the plan or agreement, or any approved
16 amendments to the plan or agreement, shall remain in effect until the expiration of
17 the planning period that is specified in the plan or the expiration of the agreement.

18 2. A town may become a party to a cooperative boundary plan under s. 66.0307
19 any time before the first day of the 24th month beginning after the effective date of
20 this subdivision [revisor inserts date]. If a town becomes a party to such a plan
21 under this subdivision, the terms of the plan, or any approved amendments to the
22 plan, shall remain in effect until the expiration of the planning period that is
23 specified in the plan.

ASSEMBLY BILL 501

1 3. Except as provided in this paragraph and in par. (c), the boundaries of an
2 urban town may not be changed under s. 66.0229 or 66.0227, or by the acquisition
3 or disposal of territory by any means, unless the town agrees to the change.

4 **(4) SUNSET.** This section does not apply on or after the first day of the 60th
5 month beginning after the effective date of this subsection [revisor inserts date].

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

7 60.61 **(2) EXTENT OF AUTHORITY.** (intro.) Subject to subs. (3) and (3m), if a town
8 is located in a county ~~which~~ that has not enacted a county zoning ordinance under
9 s. 59.69, the town board of a town that is not subject to s. 60.225, by ordinance, may:

10 **SECTION 4.** 60.62 (1) of the statutes is amended to read:

11 60.62 **(1)** Subject to subs. (2), (3), and (4) and to s. 60.225 (3) (b) 3., if a town
12 board has been granted authority to exercise village powers under s. 60.10 (2) (c), the
13 board may ~~adopt~~ enact zoning ordinances under s. 61.35.

14 **SECTION 5.** 60.62 (2) of the statutes is amended to read:

15 60.62 **(2)** If the county in which the town is located has enacted a zoning
16 ordinance under s. 59.69, the exercise of the authority under sub. (1) is subject to
17 approval by the town meeting or by a referendum vote of the electors of the town held
18 at the time of any regular or special election, except that this subsection does not
19 apply if a town board revokes its approval of a county zoning ordinance under s.
20 60.225 (3) (b) 2. The question for the referendum vote shall be filed as provided in
21 s. 8.37.

22 **SECTION 6.** 60.62 (3) of the statutes is amended to read:

23 60.62 **(3)** In counties having a county zoning ordinance, no zoning ordinance
24 or amendment of a zoning ordinance may be ~~adopted~~ enacted under this section
25 unless it is approved by the county board, except that this subsection does not apply

ASSEMBLY BILL 501

1 if a town board revokes its approval of a county zoning ordinance under s. 60.225 (3)
2 (b) 2.

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

4 62.23 (7a) (a) Extraterritorial zoning jurisdiction means the unincorporated
5 area, except as provided in s. 60.225 (3) (d). within 3 miles of the corporate limits of
6 a first, second, or third class city, or 1 1/2 miles of a fourth class city or a village.
7 Wherever extraterritorial zoning jurisdictions overlap, the provisions of s. 66.0105
8 shall apply and any subsequent alteration of the corporate limits of the city by
9 annexation, detachment, or consolidation proceedings shall not affect the dividing
10 line as initially determined under s. 66.0105. The governing body of the city shall
11 specify by resolution the description of the area to be zoned within its extraterritorial
12 zoning jurisdiction sufficiently accurate to determine its location and such area shall
13 be contiguous to the city. The boundary line of such area shall follow government lot
14 or survey section or fractional section lines or public roads, but need not extend to
15 the limits of the extraterritorial zoning jurisdiction. Within 15 days of the adoption
16 of the resolution the governing body shall declare its intention to prepare a
17 comprehensive zoning ordinance for all or part of its extraterritorial zoning
18 jurisdiction by the publication of the resolution in a newspaper having general
19 circulation in the area proposed to be zoned, as a class 1 notice, under ch. 985. The
20 city clerk shall mail a certified copy of the resolution and a scale map reasonably
21 showing the boundaries of the extraterritorial jurisdiction to the clerk of the county
22 in which the extraterritorial jurisdiction area is located and to the town clerk of each
23 town, any part of which is included in such area.

24 **SECTION 8.** 66.0105 of the statutes is amended to read:

ASSEMBLY BILL 501**SECTION 8**

1 **66.0105 Jurisdiction of overlapping extraterritorial powers.** The
2 extraterritorial powers granted to cities and villages by statute, including ss. 30.745,
3 62.23 (2) and (7a), 66.0415, 236.10, and 254.57, may not be exercised within the
4 corporate limits of another city or village and may not be exercised within the
5 corporate limits of a town during the period beginning after the town board has
6 adopted a resolution under s. 60.225 (1) and before a ratification vote under s. 60.225
7 (2) or at any time after the electors of the town approve such a resolution under s.
8 60.225 (2). Wherever these statutory extraterritorial powers overlap, the
9 jurisdiction over the overlapping area shall be divided on a line all points of which
10 are equidistant from the boundaries of each municipality concerned so that not more
11 than one municipality shall exercise power over any area.

12 **SECTION 9.** 66.0217 (3) (intro.) of the statutes is amended to read:

13 66.0217 (3) OTHER METHODS OF ANNEXATION. (intro.) Subject to s. 66.0307 (7)
14 and except as provided in s. 60.225 (3) (c), territory contiguous to a city or village may
15 be annexed to the city or village in the following ways:

16 **SECTION 10.** 66.0219 (intro.) of the statutes is amended to read:

17 **66.0219 Annexation by referendum initiated by city or village.** (intro.)
18 As a complete alternative to any other annexation procedure, and subject to s.
19 66.0307 (7) and except as provided in s. 60.225 (3) (c), unincorporated territory ~~which~~
20 that contains electors and is contiguous to a city or village may be annexed to the city
21 or village under this section. The definitions in s. 66.0217 (1) apply to this section.

22 **SECTION 11.** 66.0223 of the statutes is amended to read:

23 **66.0223 Annexation of territory owned by a city or village.** In addition
24 to other methods provided by law and subject to ss. 59.692 (7) and 66.0307 (7) and
25 except as provided in s. 60.225 (3) (c), territory owned by and lying near but not

ASSEMBLY BILL 501

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 attaches the territory to the village or city
7 upon the filing of 7 certified copies of the ordinance in the office of the secretary of
8 state, together with 7 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
11 administration, one copy to the department of natural resources, one copy to the
12 department of revenue and one copy to the department of public instruction. Within
13 10 days of filing the certified copies, a copy of the ordinance and plat shall be mailed
14 or delivered to the clerk of the county in which the annexed territory is located.
15 Section 66.0217 (11) applies to annexations under this section.

16 **SECTION 12.** 236.02 (5) of the statutes is amended to read:

17 236.02 (5) “Extraterritorial plat approval jurisdiction” means the
18 unincorporated area, except as provided in s. 60.225 (3) (d), within 3 miles of the
19 corporate limits of a first, second, or third class city, or 1 1/2 miles of a fourth class
20 city or a village.

21 (END)