

2001 ASSEMBLY BILL 687

December 21, 2001 – Introduced by Representatives OWENS, F. LASEE, ALBERS, BIES, FREESE, GRONEMUS, GUNDERSON, HAHN, JESKEWITZ, JOHNSRUD, LIPPERT, MCCORMICK, D. MEYER, MUSSER, PETROWSKI, POWERS, REYNOLDS, SCHNEIDER, SERATTI, SKINDRUD and STARZYK, cosponsored by Senators ROESSLER, KANAVAS, A. LASEE and SCHULTZ. Referred to Committee on Urban and Local Affairs.

1 **AN ACT** *to amend* 59.69 (3) (a), 59.69 (3) (b), 59.69 (5) (c), 60.62 (1), 60.62 (2) and
2 60.62 (3); and *to create* 59.69 (5m), 60.23 (32) and 60.62 (5) of the statutes;
3 **relating to:** authorizing towns to withdraw from county zoning, requiring
4 towns to become subject to town or county zoning and a comprehensive plan,
5 and requiring the University of Wisconsin System–Extension to prepare model
6 town and county zoning ordinances.

Analysis by the Legislative Reference Bureau

Under current law, if a town board has been granted the authority to exercise village powers, the town board may adopt zoning ordinances under the zoning statutes that apply to cities and villages, subject to a number of conditions. If the county in which the town is located has enacted a county zoning ordinance, town zoning ordinances may not take effect until such ordinances are approved either by a town meeting or by a referendum vote of the electors of the town and are approved by the county board.

Under the bill, beginning in 2011, a town board may adopt zoning ordinances under the city and village statutes without being granted the authority to exercise village powers by the town meeting and without receiving approval for such zoning ordinances by the town meeting or by referendum.

Also under current law, a county zoning ordinance may not take effect in a town unless it has been approved by the town board. Once a town board has approved a county zoning ordinance, the town may not withdraw its approval.

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Under this bill, a town board may enact an ordinance withdrawing from coverage of a county zoning ordinance and a county development plan. A town board may enact the ordinance during 2011, or during the one-year period every five years after January 1, 2011. Such an ordinance may not take effect unless the town clerk notifies the county clerk of the proposed ordinance and the town enacts, and sends copies to the county clerk, a town zoning ordinance, a comprehensive plan, and an official map. County board approval of a town zoning ordinance is not required if the town has withdrawn from county zoning. The town zoning ordinance and comprehensive plan must be consistent with each other and the zoning ordinance must be at least as restrictive as the county zoning ordinance that applies to the town on January 1 of the year before the year in which the town board enacts the ordinance withdrawing from county zoning.

If a town is located in a county that does not have in effect on January 1, 2009, a comprehensive plan and a county zoning ordinance, the town is required under the bill to enact a zoning ordinance, comprehensive plan, and official map not later than November 1, 2009. Such a zoning ordinance must be at least as restrictive as a model town zoning ordinance which the bill requires the University of Wisconsin System-Extension (UW) to develop by January 1, 2009. The model ordinance, and a model county zoning ordinance, is to be presented by the UW to the chief clerk of each house of the legislature and referred to the appropriate standing committees. The ordinances are considered to have been approved by each such committee if, within 14 working days of their referral, the committee does not schedule a meeting to review the model ordinances.

If a town is located in a county that does have in effect on January 1, 2009, a comprehensive plan and a county zoning ordinance, and if the town has not approved the county ordinance or enacted its own zoning ordinance, not later than November 1, 2009, the town is required under the bill either to approve the county zoning ordinance, to take effect no later than January 1, 2010, or to enact a zoning ordinance, comprehensive plan, and official map to take effect on January 1, 2010.

The bill authorizes a county board, anytime after December 31, 2009, to enact an ordinance to repeal all of its zoning ordinances, other than shoreland and floodplain zoning ordinances, if it notifies all of the towns that are subject to its zoning ordinances. Such a county ordinance must have a delayed effective date of one year. If a town is so notified, it must enact a zoning ordinance, comprehensive plan, and official map to take effect on the effective date of the county's repeal of its zoning ordinance. The town ordinance and comprehensive plan must be at least as restrictive as the county zoning ordinance that is in effect on the day before the repeal takes effect.

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:

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1 **SECTION 1.** 59.69 (3) (a) of the statutes is amended to read:

2 59.69 (3) (a) The Subject to s. 60.23 (32), the county zoning agency may direct
3 the preparation of a county development plan or parts thereof for the physical
4 development of the unincorporated territory within the county and areas within
5 incorporated jurisdictions whose governing bodies by resolution agree to having
6 their areas included in the county's development plan. The plan may be adopted in
7 whole or in part and may be amended by the board and endorsed by the governing
8 bodies of incorporated jurisdictions included in the plan. The county development
9 plan, in whole or in part, in its original form or as amended, is hereafter referred to
10 as the development plan. Beginning on January 1, 2010, if the county engages in any
11 program or action described in s. ~~66.0295~~ 66.1001 (3), the development plan shall
12 contain at least all of the elements specified in s. ~~66.0295~~ 66.1001 (2).

13 **SECTION 2.** 59.69 (3) (b) of the statutes is amended to read:

14 59.69 (3) (b) The development plan shall include the master plan, if any, of any
15 city or village, that was adopted under s. 62.23 (2) or (3) and the official map, if any,
16 of such city or village, that was adopted under s. 62.23 (6) in the county, without
17 change. The development plan shall also include, and integrate, the master plan and
18 the official map of a town that was adopted under s. 60.62 (5) (a) or (c), without
19 change.

20 **SECTION 3.** 59.69 (5) (c) of the statutes is amended to read:

21 59.69 (5) (c) A county ordinance enacted under this section shall not be effective
22 in any town until it has been approved by the town board. If the town board approves
23 an ordinance enacted by the county board, under this section, a certified copy of the
24 approving resolution attached to one of the copies of such ordinance submitted to the
25 town board shall promptly be filed with the county clerk by the town clerk. The

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1 ordinance shall become effective in the town as of the date of the filing, which filing
2 shall be recorded by the county clerk in the clerk's office, reported to the town board
3 and the county board, and printed in the proceedings of the county board. The
4 ordinance shall supersede any prior town ordinance in conflict therewith or which
5 is concerned with zoning, except as provided by s. 60.62. A town board may withdraw
6 from coverage of a county zoning ordinance as provided under s. 60.23 (32).

7 **SECTION 4.** 59.69 (5m) of the statutes is created to read:

8 59.69 (5m) TERMINATION OF COUNTY ZONING. (a) Subject to par. (b), at any time
9 after December 31, 2010, a county board may enact an ordinance to repeal all of its
10 zoning ordinances enacted under this section if it so notifies, in writing, all of the
11 towns that are subject to its zoning ordinances.

12 (b) An ordinance enacted under par. (a) shall have a delayed effective date of
13 one year. No county board may repeal under this subsection a county shoreland
14 zoning or floodplain zoning ordinance.

15 **SECTION 5.** 60.23 (32) of the statutes is created to read:

16 60.23 (32) TOWN WITHDRAWAL FROM COUNTY ZONING. (a) Subject to pars. (b) and
17 (c), after December 31, 2010, and before January 1, 2012, and during the one-year
18 period every 5 years after January 1, 2011, enact an ordinance withdrawing the town
19 from coverage of a county zoning ordinance that had previously been approved under
20 s. 59.69 (5) (c) and from coverage by a county development plan that has been enacted
21 under s. 59.69 (3) (a).

22 (b) Subject to par. (c), an ordinance enacted under par. (a) may not take effect
23 until all of the following occur:

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1 1. Not later than 60 days before enacting an ordinance under par. (a), the town
2 clerk notifies the county clerk, in writing, of the town's intent to enact an ordinance
3 under par. (a).

4 2. The town enacts a zoning ordinance under s. 60.62, a comprehensive plan
5 under s. 66.1001, and an official map under s. 62.23 (6), and the town clerk sends
6 certified copies of such documents to the county clerk.

7 (c) A zoning ordinance enacted under s. 60.62, a comprehensive plan enacted
8 under s. 66.1001, and an official map established under s. 62.23 (6), that are enacted
9 in conjunction with an ordinance enacted under par. (a), shall all take effect on the
10 first day of the 3rd month beginning after certified copies of the documents are sent
11 to the county clerk under par. (b) 2.

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

13 60.62 (1) Subject to subs. (2), (3) and (4), if a town board has been granted
14 authority to exercise village powers under s. 60.10 (2) (c), the board may adopt zoning
15 ordinances under s. 61.35, except that after December 31, 2010, a town board may
16 adopt zoning ordinances under s. 61.35 without being granted the authority to
17 exercise village powers.

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

19 60.62 (2) If the county in which the town is located has enacted a zoning
20 ordinance under s. 59.69, the exercise of the authority under sub. (1) before January
21 1, 2011, is subject to approval by the town meeting or by a referendum vote of the
22 electors of the town held at the time of any regular or special election. The question
23 for the referendum vote shall be filed as provided in s. 8.37.

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

ASSEMBLY BILL 687**SECTION 8**

1 60.62 (3) In counties having a county zoning ordinance, no zoning ordinance
2 or amendment of a zoning ordinance may be adopted under this section unless
3 approved by the county board, except that this subsection does not apply to a town
4 that has withdrawn from county zoning under s. 60.23 (32).

5 **SECTION 9.** 60.62 (5) of the statutes is created to read:

6 60.62 (5) (a) Subject to par. (b), not later than 60 days before a town board that
7 wishes to withdraw from county zoning and the county development plan may enact
8 an ordinance under s. 60.23 (32), the town board shall enact a zoning ordinance
9 under this section, an official map under s. 62.23 (6), and a comprehensive plan under
10 s. 66.1001.

11 (b) The zoning ordinance and comprehensive plan enacted under par. (a) shall
12 be consistent with each other and the zoning ordinance shall be at least as restrictive
13 as the county zoning ordinance that applies to the town on January 1 of the year
14 before the year in which the town board enacts the ordinance under s. 60.23 (32).

15 (c) If a town is located in a county that does not have in effect on January 1,
16 2009, a comprehensive plan under s. 66.1001 and a county zoning ordinance under
17 s. 59.69, not later than November 1, 2009, the town board shall enact a zoning
18 ordinance under this section, an official map under s. 62.23 (6), and a comprehensive
19 plan under s. 66.1001, all of which take effect on January 1, 2010. A zoning ordinance
20 enacted under this paragraph shall be at least as restrictive as the model town zoning
21 ordinance described under par. (f).

22 (d) If a town is located in a county that has in effect on January 1, 2009, a
23 comprehensive plan under s. 66.1001 and a county zoning ordinance under s. 59.69,
24 and if the town has not approved the county ordinance under s. 59.69 (5) (c) or
25 enacted a zoning ordinance under this section, not later than November 1, 2009, the

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1 town board shall either approve the county zoning ordinance under s. 59.69 (5) (c),
2 to take effect no later than January 1, 2010, or enact a zoning ordinance under this
3 section, an official map under s. 62.23 (6), and a comprehensive plan under s.
4 66.1001, all of which take effect on January 1, 2010. A zoning ordinance enacted
5 under this paragraph shall be at least restrictive as the county zoning ordinance
6 under s. 59.69 that is in effect on January 1, 2009.

7 (e) If a town receives notification under s. 59.69 (5m) that the county board has
8 repealed its zoning ordinances and development plan, the town board shall enact a
9 zoning ordinance under this section, an official map under s. 62.23 (6), and a
10 comprehensive plan under s. 66.1001, all of which take effect on the effective date
11 of the county's repeal of its zoning ordinance and development plan. An ordinance
12 and comprehensive plan enacted under this paragraph shall be consistent with each
13 other and the zoning ordinance shall be at least as restrictive as the county zoning
14 ordinance that is in effect on the day before the repeal takes effect.

15 (f) 1. Not later than January 1, 2009, the University of Wisconsin
16 System-Extension, under s. 36.05 (7), in consultation with any other University of
17 Wisconsin System institution, shall develop a model ordinance for town zoning and
18 a model ordinance for county zoning.

19 2. The model ordinances developed under subd. 1. shall be presented to the
20 chief clerk of each house of the legislature, and shall be referred immediately by the
21 speaker of the assembly and the presiding officer of the senate to the appropriate
22 standing committee in each house. The model ordinances shall be considered to have
23 been approved by a standing committee if within 14 working days of the referral, the
24 committee does not schedule a meeting for the purpose of reviewing the model
25 ordinances. If the committee schedules a meeting for the purpose of reviewing the

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SECTION 9

1 model ordinances, the ordinances may not be considered to have been approved
2 unless the committee approves the model ordinances.

3 (END)