

2003 DRAFTING REQUEST

Bill

Received: 11/06/2003

Received By: mshovers

Wanted: As time permits

Identical to LRB:

For: Alan Lasee (608) 266-3512

By/Representing: Shari

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact:

Addl. Drafters:

Subject: Munis - miscellaneous

Extra Copies: JK

Submit via email: YES

Requester's email: Sen.Lasee@legis.state.wi.us

Carbon copy (CC:) to: joseph.kreye@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Allow towns to receive taxes from land annexed by a city or village

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>
/?				_____			S&L
/1	mshovers 11/06/2003	csicilia 11/06/2003	pgreensl 11/06/2003	_____	lemery 11/06/2003	lemery 11/11/2003 <del>lemery</del>	
				_____			
				_____			

FE Sent For:

<END>

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1?	mshovers	11/03	11/16	11/16			
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PG <END> RYUE

FE Sent For:

## Shovers, Marc

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**From:** Lord, Shari  
**Sent:** Monday, November 03, 2003 10:39 AM  
**To:** Shovers, Marc  
**Subject:** RE:

Marc,

Sorry about any confusion on this.

Alan is in such a hurry for it, please begin and in the meantime I'll do some further checking. I was at a hearing last week (Brown's Committee) on Alan's annexation bills and someone testified from Dane County stating he represented a town near the City of Waunkee and that they had entered into an agreement with the City and the City was paying them the property taxes on the land which had been annexed from his town. I can't remember what the time period was though. Also, do you have my request from last week to do the Sturgeon Bay TIF bill for Alan to introduce (identical bill as Garey Bies)?

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

**From:** Shovers, Marc  
**Sent:** Monday, November 03, 2003 10:30 AM  
**To:** Lord, Shari  
**Cc:** Kreye, Joseph  
**Subject:** FW:

Hi Shari:

Neither Joe nor I have received a request like this. I'll enter it for Sen. Lasee, though. If I have any questions about it, I'll let you know.

As a preliminary matter, however, it seems to me that such bill would raise constitutional problems. A number of decisions of the Wisconsin Supreme Court have interpreted the public purpose doctrine of the Wisconsin Constitution to mean that the unit of government that imposes a tax must be the one that spends the proceeds from that tax.

As I understand your proposal, it seems that a city or village that annexes land, and therefore has the authority to assess property taxes on that land, would transfer the tax revenue that it receives to another unit of government. This may violate the public purpose doctrine. Please see *State ex. rel. Wisconsin Dev. Authority v. Dammann*, 228 Wis. 147, 183 (1938) and *Buse v. Smith*, 97 Wis. 2d 550, 577 (1976). Would you like me to proceed with the draft anyway?

Marc

Marc E. Shovers

Senior Legislative Attorney  
Legislative Reference Bureau  
Phone: (608) 266-0129  
Fax: (608) 264-8522  
e-mail: marc.shovers@legis.state.wi.us

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

**From:** Kreye, Joseph  
**Sent:** Wednesday, October 29, 2003 4:00 PM  
**To:** Shovers, Marc; Grant, Peter  
**Subject:** FW:

Does this look familiar to either of you? Sen. Lasee thinks he sent this over a couple of weeks ago.

**Joseph T. Kreye**  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-2263

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

**From:** Lord, Shari  
**Sent:** Wednesday, October 29, 2003 3:58 PM  
**To:** Kreye, Joseph  
**Subject:**

Alan is looking for legislation that would allow towns to keep the first five years of property taxes for land annexed to a city/village (the property taxes would be the amount of tax at the time the town land was annexed). The city/village would be allowed to keep the property taxes from improvements to the annexed town land. If you have any questions please let me know. Shari/266-3512

## **Shovers, Marc**

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**From:** Lord, Shari  
**Sent:** Tuesday, November 04, 2003 10:15 AM  
**To:** Shovers, Marc  
**Subject:** Transfer of tax revenue

Alan would like you to state in the bill that the "public purpose" is to reduce boundary conflicts. Shari, Office of Senator Alan Lasee.



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-3663/1

MES:K

TODAY

FNR  
gs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-NOTE

1 AN ACT...; relating to: requiring cities and villages to make payments to towns  
2 from which land is annexed.

**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.

Another method of annexation is direct annexation by unanimous approval. Under this method, the governing body of the city or village may, generally, annex property by a two-thirds vote of the body if all of the following are filed with the city or village clerk and the town clerk of all of the involved towns: 1) a petition for direct annexation by unanimous approval signed by all of the electors residing in the territory and signed by the owners of all of the involved towns; 2) a scale map; and

the real property in



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3663/?dn

MES:.....

g's

Senator Lasee:

This bill is structured a little differently than your instructions requested, in that it requires a city or village that annexes town territory to make payments to the town from which the territory is annexed, instead of, in effect, allowing the town to collect the property taxes on the former town territory, but the economic effect is the same. In addition, I believe that this construction makes a constitutional challenge, on the grounds that the bill, if enacted, violates the public purpose doctrine by making the unit of government that imposes a tax different from the unit of government that spends the tax, less likely. See *State ex. rel. Wisconsin Dev. Authority v. Dammann*, 228 Wis. 147, 183 (1938) and *Buse v. Smith*, 97 Wis. 2d 550, 577 (1976). Please let me know if you have any questions about how I've drafted this bill.

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-3663/1dn  
MES:cjs:pg

November 6, 2003

Senator Lasee:

This bill is structured a little differently than your instructions requested, in that it requires a city or village that annexes town territory to make payments to the town from which the territory is annexed, instead of, in effect, allowing the town to collect the property taxes on the former town territory, but the economic effect is the same.

In addition, I believe that this construction makes less likely a constitutional challenge on the grounds that the bill, if enacted, would violate the public purpose doctrine by making the unit of government that imposes a tax different from the unit of government that spends the tax. See *State ex. rel. Wisconsin Dev. Authority v. Dammann*, 228 Wis. 147, 183 (1938) and *Buse v. Smith*, 97 Wis. 2d 550, 577 (1976). Please let me know if you have any questions about how I've drafted this bill.

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

**Basford, Sarah**

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**From:** Lord, Shari  
**Sent:** Monday, November 10, 2003 3:06 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 03-3663/1 Topic: Allow towns to receive taxes from land annexed by a city or village

It has been requested by <Lord, Shari> that the following draft be jacketed for the SENATE:

Draft review: LRB 03-3663/1 Topic: Allow towns to receive taxes from land annexed by a city or village