

2003 SENATE BILL 89

April 2, 2003 – Introduced by Senator A. LASEE, cosponsored by Representatives AINSWORTH, BIES, FREESE, GRONEMUS, HAHN, HINES, KRAWCZYK, LADWIG, M. LEHMAN, MCCORMICK, MUSSER and OWENS. Referred to Committee on Homeland Security, Veterans and Military Affairs and Government Reform.

1 **AN ACT to amend** 66.0217 (2), 66.0217 (7) (a) 1., 66.0217 (7) (a) 2., 66.0217 (7)
2 (a) 3., 66.0217 (8) (c), 66.0219 (4) (a), 66.0219 (4) (b) and 66.0221 (1) of the
3 statutes; **relating to:** requiring a referendum in a town before annexation of
4 town territory may take effect.

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 are: 1) direct annexation, under which a petition for annexation that was signed by the required number of electors and landowners is filed with the city or village clerk; 2) annexation by referendum, under which a petition for referendum that was signed by the required number of electors and landowners is filed with the city or village clerk, and a referendum of the electors residing in the area proposed for annexation is held and passes; 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 in the territory proposed for annexation. If the referendum passes in the town territory proposed for annexation, the annexation occurs.

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

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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.

Under this bill, no annexation ordinance or annexation may take effect unless it is approved in a referendum of all of the town electors in the town from which the town territory is proposed to be annexed.

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.** 66.0217 (2) of the statutes is amended to read:

2 **66.0217 (2) DIRECT ANNEXATION BY UNANIMOUS APPROVAL.** If a petition for direct
3 annexation signed by all of the electors residing in the territory and the owners of
4 all of the real property in the territory is filed with the city or village clerk, and with
5 the town clerk of the town or towns in which the territory is located, together with
6 a scale map and a legal description of the property to be annexed, an annexation
7 ordinance for the annexation of the territory may be enacted by a two-thirds vote of
8 the elected members of the governing body of the city or village without compliance
9 with the notice requirements of sub. (4), except that the ordinance may not take effect
10 unless it is approved in referendum as described in sub. (7) (a) 3. In an annexation
11 under this subsection, subject to sub. (6), the person filing the petition with the city
12 or village clerk and the town clerk shall, within 5 days of the filing, mail a copy of the
13 scale map and a legal description of the territory to be annexed to the department
14 and the governing body shall review the advice of the department, if any, before
15 enacting the annexation ordinance.

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1 **SECTION 2.** 66.0217 (7) (a) 1. of the statutes is amended to read:

2 66.0217 (7) (a) 1. Within 60 days after the filing of the petition under sub. (3),
3 the common council or village board may accept or reject the petition and if rejected
4 no further action may be taken on the petition. Acceptance may consist of adoption
5 of an annexation ordinance, except that the ordinance may not take effect unless it
6 is approved in a referendum as described in subd. 3. Failure to reject the petition
7 obligates the city or village to pay the cost of any referendum favorable to annexation.

8 **SECTION 3.** 66.0217 (7) (a) 2. of the statutes is amended to read:

9 66.0217 (7) (a) 2. If the petition is not rejected the clerk of the city or village with
10 whom the annexation petition is filed shall give written notice of the petition by
11 personal service or registered mail with return receipt requested to the clerk of any
12 town from which territory is proposed to be detached and shall give like notice to any
13 person who files a written request with the clerk. The notice shall ~~indicate whether~~
14 ~~the petition is for direct annexation or whether it requests~~ state that a referendum
15 on the question of annexation will be held.

16 **SECTION 4.** 66.0217 (7) (a) 3. of the statutes is amended to read:

17 66.0217 (7) (a) 3. ~~If the notice indicates that the petition is for a referendum~~
18 ~~on the question of annexation, the~~ The clerk of the city or village shall file the notice
19 as provided in s. 8.37. ~~If the notice indicates that the petition is for a referendum on~~
20 ~~the question of annexation, the~~ The town clerk shall give notice as provided in par.
21 (c) of a referendum of the electors residing in the town in which the area proposed
22 for annexation ~~to~~ is located. The referendum shall be held not less than 42 days nor
23 more than 72 days after the date of personal service or mailing of the notice required
24 under this paragraph. ~~If the notice indicates that the petition is for direct~~
25 ~~annexation, no referendum shall be held unless within 30 days after the date of~~

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1 ~~personal service or mailing of the notice required under this paragraph, a petition~~
2 ~~conforming to the requirements of s. 8.40 requesting a referendum is filed with the~~
3 ~~town clerk as provided in s. 8.37, signed by at least 20% of the electors residing in the~~
4 ~~area proposed to be annexed. If a petition requesting a referendum is filed, the clerk~~
5 ~~shall give notice as provided in par. (c) of a referendum of the electors residing in the~~
6 ~~area proposed for annexation to be held not less than 42 days nor more than 72 days~~
7 ~~after the receipt of the petition and shall mail a copy of the notice to the clerk of the~~
8 ~~city or village to which the annexation is proposed. The referendum, and shall be~~
9 held at a convenient place within the town to be specified in the notice.

10 **SECTION 5.** 66.0217 (8) (c) of the statutes is amended to read:

11 66.0217 **(8)** (c) The annexation is effective upon enactment of the annexation
12 ordinance and approval of the referendum as described in sub. (7) (a) 3. The board
13 of school directors in a 1st class city is not required to administer the schools in any
14 territory annexed to the city until July 1 following the annexation.

15 **SECTION 6.** 66.0219 (4) (a) of the statutes is amended to read:

16 66.0219 **(4)** (a) If the court, after the hearing, is satisfied that the description
17 of the territory or any survey is accurate and that the provisions of this section have
18 been complied with, it shall make an order so declaring and shall direct a referendum
19 election within the town in which the territory described in the order is located, on
20 the question of whether the area should be annexed. Such order shall be filed as
21 provided in s. 8.37. The order shall direct 3 electors named in the order residing in
22 the town in which the territory proposed to be annexed lies, to perform the duties of
23 inspectors of election.

24 **SECTION 7.** 66.0219 (4) (b) of the statutes is amended to read:

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1 66.0219 (4) (b) The referendum election shall be held not less than 42 days nor
2 more than 72 days after the filing of the order as provided in s. 8.37, in the town in
3 which the territory proposed for annexation is located, by the electors of that
4 territory town as provided in s. 66.0217 (7), so far as applicable. The ballots shall
5 contain the words “For Annexation” and “Against Annexation”. The certification of
6 the election inspectors shall be filed with the clerk of the court, and the clerk of any
7 municipality involved, but need not be filed or recorded with the register of deeds.

8 **SECTION 8.** 66.0221 (1) of the statutes is amended to read:

9 66.0221 (1) Upon its own motion, a city or village, by a two-thirds vote of the
10 entire membership of its governing body, may enact an ordinance annexing territory
11 which comprises a portion of a town or towns and which was completely surrounded
12 by territory of the city or village on December 2, 1973. The ordinance shall include
13 all surrounded town areas except those that are exempt by mutual agreement of all
14 of the governing bodies involved. The annexation ordinance shall contain a legal
15 description of the territory and the name of the town or towns from which the
16 territory is detached. The ordinance may not take effect until it is approved in a
17 referendum of town electors residing in the town in which the town territory
18 described in the annexation ordinance is located, as provided in s. 66.0217 (7), so far
19 as applicable. Upon enactment of the ordinance, the city or village clerk shall send
20 a notice of the enactment and copy of the ordinance to the town clerk of the town from
21 which the territory to be annexed is located. The referendum election shall be held
22 not less than 42 days nor more than 72 days after the annexation ordinance is
23 enacted under this subsection. Upon enactment of the ordinance and the ordinance
24 taking effect, the city or village clerk immediately shall file 6 certified copies of the
25 ordinance in the office of the secretary of state, together with 6 copies of a scale map.

SENATE BILL 89**SECTION 8**

1 The secretary of state shall forward 2 copies of the ordinance and scale map to the
2 department of transportation, one copy to the department of natural resources, one
3 copy to the department of revenue and one copy to the department of administration.
4 This subsection does not apply if the town island was created only by the annexation
5 of a railroad right-of-way or drainage ditch. This subsection does not apply to land
6 owned by a town government which has existing town government buildings located
7 on the land. No town island may be annexed under this subsection if the island
8 consists of over 65 acres or contains over 100 residents. Section 66.0217 (11) applies
9 to annexations under this subsection. Except as provided in sub. (2), after
10 December 2, 1973, no city or village may, by annexation, create a town area which
11 is completely surrounded by the city or village.

12 **SECTION 9. Initial applicability.**

13 (1) This act first applies to an annexation ordinance that is enacted on the
14 effective date of this subsection.

15 (END)