

2001 DRAFTING REQUEST

Bill

Received: **01/08/2001**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-5468**

By/Representing: **Ziegler**

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

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Munis - miscellaneous**

Extra Copies:

Pre Topic:

DOA:.....Ziegler -

Topic:

Special charges for municipal services

Instructions:

See Attached.

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>
/1	shoveme 01/08/2001	gilfokm 01/08/2001	pgreensl 01/09/2001	_____	lrb_docadmin 01/09/2001		Local
/2	shoveme 01/12/2001	gilfokm 01/12/2001	rschluet 01/12/2001	_____	lrb_docadmin 01/12/2001		Local

FE Sent For:

<END>

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12 MES 1/11/01 - 1/12/01
FE Sent For:

[Handwritten signatures and dates]
1-12-1

<END>

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1	MES	1/8/01	pg	pg			

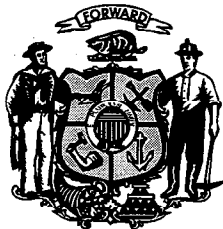
FE Sent For:

<END>

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
101 East Wilson Street, Madison, Wisconsin

TOMMY G. THOMPSON
GOVERNOR

GEORGE LIGHTBOURN
SECRETARY



Division of Executive Budget and Finance
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1736
Fax (608) 267-0372
TTY (608) 267-9629

Date: January 6, 2000

To: Steve Miller, Chief
Legislative Reference Bureau

From: Paul Ziegler, Policy and Budget Analyst
State Budget Office, DOA

A handwritten signature in black ink, appearing to be "PZ", located to the right of the "From:" field.

Subject: Drafting requests for 2001-03 Biennial Budget Bill

Please have the following item drafted for possible inclusion in the 2001-03 biennial budget bill:

Special Charges for Municipal Services. Please see the attached paper for details.

Please contact me at 266-5468 or by email at paul.ziegler@doa.state.wi.us with any questions.

Thank you.

[Enter TO name here]

[Enter DATE here]

Page 2

Special Charges for Municipal Services

Summary

Municipalities in Wisconsin are currently prevented from charging a piece of property for the municipal services available to that property unless those services are specifically carried out.

Case for Change

Wis. Statute 66.0627 [formerly 66.60(16)(a)] allows cities, villages or towns to impose a "special charge" against real property for "current services rendered." At least one Wisconsin appeals court has interpreted has ruled, in *Town of Janesville v. Rock County*, 153 Wis2d538, 451 N.W. 2d 436 (December 5, 1989, Court of Appeals), that the term "current service rendered" is narrowly limited to services actually performed for the benefit of a specific piece of real property. Services available to benefit the property, but not actually put into action, are apparently outside the scope of the law. For example, if a municipality spends money organizing and operating a fire suppression service or a snow plowing service, but there is no fire or no snow, the properties that benefit from the service's availability cannot be charged. Many government services are "standby services." The costs of hiring, training, and deploying many types of municipal services occur whether or not they are used. However, the legal mandate prohibits cost recovery for the true, comprehensive, standby service, allowing a service charge only for and per each act of fire suppression or snow plowing.

Recommendation and Implications

Sec. 66.0627 should be amended to allow imposing of special charges for all services. The legislative history should show that the intent of the law change is to allow special charges for (1) standby services like fire and plowing, (2) general services like street sweeping, patch filling, street lighting, and tree maintenance, as well as (3) the current specific services actually rendered to particular property, e.g., cutting the weeds on property X at a cost of Y and billing the owner of X the amount of Y. Without this legal change, towns in particular (who lack home rule power) and cities and villages (whose home rule power may or may not provide a solution) will be unable to institute many of the user fees that sound principles of local government financing suggest they should be able to put into place.

A suggested statutory amendment to Section 66.0627 would modify the Court of Appeals' holding in *Janesville v. Rock County*, 153 Wis 2d 538 (Ct App. 1989). This holding indicated that special charges may be imposed only for current services actually rendered. The proposed amendment would delete the requirement that the services be rendered and substitute that the current services be "available, whether or not actually rendered" and allows the charge to be imposed upon properties which are served or "eligible to be served."

66.0627(2)

"(2) Except as provided in sub. (5), the governing body of a city, village or town may impose a special charge against real property for current services available, whether or not actually rendered, by allocating all or part of the cost of the service to the property served or eligible to be served. The authority under this section is in addition to any other method provided by law."

Proposed by

David Riemer



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1870

MES.....

King
RMR

DOA:.....Ziegler – Special charges for municipal services

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

D-NOTE

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AN ACT ...; relating to: the imposition of special charges by a city, village, or town.

Analysis by the Legislative Reference Bureau

LOCAL GOVERNMENT

OTHER LOCAL GOVERNMENT

Under current law, a municipality (a city, village, or town) is authorized to impose a special charge against real property for current services rendered by allocating all or part of the cost of the service to the property served. A "service" under current law includes snow and ice removal, weed elimination, repair of sidewalks or curb and gutter, garbage and refuse disposal, recycling, storm water management, tree care, and other similar services that are not specified in the definition. Special charges are not payable in ~~installments~~. If a special charge is not paid within the time specified by the municipality, the special charge is delinquent and becomes a lien on the property against which it is imposed.

A recent court of appeals decision, *Town of Janesville v. Rock County*, 153 Wis. 2d 538, 546-547 (1989), interpreted current law to mean that special charges may be imposed "only for services which are actually performed" and that the statute limits a municipality to "charging only for services actually provided and not for services that may be available but not utilized."

Under this bill, special charges may be imposed for current services that are available, without regard to whether the services are actually rendered, and may be allocated to the property served or eligible to be served.

installments

that is

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:

SECTION 1. 66.0627 (title) of the statutes is amended to read:

66.0627 (title) Special charges for current, available services.

that is

History: 1999 a. 150.

SECTION 2. 66.0627 (2) of the statutes is amended to read:

that is

66.0627 (2) Except as provided in sub. (5), the governing body of a city, village or town may impose a special charge against real property for current services that are available, regardless of whether the services are actually rendered, by allocating all or part of the cost of the service to the property served or eligible to be served. The authority under this section is in addition to any other method provided by law.

History: 1999 a. 150.

SECTION 9359. Initial applicability; other.

(1) SPECIAL CHARGES FOR MUNICIPAL SERVICES. The treatment of section 66.0627

(2) of the statutes first applies to special charges that are imposed on the effective date of this subsection.

(END)

6

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1870/dn¹

MES.....
kmq

Paul Ziegler:

Do you think that there is any reason to continue to use the word "current" in the title, as well as in s. 66.0627 (2)? The focus of the statute, as amended, is really on *available* services; "current" doesn't seem to add anything to your intent and may even undermine it. Also, do you want s. 66.0707 (2) to be amended in the same way as this draft amends s. 66.0627 (2)?

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-1870/1dn
MES:kmg:pg

January 8, 2001

Paul Ziegler:

Do you think that there is any reason to continue to use the word "current" in the title, as well as in s. 66.0627 (2)? The focus of the statute, as amended, is really on *available* services; "current" doesn't seem to add anything to your intent and may even undermine it. Also, do you want s. 66.0707 (2) to be amended in the same way as this draft amends s. 66.0627 (2)?

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DOA:.....Ziegler - Special charges for municipal services

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

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Also under current law, a municipality may impose a special charge against real property in an adjacent municipality for current services rendered by the municipality imposing the special charge, if the municipality in which the property is located approves the imposition.

1 AN ACT...; relating to: the imposition of special charges by a city, village, or town.

Analysis by the Legislative Reference Bureau

LOCAL GOVERNMENT

OTHER LOCAL GOVERNMENT

Under current law, a municipality (a city, village, or town) is authorized to impose a special charge against real property for current services rendered by allocating all or part of the cost of the service to the property served. A "service" under current law includes snow and ice removal, weed elimination, repair of sidewalks or curb and gutter, garbage and refuse disposal, recycling, storm water management, tree care, and other similar services that are not specified in the definition. Special charges are not payable in installments. If a special charge is not paid within the time specified by the municipality, the special charge is delinquent and becomes a lien on the property against which it is imposed.

A recent court of appeals decision, *Town of Janesville v. Rock County*, 153 Wis. 2d 538, 546-547 (1989), interpreted current law to mean that special charges may be imposed "only for services which are actually performed" and that the statute limits a municipality to "charging only for services actually provided and not for services that may be available but not utilized."

Under this bill, special charges may be imposed for ~~current~~ services that are available, without regard to whether the services are actually rendered, and may be allocated to the property that is served or that is eligible to be served. This change also applies to special charges imposed against real property in an adjacent municipality, under the same terms and conditions that exist under current law.

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. 66.0627 (title) of the statutes is amended to read:

2 66.0627 (title) **Special charges for ~~current available~~ services.**

3 SECTION 2. 66.0627 (2) of the statutes is amended to read:

4 66.0627 (2) Except as provided in sub. (5), the governing body of a city, village

5 or town may impose a special charge against real property for ~~current~~ services that

6 are available, regardless of whether the services are actually rendered, by allocating

7 all or part of the cost of the service to the property that is served or that is eligible

8 to be served. The authority under this section is in addition to any other method

9 provided by law.

✓
JNS
2-9

10 SECTION 9359. **Initial applicability; other.**

11 (1) SPECIAL CHARGES FOR MUNICIPAL SERVICES. The treatment of section^s 66.0627

12 ^{and 66.0707 (2) ✓} (2) of the statutes first applies to special charges that are imposed on the effective

13 date of this subsection.

14 (END)

FNS 2-9

-1870/2

Section #. 66.0707 (2) of the statutes is amended to read:

that are available,
regardless of whether
the services are
actually

66.0707 (2) A city, village or town may impose a special charge under s. 66.0627 against real property in an adjacent city, village or town that is served by ~~current~~ services rendered by the municipality imposing the special charge if the municipality in which the property is located approves the imposition by resolution. The owner of the property is entitled to the use and enjoyment of the service for which the special charge is imposed on the same conditions as the owner of property within the city, village or town.

History: 1991 a. 316; 1999 a. 150 ss. 192, 550, 551; Stats. 1999 s. 66.0707.



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1870/2

MES:kmg:rs

DOA:.....Ziegler – Special charges for municipal services

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the imposition of special charges by a city, village, or town.

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LOCAL GOVERNMENT

OTHER LOCAL GOVERNMENT

Under current law, a municipality (a city, village, or town) is authorized to impose a special charge against real property for current services rendered by allocating all or part of the cost of the service to the property served. Also under current law, a municipality may impose a special charge against real property in an adjacent municipality for current services rendered by the municipality imposing the special charge, if the municipality in which the property is located approves the imposition. A "service" under current law includes snow and ice removal, weed elimination, repair of sidewalks or curb and gutter, garbage and refuse disposal, recycling, storm water management, tree care, and other similar services that are not specified in the definition. Special charges are not payable in installments. If a special charge is not paid within the time specified by the municipality, the special charge is delinquent and becomes a lien on the property against which it is imposed.

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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:

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2 **66.0627 (title) Special charges for ~~current~~ services.**

3 **SECTION 2.** 66.0627 (2) of the statutes is amended to read:

4 66.0627 (2) Except as provided in sub. (5), the governing body of a city, village
5 or town may impose a special charge against real property for ~~current~~ services that
6 are available, regardless of whether the services are actually rendered, by allocating
7 all or part of the cost of the service to the property that is served or that is eligible
8 to be served. The authority under this section is in addition to any other method
9 provided by law.

10 **SECTION 3.** 66.0707 (2) of the statutes is amended to read:

11 66.0707 (2) A city, village or town may impose a special charge under s. 66.0627
12 against real property in an adjacent city, village or town that is served by ~~current~~
13 services that are available, regardless of whether the services are actually rendered
14 by the municipality imposing the special charge if the municipality in which the
15 property is located approves the imposition by resolution. The owner of the property
16 is entitled to the use and enjoyment of the service for which the special charge is
17 imposed on the same conditions as the owner of property within the city, village or
18 town.

19 **SECTION 9359. Initial applicability; other.**

