

2001 DRAFTING REQUEST

Bill

Received: **07/30/2001**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Terese Berceau (608) 266-3784**

By/Representing: **Tom**

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

Drafter: **shoveme**

May Contact:

Addl. Drafters:

Subject: **Munis - miscellaneous**
Munis - zoning

Extra Copics:

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Annexation of town pcninsulas

Instructions:

See attached. Model language re: annexation of town peninsulas from League of WI Municipalities.

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>
/P1	shoveme 09/26/2001	wjackson 10/01/2001	haugeca 10/02/2001	_____	lrb_docadmin 10/02/2001		S&L
/1	shoveme 11/19/2001	csicilia 11/30/2001	kfollet 11/30/2001	_____	gretskl 11/30/2001		S&L
/2	shoveme 12/19/2001	csicilia 01/04/2002	pgreensl 01/04/2002	_____	lrb_docadmin 01/04/2002	lrb_docadminS&L 01/09/2002 lrb_docadmin 01/09/2002	

FE Sent For: at intro 2/15

<END>

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/2	shoveme 12/19/2001	csicilia 01/04/2002	pgreensl 01/04/2002	_____	lrb_docadmin 01/04/2002		S&L

FE Sent For:

<END>



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN H. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

January 4, 2002

MEMORANDUM

To: Senator Burke

From: Michael Dsida, Legislative Attorney

Re: LRB-0867/2 Stalking

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

_____ JACKET FOR ASSEMBLY _____ JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-9867 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.

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/1	shoveme 11/19/2001	csicilia 11/30/2001	kfollet 11/30/2001	<u> </u> 1/4/02 P8/ch	gretskl 11/30/2001		S&L

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FE Sent For:

12/19/01
8 + ejs
1/4/02
P8

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/P1	shoveme 09/26/2001	wjackson 10/01/2001	haugeca 10/02/2001	_____	lrb_docadmin 10/02/2001		S&L

(1 ME-S 11/19/01) (11-20-01)

FE Sent For:

8/11/30
8/11/30
<END> 11/30

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1?	shoveme		CH 10-1-01	CH 5/8	Submit		

181 MES 9/26/01

FE Sent For:

<END>



STATE REPRESENTATIVE
TERESE BERCEAU

WISCONSIN STATE ASSEMBLY

76TH DISTRICT

Mark,

Here is a rough draft of a bill
concerning annexation of town peninsulas.

League of Municipalities offered it to us,
and Terese is interested in having it
drafted.

Thanks much,

Tom Powell
Research Assistant for Rep. Berceau

STATE CAPITOL, POST OFFICE BOX 8952, MADISON, WI 53708 • (608) 266-3784 • FAX: (608) 282-3676
E-MAIL: rep.berceau@legis.state.wi.us • LEGISLATIVE HOTLINE: 1-888-362-9472

Peninsula Annexation Statute Amendment Proposal

The Wisconsin Annexation laws have allowed those against annexation to remain in unincorporated areas, thus causing irregular annexation lines. Over the years, annexation upon annexation have created long peninsulas that have caused serious problems for both cities and towns. In some situations, new residents of town peninsulas are confused as to what governmental entity they actually live in, partly because the city's name is assigned to the property via address, telephone number or school district. In many cases, inefficiency of service delivery or duplication of utilities has caused the taxpayers to pay more than they should for basic services in town peninsulas.

In the early 1970's, the Wisconsin State Legislature addressed similar problems of town islands and wisely adopted an annexation amendment that allowed cities and villages to unilaterally annex the various islands that existed as of December 2, 1973. Today, problems associated with town peninsula's may be more serious than what existed with town islands in 1973.

To solve the many problems associated with town peninsulas, an effort needs to be made to urge State legislators to amend the annexation laws to give cities and villages unilateral authority to annex peninsulas. The most basic benefit associated with these types of annexations would be the cities' ability to prepare comprehensive plans to provide city services to annexed areas through capital improvement programming. In some cases, annexed lands that were previously adjacent to the town peninsula may benefit by receiving utilities or other city services that were not able to be previously provided.

Although not yet refined, the proposed language of a statute amendment making possible a peninsula annexation is as follows:

UNILATERAL PENINSULA ANNEXATIONS PROPOSED LAW CHANGE

66.021 Annexation of Territory

(17) Annexation of Town Peninsulas

- (a) The purpose of this form of annexation is to allow cities and villages to improve the configuration of their corporate limit line that would result in an improvement in the level of services, the lessening of jurisdictional problems, and the easier identification of corporate borders.

*Town
of
Madison*

(b) A town peninsula is eligible for peninsula annexation if the petitioning city or village nearly completely surrounds the peninsula. The territory within a peninsula shall be considered to be nearly completely surrounded whenever the length of the boundary sought to be annexed is contiguous to one or more cities or villages for not less than 75 percent of the described territory. The boundary of the described territory may exclude areas of water, terrain or geography, the condition of which prohibits development. However, such conditions may not exceed one-third of the length of the boundary of the area described for unilateral annexations. Closure of the peninsula cannot protrude farther out than the existing corporate limit line on the nearest side.

(c) Any municipality whose boundaries nearly completely surround an unincorporated peninsula may file with the Department of Development a resolution adopted by a two-thirds vote of the elected members of the governing body indicating a willingness to annex the territory designated in the annexation resolution. The municipality shall forward to the Wisconsin Department of Development the adopted resolution accompanied by a scale map showing the boundaries of the peninsula proposed to be annexed and an analysis that addresses the following criteria:

(1) Characteristics of territory. Do properties within the peninsula share common characteristics with the petitioning city or village, such as drainage, soils, transportation facilities, school districts, postal districts, sewer service area boundaries, utility districts i.e. telephone, natural gas, electric and cable T.V., place of employment, health facilities, religious institutions, and shopping and social customs.

(2) Level of services. Will the annexing city or village have the capability of providing an equal or better level of service than the existing town or towns within the peninsula, including police, fire, building, health and fire prevention inspections, planning, and public works services.

- (3) Impact on the metropolitan community. Will annexation of the unincorporated peninsula solve governmental service problems that now exist, i.e. duplication of services, confusing borders relative to emergency calls, etc.
- (d) The Department of Development shall review the municipality's map and analysis and make a determination within 90 days after receipt of the petitioner's resolution. Copies of the findings and determination shall be sent by certified or registered mail to the designated representative of the petitioners and to all town and municipal clerks who would be affected by the annexation.
- (e) If the Department of Development determines that a municipality has sufficiently met the criteria as identified in this section, the municipality shall then have the authority to annex the town peninsula upon passage and publication of an annexation ordinance.

Response to a peninsula annexation bill would be much appreciated by contacting Warren Utecht, Appleton Department of Planning and Development, 200 North Appleton Street, Appleton, Wisconsin 54911, or by calling (414)832-6460. Also, I would encourage you to contact your State Legislator to suggest consideration of such a bill.

ANNEXAMEND/PLANGENL



WL
RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

gen

soon
IN 9/26

1 AN ACT ...; relating to: creating a procedure for cities and villages to annex town
2 peninsulas.

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 of annexation include the following: 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 court order and referendum, 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.

Under the first two of these current methods of annexation, no annexation proceeding in a county with a population of at least 50,000 is valid unless the person publishing a notice of annexation or the person who files the petition for direct annexation sends certain information, such as a legal description and a scale map of the territory proposed to be annexed, to the department of administration (DOA) within five days of the publishing of the notice or filing of the petition. Within 20 days

after receipt of the information, DOA may mail to the clerks of the town and city or village that are involved with the proposed annexation a notice that states DOA's opinion that the annexation is against the public interest and that advises the clerks of the reasons for its decision.

Another method of annexation is direct annexation by unanimous approval. If a petition for direct annexation by unanimous approval signed by all of the electors residing in the territory and the owners of all of the real property in the territory is filed with the city or village clerk and the town clerk of all of the involved towns, along with a scale map and legal description of the property to be annexed, the governing body of the city or village may, generally, annex the property by a two-thirds vote of the body. Such an annexation, however, is subject to DOA review as if the annexation petition were for direct, but not unanimous, annexation or annexation by referendum.

Generally, cities and villages may also annex territory that is owned by the city or village and that lies near but not necessarily contiguous to the city or village by enacting an ordinance to annex such territory.

This bill creates a new method for a city or village to annex a town peninsula, which is defined under the bill as town territory, the boundary of which is contiguous to one or more cities or villages for at least 75% of its length, excluding areas that border on water, or on land whose condition prohibits development, except that the excluded areas of the border may not exceed 33% of the length of the boundary of the territory that is sought to be annexed.

commerce department
Under the bill, a city or village may enact an ordinance to annex a contiguous peninsula, except that the ordinance may not take effect unless it is approved by the department of development (DOE). After enacting an ordinance a city or village is required to send a copy of the ordinance, a legal description and scale map of the peninsula, and findings in support of the ordinance to ~~DOE~~ the department.

The findings must address ^{three} criteria: the characteristics of the territory, the level of services, and the impact on the metropolitan community. The findings must indicate whether the peninsula shares common characteristics with the city or village, such as transportation facilities, school districts, utilities, religious institutions, and shopping and social customs. The findings must also indicate whether the annexing city or village is capable of providing services to the peninsula at a level that at least equals the level of service that is being provided by the town and whether the annexation will solve any existing governmental service problems in the metropolitan area.

The department
~~DOE~~ is required to review the materials submitted by the city or village and approve or deny the ordinance not later than 90 days after receiving the materials. ~~DOE~~ decision must be based on its determination of whether the city's or village's findings substantially satisfy the criteria.

The department's

MA the department
If ~~DOA~~ approves the ordinance, it takes effect on the first day of the second month beginning after ~~DOA's~~ approval is granted. ~~the department's~~

I added this in the electronic copy

F E S L

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

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SECTION 1. 66.0218[✓] of the statutes is created to read:

66.0218 Direct annexation of town peninsulas. (1) DEFINITIONS. In this section:

- (a) "Department" means the department of ~~development~~ ^{commerce}.
- (b) "Legal description" has the meaning given in s. 66.0217 (1) (c) [✓]
- (c) "Members-elect" has the meaning given in s. 59.001 (2m) [✓]
- (d) "Peninsula" means town territory, the boundary of which is contiguous to one or more cities or villages for at least 75% of its length, excluding areas that border on water, or on land whose condition prohibits development, except that such excluded areas of the border may not exceed 33% of the length of the boundary of the territory that is sought to be annexed.

****NOTE: Please read this definition very carefully to ensure that it meets your intent. Your drafting instructions did not contain any definitions, but your proposed creation of s. 66.021 (17) (b) contained a somewhat confusing description of a town peninsula which is "eligible" for peninsula annexation, and I believe that this definition captures the essential elements of that paragraph. The instruction states that "Closure of the peninsula cannot protrude farther out than the existing corporate limit line on the nearest side" but I did not incorporate it into the definition because I'm not sure what it means.

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- (e) "Scale map" has the meaning given in s. 66.0217 (1) (g) [✓]
- (2) CITY, VILLAGE RESOLUTIONS. The governing body of a city or village may, by a two-thirds vote of its members-elect, enact an ordinance to annex a contiguous peninsula, and the ordinance takes effect as provided in sub. (4) [✓]. The city or village shall send to the department of ~~development~~ a copy of the ordinance, a legal description and scale map of the territory to be annexed, and the city's or village's

1 findings in support of its ordinance. The findings shall address at least all of the
2 following criteria:

3 (a) *Characteristics of the territory.* Whether the territory in the peninsula
4 shares common characteristics with the city or village, including drainage; soils;
5 transportation facilities; school districts; sewerage services; utility districts, such as
6 telephone, electricity, natural gas, and cable television; places of employment; health
7 care facilities; religious institutions; and shopping and social customs.

8 (b) *Level of services.* Whether the annexing city or village is capable of
9 providing services to the territory in the peninsula at a level that at least equals the
10 level of service that is being provided by the town in areas including police and fire
11 protection; building, health and fire prevention inspections; planning; and public
12 works services.

13 (c) *Impact on the metropolitan community.* Whether the annexation of the
14 peninsula will solve any existing governmental service problems in the metropolitan
15 area that includes the city or village and town ~~from~~ which the peninsula is to be
16 annexed, including the duplication of government and public works services and
17 confusing borders that may impact emergency services response times.

****NOTE: This paragraph is based on your instructions, but the use of the term
"metropolitan community" seems vague to me. Does this paragraph capture your intent?

18 (3) DEPARTMENT ~~OF DEVELOPMENT~~ RESPONSE. Not later than 90 days after
19 receiving the ordinance, legal description, scale map, and findings described in sub.
20 (2),¹ the department ~~of development~~ shall review the submitted materials and
21 determine whether to approve or deny the annexation ordinance. The department
22 shall base its decision on its determination of whether the city's or village's findings
23 substantially satisfy the criteria under sub. (2).¹ The department shall send written

1 notification of its decision, by registered mail, to the clerk of each municipality that
2 is affected by its decision.

3 (4) EFFECTIVENESS OF ANNEXATION ORDINANCE. An ordinance enacted under sub.
4 (2) takes effect on the first day of the ~~second~~^{2nd} month beginning after the department
5 ~~of development~~ approves the ordinance under sub. (3)✓

6 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3561/P1.dn
MES.....
WLJ

NOT
As a preliminary matter, there is no department of development; the name was changed to department of commerce several sessions ago, so the bill refers to that department.

Rep. Berceau:

In drafting this bill I have tried to incorporate as much of the "pre-drafted" statute ~~that which~~ you submitted as your drafting instructions. ~~Some of the language~~ I did not include, however, such as the purpose statement. Purpose, or intent statements, are almost always unnecessary, and may be counter-productive for a number of reasons, including the following:

In addition,

1. A bill should include all provisions that are necessary to carry out legislative intent in the substantive text of the draft. Therefore, a statement of intent, purpose, or findings that mirrors the substantive text is redundant and thus unnecessary.
2. If an act has a purpose statement, a court might not look beyond it in attempting to determine the validity of the act.
3. A statement of intent, purpose, or findings that is initially drafted to be in harmony with substantive provisions of an act may, if the substantive provisions are later amended, be irrelevant to or in direct conflict with the amended provisions. If the statement is not at the time of the amendment also amended or repealed, the existence of the statement may confuse the status of the law.
4. A statement of intent, purpose, or findings may use undefined terms that differ from the terms used in substantive provisions of the bill. The undefined terms may be used later by a court to interpret the act's substantive language either more broadly or more narrowly than was intended.
5. A statement of intent, purpose, or findings may include provisions that directly or indirectly grant rights, prohibit actions, or are otherwise substantive in nature, having unforeseen effects on other, seemingly unrelated laws.

In created sub. (2) (a), I've included the "characteristics of territory" from your instructions, but I think that some of them may be too confining if the intent of the bill is to make it very easy for cities and villages to annex town peninsulas. For example, the characteristics include "religious institutions, and shopping and social customs." If the city, for example, contains a synagogue or mosque as well as a number of churches and the town peninsula has only a church, perhaps the department of ~~development~~ ^{commerce} would find an incompatibility of characteristics. In addition, I'm not sure what "shopping customs" includes and how ~~DDP~~ would assess it.

the department of commerce

Although your instructions specify that ~~DOA~~ ^{the department of commerce} is the agency that approves or denies an ordinance, you should know that the department of administration is the agency that is empowered to approve or deny incorporation referenda. See s. 66.0207. ~~Is this OK?~~

Do you want ~~DOA~~ to be the agency to approve these ordinances?

the department of
commerce or
administration

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-3561/P1dn
MES:wlj:ch

October 1, 2001

Rep. Berceau:

In drafting this bill I have tried to incorporate as much of the "pre-drafted" statute that you submitted as your drafting instructions. As a preliminary matter, there is no department of development; the name was changed to department of commerce several sessions ago, so the bill refers to that department. In addition, I did not include the purpose statement. Purpose, or intent statements, are almost always unnecessary, and may be counterproductive for a number of reasons, including the following:

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find an incompatibility of characteristics. In addition, I'm not sure what "shopping customs" includes and how the department of commerce would assess it.

Although your instructions specify that the department of commerce is the agency that approves or denies an ordinance, you should know that the department of administration is the agency that is empowered to approve or deny incorporation referenda. See s. 66.0207. Do you want the department of commerce or administration to be the agency to approve these ordinances?

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

Rewrite proposed sec. 66.0218(2) as follows:

(2) CITY, VILLEGE ORDINANCES. The governing body of a city or village may, by a two-thirds vote of its members-elect, enact an ordinance annexing a contiguous peninsula, provided that the the annexing city or village abuts at least a majority of the peninsula, is capable of providing public services to the territory in the peninsula at a level that at least equals the level of service that is being provided by the town, and annexation of the peninsula will reduce any existing problems of duplicative public services being provided within the same area by multiple local governments. The annexation ordinance shall contain a legal description of the territory annexed and the name of the town or towns from which detached. Upon enactment of the ordinance, the city or village clerk shall file 8 certified copies of the ordinance in the office of secretary of state together with 8 copies of a plat showing the boundaries of the territory attached. Within 10 days of receipt of the ordinance and plat, the secretary of state shall forward two copies of the ordinance and plat to the department of transportation, one copy to the department of administration, one copy to the department of natural resources, one copy to the department of revenue, one copy to the department of public instruction, and one copy to the clerk of the town from which the territory was annexed. Section 66.0217(11) applies to annexations under this subsection.

Consistent with the above re-write of sec. 66.0217(2), the following definitions should be added to sec. 66.0218(1):

"Public services" include police and fire protection; sewer and water; storm water treatment; building, health and fire prevention inspections; planning; and public works services.

Note that the above proposed re-write of sec. 66.0218(2) deletes any reference to "common characteristics" or "characteristics of the territory" and "impact on the metropolitan community" included in LRB-3561/P1.

Also, it is no longer necessary for the draft to define "Department."



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3561/P1
MES:wlj:ch

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

- 1 **AN ACT to create 66.0218 of the statutes; relating to: creating a procedure for**
2 **cities and villages to annex town peninsulas.**

Analysis by the Legislative Reference Bureau

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Under the first two of these current methods of annexation, no annexation proceeding in a county with a population of at least 50,000 is valid unless the person publishing a notice of annexation or the person who files the petition for direct annexation sends certain information, such as a legal description and a scale map of the territory proposed to be annexed, to the department of administration (DOA) within five days of the publishing of the notice or filing of the petition. Within 20 days

after receipt of the information, DOA may mail to the clerks of the town and city or village that are involved with the proposed annexation a notice that states DOA's opinion that the annexation is against the public interest and that advises the clerks of the reasons for its decision.

Another method of annexation is direct annexation by unanimous approval. If a petition for direct annexation by unanimous approval signed by all of the electors residing in the territory and the owners of all of the real property in the territory is filed with the city or village clerk and the town clerk of all of the involved towns, along with a scale map and legal description of the property to be annexed, the governing body of the city or village may, generally, annex the property by a two-thirds vote of the body. Such an annexation, however, is subject to DOA review as if the annexation petition were for direct, but not unanimous, annexation or annexation by referendum.

Generally, cities and villages may also annex territory that is owned by the city or village and that lies near but not necessarily contiguous to the city or village by enacting an ordinance to annex such territory.

This bill creates a new method for a city or village to annex a town peninsula, which is defined under the bill as town territory, the boundary of which is contiguous to one or more cities or villages for at least 75% of its length, excluding areas that border on water, or on land whose condition prohibits development, except that the excluded areas of the border may not exceed 33% of the length of the boundary of the territory that is sought to be annexed.

Under the bill, a city or village may enact an ordinance to annex a contiguous peninsula, except that the ordinance may not take effect unless it is approved by the department of commerce (department). After enacting an ordinance a city or village is required to send a copy of the ordinance, a legal description and scale map of the peninsula, and findings in support of the ordinance to the department.

The findings must address three criteria: the characteristics of the territory, the level of services, and the impact on the metropolitan community. The findings must indicate whether the peninsula shares common characteristics with the city or village, such as transportation facilities, school districts, utilities, religious institutions, and shopping and social customs. The findings must also indicate whether the annexing city or village is capable of providing services to the peninsula at a level that at least equals the level of service that is being provided by the town and whether the annexation will solve any existing governmental service problems in the metropolitan area.

The department is required to review the materials submitted by the city or village and approve or deny the ordinance not later than 90 days after receiving the materials. The department's decision must be based on its determination of whether the city's or village's findings substantially satisfy the criteria.

If the department approves the ordinance, it takes effect on the first day of the second month beginning after the department's approval is granted.

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. 66.0218 of the statutes is created to read:

2 66.0218 Direct annexation of town peninsulas. (1) DEFINITIONS. In this
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5 (b) "Legal description" has the meaning given in s. 66.0217 (1) (c).

6 (c) "Members-elect" has the meaning given in s. 59.001 (2m).

7 (d) "Peninsula" means town territory, the boundary of which is contiguous to
8 one or more cities or villages for at least 75% of its length, excluding areas that border
9 on water, or on land whose condition prohibits development, except that such
10 excluded areas of the border may not exceed 33% of the length of the boundary of the
11 territory that is sought to be annexed.

****NOTE: Please read this definition very carefully to ensure that it meets your intent. Your drafting instructions did not contain any definitions, but your proposed creation of s. 66.021 (17) (b) contained a somewhat confusing description of a town peninsula which is "eligible" for peninsula annexation, and I believe that this definition captures the essential elements of that paragraph. The instruction states that "Closure of the peninsula cannot protrude farther out than the existing corporate limit line on the nearest side," but I did not incorporate it into the definition because I'm not sure what it means.

12 (e) "Scale map" has the meaning given in s. 66.0217 (1) (g).

13 *See suggested*
14 *redraft*
15 *of sub. (2).* (2) CITY, VILLAGE RESOLUTIONS. The governing body of a city or village may, by
16 a two-thirds vote of its members-elect, enact an ordinance to annex a contiguous peninsula, and the ordinance takes effect as provided in sub. (4). The city or village shall send to the department a copy of the ordinance, a legal description and scale

1 map of the territory to be annexed, and the city's or village's findings in support of
2 its ordinance. The findings shall address at least all of the following criteria:

3 (a) *Characteristics of the territory.* Whether the territory in the peninsula
4 shares common characteristics with the city or village, including drainage; soils;
5 transportation facilities; school districts; sewerage services; utility districts, such as
6 telephone, electricity, natural gas, and cable television; places of employment; health
7 care facilities; religious institutions; and shopping and social customs.

8 (b) *Level of services.* Whether the annexing city or village is capable of
9 providing services to the territory in the peninsula at a level that at least equals the
10 level of service that is being provided by the town in areas including police and fire
11 protection; building, health, and fire prevention inspections; planning; and public
12 works services.

13 (c) *Impact on the metropolitan community.* Whether the annexation of the
14 peninsula will solve any existing governmental service problems in the metropolitan
15 area that includes the city or village and town from which the peninsula is to be
16 annexed, including the duplication of government and public works services and
17 confusing borders that may impact emergency services response times.

****NOTE: This paragraph is based on your instructions, but the use of the term
"metropolitan community" seems vague to me. Does this paragraph capture your intent?

18 ~~(2) DEPARTMENT RESPONSE. Not later than 90 days after receiving the ordinance,~~
19 ~~legal description, scale map, and findings described in sub. (2), the department shall~~
20 ~~review the submitted materials and determine whether to approve or deny the~~
21 ~~annexation ordinance. The department shall base its decision on its determination~~
22 ~~of whether the city's or village's findings substantially satisfy the criteria under sub.~~

1 ~~(2). The department shall send written notification of its decision, by registered mail,~~
2 ~~to the clerk of each municipality that is affected by its decision.~~

3 (4) EFFECTIVENESS OF ANNEXATION ORDINANCE. An ordinance enacted under sub.
4 (2) takes effect on the first day of the 2nd month beginning after the department
5 approves the ordinance under sub. (3).

6 (END)

Shovers, Marc

From: Curt Witynski [witynski@lwm-info.org]
Sent: Thursday, November 15, 2001 2:25 PM
To: marc.shovers@legis.state.wi.us
Subject: FW: Town Peninsula Bill and Other Land Use Legislation

Hi Marc: It struck me as I left your office today that it might be helpful for you to see the attached message I sent to Rep. Berceau following a meeting we had on the town peninsular bill draft. It might help you understand the intent of the changes we made to your original draft.

-----Original Message-----

From: Curt Witynski [mailto:witynski@lwm-info.org]
Sent: Monday, November 12, 2001 9:20 AM
To: Rep. Terese Berceau
Cc: Thomas.Powell@legis.state.wi.us
Subject: Town Peninsula Bill and Other Land Use Legislation

Terese and Tom: At our meeting last week, I was given the assignment of coming up with some language reflecting the changes to the town peninsula bill draft recommended by the group.

1. Changes to The Town Peninsula Bill.

Everyone at the meeting last Tuesday agreed that it would be best if the annexation of town peninsulas was truly a unilateral option of the city or village and not subject to the review and approval of the Department of Administration (DOA) or any other state agency. The provision authorizing the annexation of town peninsulas should provide, similar to sec. 66.0221, governing annexation of town islands, and sec. 66.0223, governing annexation of territory owned by a city or village, that the annexation of a town peninsula is effective upon the enactment of the annexation ordinance by the municipal governing body.

Other suggestions the group made were to: a) add language clarifying that only a municipality having a majority of the peninsula within its boundaries could unilaterally annex it; and b) delete the "common characteristics" requirement. The first suggestion is accomplished below by keeping the definition of "peninsula" the same as it appears in LRB-3561/P1 and adding language to the authorizing provision stating that a municipality can annex a peninsula only if it abuts at least a majority of the peninsula.

I recommend that proposed sec. 66.0218(2) be redrafted as follows:

(2) CITY, VILLEGE ORDINANCES. The governing body of a city or village may, by a two-thirds vote of its members-elect, enact an ordinance annexing a contiguous peninsula, provided that the the annexing city or village abuts at least a majority of the peninsula, is capable of providing public services to the territory in the peninsula at a level that at least

equals
the level of service that is being provided by the town, and annexation
of
the peninsula will reduce any existing problems of duplicative public
services being provided within the same area by multiple local
governments.

The annexation ordinance shall contain a legal description of the
territory
annexed and the name of the town or towns from which detached. Upon
enactment of the ordinance, the city or village clerk shall file 8
certified
copies of the ordinance in the office of secretary of state together
with 8
copies of a plat showing the boundaries of the territory attached.
Within
10 days of receipt of the ordinance and plat, the secretary of state
shall
forward two copies of the ordinance and plat to the department of
transportation, one copy to the department of administration, one copy
to
the department of natural resources, one copy to the department of
revenue,
one copy to the department of public instruction, and one copy to the
clerk
of the town from which the territory was annexed. Section 66.0217(11)
applies to annexations under this subsection.

Consistent with the above re-write of sec. 66.0217(2), the following
definitions should be added to sec. 66.0218(1):

"public services" include police and fire protection; sewer and water;
storm
water treatment; building, health and fire prevention inspections;
planning;
and public works services.

Note that the above proposed re-write of sec. 66.0218(2) deletes any
reference to "common characteristics" or "characteristics of the
territory"
and "impact on the metropolitan community" included in LRB-3561/P1.
Also, it is no longer necessary for the draft to define "Department."

Let me know if you have any questions and if you schedule a meeting with
Marc Shovers. Thanks.

Curt Witynski
Assistant Director
League of Wisconsin Municipalities
202 State St., Suite 300
Madison, WI 53703
608-267-2380
608-267-0645 (Fax)
www.lwm-info.org

From: Curt Witynski [witynski@lwm-info.org]
Sent: Thursday, November 15, 2001 4:21 PM
To: Shovers, Marc
Subject: RE: Town Peninsula Bill and Other Land Use Legislation

Marc: Please try to model sub. (2) after sec. 66.0221 which requires
the
ordinance to contain a legal description of the territory and the name
of
the towns from which the territory is attached. Sec. 66.0221 also
requires
the municipal clerk to file, along with copies of the annexation
ordinance,
copies of a scale map of the territory that has been annexed.



FS + CJS
LMA

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

NOW

- 1 AN ACT to create 66.0218 of the statutes; relating to: creating a procedure for
- 2 cities and villages to annex town peninsulas.

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 of annexation include the following: 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 court order and referendum, 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.

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after receipt of the information, DOA may mail to the clerks of the town and city or village that are involved with the proposed annexation a notice that states DOA's opinion that the annexation is against the public interest and that advises the clerks of the reasons for its decision.

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This bill creates a new method for a city or village to annex a town peninsula, which is defined under the bill as town territory, the boundary of which is contiguous to one or more cities or villages for at least 75% of its length, excluding areas that border on water, or on land whose condition prohibits development, except that the excluded areas of the border may not exceed 33% of the length of the boundary of the territory that is sought to be annexed.

~~Under the bill, a city or village may enact an ordinance to annex a contiguous peninsula, except that the ordinance may not take effect unless it is approved by the department of commerce (department). After enacting an ordinance a city or village is required to send a copy of the ordinance, a legal description and scale map of the peninsula, and findings in support of the ordinance to the department.~~

~~The findings must address three criteria: the characteristics of the territory, the level of services, and the impact on the metropolitan community. The findings must indicate whether the peninsula shares common characteristics with the city or village, such as transportation facilities, school districts, utilities, religious institutions, and shopping and social customs. The findings must also indicate whether the annexing city or village is capable of providing services to the peninsula at a level that at least equals the level of service that is being provided by the town and whether the annexation will solve any existing governmental service problems in the metropolitan area.~~

~~The department is required to review the materials submitted by the city or village and approve or deny the ordinance not later than 90 days after receiving the materials. The department's decision must be based on its determination of whether the city's or village's findings substantially satisfy the criteria.~~

~~If the department approves the ordinance, it takes effect on the first day of the second month beginning after the department's approval is granted.~~

An enactment

An ordinance enacted under the bill

INS ANL

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

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(a) "Legal description" has the meaning given in s. 66.0217 (1) (c).

(b) "Members-elect" has the meaning given in s. 59.001 (2m).

(c) "municipality" means a city, village, or town.

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(e) "Scale map" has the meaning given in s. 66.0217 (1) (g).

(2) CITY, VILLAGE RESOLUTIONS. The governing body of a city or village may, by a two-thirds vote of its members-elect, enact an ordinance to annex a contiguous peninsula, and the ordinance takes effect as provided in sub. (4). The city or village shall send to the department a copy of the ordinance, a legal description and scale

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Public services includes police and fire protection, sewer and water treatment, storm water treatment, buildings, health and fire prevention inspections, planning, and public works services.

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2 its ordinance. The findings shall address at least all of the following criteria:

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6 telephone, electricity, natural gas, and cable television; places of employment; health
7 care facilities; religious institutions; and shopping and social customs.

8 (b) *Level of services.* Whether the annexing city or village is capable of
9 providing services to the territory in the peninsula at a level that at least equals the
10 level of service that is being provided by the town in areas including police and fire
11 protection; building, health, and fire prevention inspections; planning; and public
12 works services.

13 (c) *Impact on the metropolitan community.* Whether the annexation of the
14 peninsula will solve any existing governmental service problems in the metropolitan
15 area that includes the city or village and town from which the peninsula is to be
16 annexed, including the duplication of government and public works services and
17 confusing borders that may impact emergency services response times.

****NOTE: This paragraph is based on your instructions, but the use of the term
"metropolitan community" seems vague to me. Does this paragraph capture your intent?

18 (3) DEPARTMENT RESPONSE. Not later than 90 days after receiving the ordinance,
19 legal description, scale map, and findings described in sub. (2), the department shall
20 review the submitted materials and determine whether to approve or deny the
21 annexation ordinance. The department shall base its decision on its determination
22 of whether the city's or village's findings substantially satisfy the criteria under sub.

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2 to the clerk of each municipality that is affected by its decision.

3 (4) EFFECTIVENESS OF ANNEXATION ORDINANCE. An ordinance enacted under sub.
4 (2) takes effect on the first day of the 2nd month beginning after the department
5 approves the ordinance under sub. (3) *enactment*

6 (END)

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3561/Plins
MES:wlj:ch

INSERT ANL

Under the bill, a city or village may enact an annexation ordinance if the annexing city or village is contiguous to more than 50% of the peninsula's length, if the annexing city or village is capable of providing public services to the territory in the peninsula at a level that at least equals the level of service that is being provided by the town, and if the annexation will reduce any existing problems of duplicative public services being provided in the same area by multiple local governments. The bill defines "public services" to include police and fire protection services; sewer and water treatment; building, health, and fire prevention inspections; planning; and public works services.

Upon enactment of the annexation ordinance, the city or village clerk is required to forward to the secretary of state copies of the ordinance, a scale map, and the plat of the city or village, including the annexed territory, and the secretary of state is required to forward copies of the ordinance, scale map, and plat to a number of state agencies.

INSERT 3-13

(2) CITY, VILLAGE ORDINANCES. (a) *Enactment.* The governing body of a city or village may, by a two-thirds vote of its members-elect, enact an ordinance to annex a contiguous peninsula if all of the following apply:

1. The annexing city or village is contiguous to more than 50% of the peninsula's length. ✓

2. The annexing city or village is capable of providing public services to the territory in the peninsula at a level that at least equals the level of service that is being provided by the town. ✓

3. The annexation of the peninsula will reduce any existing problems of duplicative public services being provided within the same area by more than one municipality. ✓

(b) *Requirements.* The annexation ordinance shall contain a legal description of the territory annexed and the name of the town from which the territory is

annexed. Upon enactment of the ordinance under par. (a) the city or village clerk shall file with the secretary of state 8 certified copies of the ordinance, 8 copies of a scale map, and 8 copies of a plat which shows the boundaries of the city or village, including the annexed territory.

↑ scale map ↑

(c) *Secretary of state.* Not later than 10 days after receiving the ordinance and plat, the secretary of state shall forward 2 copies of the ordinance, scale map, and plat to the department of transportation, one copy to the department of administration, one copy to the department of natural resources, one copy to the department of revenue, one copy to the department of public instruction, and one copy to the clerk of the town from which the territory was annexed.

(d) *Action to contest annexation.* Section 66.0217 (11) applies to annexations under this section.

Shovers, Marc

From: Powell, Thomas
Sent: Thursday, December 06, 2001 11:31 AM
To: Shovers, Marc
Subject: FW: latest town peninsula draft

Marc,

Thank you for the draft of the town peninsula bill. After much discussion with several Madison city attorneys, we would like to ask for one very slight addition, if you may, for a new draft: Adding the following sentence to the definition of "Peninsula" in proposed sec. 66.0218(1)(d) "A Peninsula does not include a town area completely surrounded by a city or village."

Thank you much,
Tom Powell
Research Assitant for Rep. Terese Berceau



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3561/1
MES:rs&cjs:kjf

NOW

2001 BILL

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Gen

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BILL

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6/2/01
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*STEF:
leave
as
typed*

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An ordinance enacted under the bill takes effect on the first day of the second month beginning after enactment.

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

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BILL

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22 territory in the peninsula at a level that at least equals the level of service that is
23 being provided by the town.

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State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

January 4, 2002

MEMORANDUM

To: Representative Berceau

From: Marc E. Shovers, Senior Legislative Attorney

Re: LRB-3561/2 Annexation of town peninsulas

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 266-0129 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.