

2003 DRAFTING REQUEST

Bill

Received: **10/29/2003**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Ronald Brown (608) 266-8546**

By/Representing: **Katie**

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

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Munis - miscellaneous**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Changes to incorporation, annexation procedures; incorporation of the Town of Campbell in LaCrosse County as a village

Instructions:

See Attached. Include AB 85 (LRB -0630/2), and add attached language. Also, when DOA reviews a petition for incorporation under s. 66.0203 (9), the decision shall be made by a panel of 5 people -- 1 from DOA; 1 selected by the WI Towns Assoc; 1 selected by the League of WI Munis; and either 2 ALJs or 1 more selected by WTA and 1 more by LWM.

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>
/?	mshovers 11/03/2003	wjackson 11/03/2003		_____			S&L

<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			pgreensl 11/03/2003	_____ _____	lemery 11/03/2003		S&L
/1	mshovers 11/07/2003	wjackson 11/07/2003	pgreensl 11/10/2003	_____ _____ _____	lemery 11/10/2003	sbasford 11/17/2003 sbasford 11/17/2003	

FE Sent For:

↳ AT
Intro.

<END>

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/?	mshovers 11/03/2003	wjackson 11/03/2003	<i>[Handwritten initials]</i>	<i>[Handwritten initials]</i>			S&L
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[Handwritten notes and signatures]
 1 Wlj 11/7
 PS
 PS/OK

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/P1

11 WES 11/7/03

FE Sent For:

pgreensl _____
11/03/2003 _____

lemery
11/03/2003

<END>

2003 DRAFTING REQUEST

Bill

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Wanted: As time permits

Identical to LRB:

For: Ronald Brown (608) 266-8546

By/Representing: Katie

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact:

Addl. Drafters:

Subject: Munis - miscellaneous

Extra Copies:

Submit via email: YES

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Changes to incorporation, annexation procedures; incorporation of the Town of Campbell in LaCrosse County as a village

Instructions: 11/3 redraft the sub, 50242/1, as a bill, but remove the town of Campbell, AB 85, material

See Attached. Include AB 85 (LRB -0630/2), and add attached language. Also, when DOA reviews a petition for incorporation under s. 66.0203 (9), the decision shall be made by a panel of 5 people -- 1 from DOA; 2 selected by the WI Towns Assoc; 1 selected by the League of WI Munis; and either 2 ALJs or 1 more selected by WTA and 1 more by LWM. 1 from All of Cities

Drafting History:

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

1? mshovers

PI W/LJ 11/3

11/3

11/3

1, MES 11/3/03

DS

11/3

Submit

FE Sent For:

<END>

Sen Brown - Katy 6-8546
statute 7
D) AB 85 +

2)

have incorp decision made by a panel of people -

5 member panel, including the current person

→ a rep of towns
→ a rep of villages & cities

+ 2 ATIs or 2 more from

panel members appointed by:

- 1) w towns assoc → towns
- 2) LWM for vill/ city person

decisions on incorp must be made no later than 180 days after the ct. refers the petition/decision to DSA

also: if ^{panel} DSA does not meet deadline (180 days)
DSA must ~~return~~ ^{refund} all fees collected from town

PROPOSED AMENDMENT TO INCORPORATION PROCEDURES UNDER 66.0201
INCORPORATION OF VILLAGES AND CITIES: PURPOSE AND DEFINITIONS

The following proposal amending Sec. 66.0201(8) of the Wisconsin Statutes would eliminate the conflicts between incorporations and annexations and establish an orderly procedure for their determination thereby avoiding complicated legal processes which have subjected the Town of Campbell to seven years of litigation.

66.0201 – Incorporation of Villages and Cities: Purpose and Definitions

(8) **FUNCTION OF THE CIRCUIT COURT.** (a) After the filing of the petition and proof of notice, the circuit court shall conduct a hearing at the time and place specified in the notice, or at a time and place to which the hearing is duly adjourned.

(b) On the basis of the hearing the circuit court shall find if the standards under s. 66.0205 are met. If the court finds that the standards are not met, the court shall dismiss the petition. If the court finds that the standards are met the court shall subject to (c) refer the petition to the department and the department shall determine whether the standards under s. 66.0207 are met.

(c) The circuit court shall further determine whether any annexations have been commenced under s. 66.0217 or s. 66.0219 or s. 66.0223 by any incorporated municipality which annexation affects any territory included in the incorporation petition and enter an order as follows:

(i) In the event an annexation preceded the publication of the Notice of Intent to Circulate an Incorporation Petition, referral of the Petition to the department shall be made only after the annexation proceedings are final. If the annexation is determined to be valid, the court shall direct that said annexed territory be excluded from the incorporation Petition. If the annexation is determined to be invalid, the territory shall be included in the territory proposed for incorporation. The court shall order such inclusion or exclusion in the order of referral to the department.

(ii) In the event the annexation was commenced subsequent to, but not longer than 30 days, after the publication of the Notice of Intent to Circulate a Petition for Incorporation, the circuit court shall not consider the annexation to affect the proposed incorporation and shall enter an order that no further proceedings shall be undertaken on the annexation until the validity or invalidity of the incorporation has been determined. Annexation proceedings commenced more than 30 days after the commencement of an incorporation petition shall be deemed invalid and void and shall be voided by the circuit court. If the annexation is pending before a circuit court of another jurisdiction, the court having jurisdiction over the annexation shall so order. If the incorporation is determined to be valid and all proceedings of the incorporation are complete, the court of jurisdiction shall order any annexation commenced within the 30 days after the commencement of the incorporation be voided and dismissed. If the incorporation is determined to be invalid and is dismissed by the circuit court, any annexation commenced within the 30 day period shall thereafter proceed to a determination as to whether said annexation is valid or invalid.

*21st or
villages*

*circuit w/
juris shld
deem petition
invalid if
submitted >
30 days after
commencement of
an incorp
petition*

Marc -
I've got a call in
regarding your question
on section(ii) & will
call you back ASAP -

Katie

PROPOSED AMENDMENT TO INCORPORATION PROCEDURES UNDER 66.0201
INCORPORATION OF VILLAGES AND CITIES: PURPOSE AND DEFINITIONS

The following proposal amending Sec. 66.0201(3) of the Wisconsin Statutes would eliminate the conflicts between incorporations and annexations and establish an orderly procedure for their determination thereby avoiding complicated legal processes which have subjected the Town of Campbell to seven years of litigation.

They must mean A.66.0203

66.0201 - Incorporation of Villages and Cities: Purpose and Definitions

(8) **FUNCTION OF THE CIRCUIT COURT.** (a) After the filing of the petition and proof of notice, the circuit court shall conduct a hearing at the time and place specified in the notice, or at a time and place to which the hearing is duly adjourned.
(b) On the basis of the hearing the circuit court shall find if the standards under s. 66.0205 are met. If the court finds that the standards are not met, the court shall dismiss the petition. If the court finds that the standards are met the court shall subject to (c) refer the petition to the department and the department shall determine whether the standards under s. 66.0207 are met.
(c) The circuit court shall further determine whether any annexations have been commenced under s. 66.0217 or s. 66.0219 or s. 66.0223 by any incorporated municipality which annexation affects any territory included in the incorporation petition and enter an order as follows:

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(ii) In the event the annexation was commenced subsequent to, but not longer than 30 days, after the publication of the Notice of Intent to Circulate a Petition for Incorporation, the circuit court shall not consider the annexation to affect the proposed incorporation and shall enter an order that no further proceedings shall be undertaken on the annexation until the validity or invalidity of the incorporation has been determined. Annexation proceedings commenced more than 30 days after the commencement of an incorporation petition shall be deemed invalid and void and shall be voided by the circuit court. If the annexation is pending before a circuit court of another jurisdiction, the court having jurisdiction over the annexation shall so order. If the incorporation is determined to be valid and all proceedings of the incorporation are complete, the court of jurisdiction shall order any annexation commenced within the 30 days after the commencement of the incorporation be voided and dismissed. If the incorporation is determined to be invalid and is dismissed by the circuit court, any annexation commenced within the 30 day period shall thereafter proceed to a determination as to whether said annexation is valid or invalid.

Shall "so order" what?



Post-it* Fax Note	7671	Date	# of pages 1
To MARC SHOVERS	From KATIE MAUER	Co./Dept.	Co. SEN. BROWN
Phone #	Phone #	Fax # 4-6948	Fax #



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-35977

MES.....

Submit
P
FMMK

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

Wanted today

(pm)

1 AN ACT ...; relating to: changing the procedures for the incorporation of cities
2 and villages, creating a board to review incorporation petitions, and changing
3 annexation procedures affected by incorporation petitions.

Analysis by the Legislative Reference Bureau

Under current law, towns may incorporate as cities or villages by a number of methods if certain procedures are followed. Under one of the methods, the procedures include the following:

1. The circulation of an incorporation petition in the territory to be incorporated, and the filing of the petition with the circuit court.
2. A circuit court hearing on the petition at which the court determines whether a number of statutory standards are met, including resident population and population density.
3. If the court finds that the standards are met, a review of the petition by the Department of Administration (DOA) for a determination on whether a number of statutory standards are met, including the characteristics of the territory, the level of governmental services that are desired or needed by the residents compared to the level of services offered by the proposed city or village, the impact upon the remainder of the town from which the territory is to be incorporated, and the impact of the proposed incorporation on the metropolitan community.

If DOA dismisses the petition, the circuit court must issue an order dismissing the petition. If DOA grants the petition, the circuit court must order an incorporation referendum. If a majority of the votes in the referendum are cast in favor of a village or city, the secretary of state must issue and record a certificate of incorporation.

STET
STET

This bill makes a number of changes in the way in which incorporation petitions are reviewed and subjects certain annexation procedures to incorporation petitions. Under the bill, following circuit court review of an annexation petition, the court forwards a petition to an incorporation review board, which the bill creates. The board is attached to DOA and is made up of the following ^{five} people who serve at the pleasure of their appointing authority:

1. The secretary of DOA or his or her designee. ✓
2. Two people appointed by the Wisconsin Towns Association. ✓
3. One person appointed by the League of Wisconsin Municipalities. ✓
4. One person appointed by the Alliance of Cities. ^{Wisconsin} ✓

Before a circuit court may forward a petition to the board, the bill requires the court to determine whether an annexation proceeding that affects any territory in the incorporation petition has been initiated. If the court determines that an annexation proceeding was initiated before the publication of a notice of intent to circulate a petition for incorporation (notice), the court may only refer the petition to the board after the annexation proceeding is final.

If a court determines that an annexation proceeding was initiated on or within 30 days after the publication of the notice, the annexation may not proceed until the validity of the annexation is determined. If the incorporation process is valid and complete, the annexation is void. If the incorporation is invalid, the annexation may proceed.

If a court determines that an annexation proceeding was initiated more than 30 days after the publication of the notice, the annexation is void.

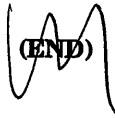
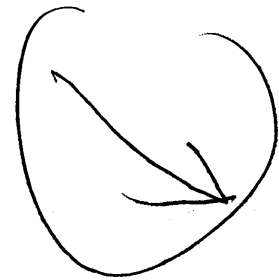
Generally, under current law, DOA has 90 days to review a petition of incorporation forwarded by a circuit court. Under this bill, the board has 180 days to review such a ^{the} petition.

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

(END)

**SENATE SUBSTITUTE AMENDMENT ,
TO 2003 ASSEMBLY BILL 85**

1 **AN ACT** *to renumber* 66.0201 (2) (a); *to amend* 16.53 (14), 59.692 (7) (ad) (intro.),
2 66.0203 (8) (b), 66.0203 (9) (title), (a), (b), (d), (e) (intro.), (f), (g) and (h), 66.0205
3 (intro.), 66.0207 (title), (1) (intro.) and (b), and (2) (intro.), 66.0209 (2) and (4),
4 66.0219 (8), 66.0223, 66.0231 and 66.1001 (3) (a); and *to create* 15.07 (2) (m),
5 15.07 (3) (bm) 5., 15.105 (23), 66.0201 (2) (am), 66.0203 (8) (c), 66.0203 (9) (i),
6 66.0216 and 66.0217 (14) of the statutes; **relating to:** the incorporation of
7 villages and cities, the incorporation of the town of Campbell in LaCrosse
8 County as a village, and creating an Incorporation Review Board.

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

9 **SECTION 1.** 15.07 (2) (m) of the statutes is created to read:

10 15.07 (2) (m) The representative of the department of administration shall
11 serve as chairperson of the incorporation review board.

12 **SECTION 2.** 15.07 (3) (bm) 5. of the statutes is created to read:

1 15.07 (3) (bm) 5. The incorporation review board shall meet on the call of the
2 chairperson or a majority of the board's members.

3 **SECTION 3.** 15.105 (23) of the statutes is created to read:

4 15.105 (23) INCORPORATION REVIEW BOARD. There is created an incorporation
5 review board attached to the department of administration under s. 15.03. The board
6 shall consist of the secretary of administration or his or her designee, 2 members
7 appointed by the Wisconsin Towns Association, one member appointed by the League
8 of Wisconsin Municipalities, and one member appointed by the Wisconsin Alliance
9 of Cities. Members serve at the pleasure of the appointing authority.

10 **SECTION 4.** 16.53 (14) of the statutes is amended to read:

11 16.53 (14) REVIEW OF PROPOSED INCORPORATIONS AND ANNEXATIONS. The
12 ~~department~~ incorporation review board may prescribe and collect a fee for review of
13 any petition for incorporation of a municipality under s. 66.0203 ~~or~~. The department
14 may prescribe and collect a fee for review of any petition for annexation of municipal
15 territory under s. 66.0217. The fee shall be paid by the person or persons filing the
16 petition for incorporation or by the person or persons filing the notice of the proposed
17 annexation.

18 ~~**SECTION 5.** 59.692 (7) (ad) (intro.) of the statutes is amended to read:~~

19 ~~59.692 (7) (ad) (intro.) Provisions of a county shoreland zoning ordinance that~~
20 ~~are enacted under this section that were applicable, prior to incorporation, to any~~
21 ~~shoreland area that is part of a town that incorporates as a city or village under s.~~
22 ~~66.0203, 66.0211, 66.0213 or, 66.0215, or 66.0216 after April 30, 1994, shall continue~~
23 ~~in effect and shall be enforced after incorporation by the incorporated city or village~~
24 ~~unless any of the following occurs:~~

25 **SECTION 6.** 66.0201 (2) (a) of the statutes is renumbered 66.0201 (2) (ar).

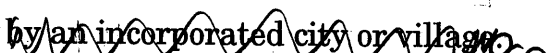
1 **SECTION 7.** 66.0201 (2) (am) of the statutes is created to read:

2 66.0201 (2) (am) “Board” means the incorporation review board.

3 **SECTION 8.** 66.0203 (8) (b) of the statutes is amended to read:

4 66.0203 (8) (b) On the basis of the hearing the circuit court shall find if the
5 standards under s. 66.0205 are met. If the court finds that the standards are not met,
6 the court shall dismiss the petition. If Subject to par. (c), if the court finds that the
7 standards are met the court shall refer the petition to the ~~department~~ board. Upon
8 payment of any fee imposed under s. 16.53 (14), the ~~department~~ board shall
9 determine whether the standards under s. 66.0207 are met.

10 **SECTION 9.** 66.0203 (8) (c) of the statutes is created to read:

11 66.0203 (8) (c) 1. The court shall determine whether an annexation proceeding
12 that affects any territory included in the incorporation petition has been initiated
13 under s. 66.0217, 66.0219, or 66.0223 ~~by an incorporated city or village~~ 

14 2. If the court determines that an annexation proceeding described under subd.
15 1. was initiated before the publication of the notice under sub. (1), the court shall
16 refer the petition to the board when the annexation proceeding is final. If the
17 annexation is determined to be valid, the court shall exclude the annexed territory
18 from the territory proposed to be incorporated when it refers the petition to the board.

19 3. If the court determines that an annexation proceeding described under subd.
20 1. was initiated on or within 30 days after the publication of the notice under sub.
21 (1), the annexation may not proceed until the validity of the incorporation has been
22 determined. If the incorporation is determined to be valid and complete, the
23 annexation is void. If the incorporation is determined to be invalid, the annexation
24 may proceed.

1 4. If the court determines that an annexation proceeding described under subd.
2 1. was initiated more than 30 days after the publication of the notice under sub. (1),
3 the annexation is void.

4 **SECTION 10.** 66.0203 (9) (title), (a), (b), (d), (e) (intro.), (f), (g) and (h) of the
5 statutes are amended to read:

6 66.0203 (9) (title) ~~FUNCTION OF THE DEPARTMENT BOARD~~. (a) Upon receipt of the
7 petition from the circuit court and payment of any fee imposed under s. 16.53 (14),
8 the ~~department board~~ shall make any necessary investigation to apply the standards
9 under s. 66.0207.

10 (b) Within ~~20~~ 30 days after the receipt by the ~~department board~~ of the petition
11 from the circuit court and payment of any fee imposed under s. 16.53 (14), whichever
12 is later, any party in interest may request a hearing. Upon receipt of the request, the
13 ~~department board~~ shall schedule a hearing at a place in or convenient to the territory
14 sought to be incorporated.

15 (d) Unless the court sets a different time limit, the ~~department board~~ shall
16 prepare its findings and determination, citing the supporting evidence, within ~~90~~
17 180 days after receipt of the referral from the court and payment of any fee imposed
18 under s. 16.53 (14), whichever is later. The findings and determination shall be
19 forwarded by the ~~department board~~ to the circuit court. Copies of the findings and
20 determination shall be sent by certified or registered mail to the designated
21 representative of the petitioners, and to all town and municipal clerks entitled to
22 receive mailed notice of the petition under sub. (4).

23 (e) (intro.) The determination of the ~~department board~~ made in accordance with
24 the standards under ss. 66.0205, 66.0207 and 66.0217 (6) (c) shall be one of the
25 following:

1 (f) If the ~~department~~ board determines that the petition shall be dismissed
2 under par. (e) 1., the circuit court shall issue an order dismissing the petition. If the
3 ~~department~~ board grants the petition, the circuit court shall order an incorporation
4 referendum as provided in s. 66.0211.

5 (g) The findings of both the court and the ~~department~~ board shall be based upon
6 facts as they existed at the time of the filing of the petition.

7 (h) Except for an incorporation petition which describes the territory
8 recommended by the ~~department~~ board under ~~s. 66.0203 sub.~~ (9) (e) 3., no petition
9 for the incorporation of the same or substantially the same territory may be
10 entertained for one year following the date of dismissal under par. (f) of the petition
11 or the date of any election at which incorporation was rejected by the electors.

12 **SECTION 11.** 66.0203 (9) (i) of the statutes is created to read:

13 66.0203 (9) (i) If the board fails to make a determination within the time limit
14 under par. (d), the board shall refund the fees imposed by the board under s. 16.53
15 (14).

16 **SECTION 12.** 66.0205 (intro.) of the statutes is amended to read:

17 **66.0205 Standards to be applied by the circuit court.** (intro.) Before
18 referring the incorporation petition as provided in s. 66.0203 (2) to the ~~department~~
19 board, the court shall determine whether the petition meets the formal and signature
20 requirements and shall further find that the following minimum requirements are
21 met:

22 **SECTION 13.** 66.0207 (title), (1) (intro.) and (b), and (2) (intro.) of the statutes
23 are amended to read:

24 **66.0207 (title) Standards to be applied by the department board.**

1 (1) (intro.) The ~~department~~ board may approve for referendum only those
2 proposed incorporations which meet the following requirements:

3 (b) *Territory beyond the core.* The territory beyond the most densely populated
4 one-half square mile specified in s. 66.0205 (1) or the most densely populated square
5 mile specified in s. 66.0205 (2) shall have an average of more than 30 housing units
6 per quarter section or an assessed value, as defined in s. 66.0217 (1) (a) for real estate
7 tax purposes, more than 25% of which is attributable to existing or potential
8 mercantile, manufacturing or public utility uses. The territory beyond the most
9 densely populated square mile as specified in s. 66.0205 (3) or (4) shall have the
10 potential for residential or other urban land use development on a substantial scale
11 within the next 3 years. The ~~department~~ board may waive these requirements to the
12 extent that water, terrain or geography prevents the development.

13 (2) (intro.) In addition to complying with each of the applicable standards set
14 forth in sub. (1) and s. 66.0205 in order to be approved for referendum, a proposed
15 incorporation must be in the public interest as determined by the ~~department~~ board
16 upon consideration of the following:

17 **SECTION 14.** 66.0209 (2) and (4) of the statutes are amended to read:

18 66.0209 (2) The decision of the ~~department~~ board made under s. 66.0203 (9) is
19 subject to judicial review under ch. 227.

20 (4) An incorporation referendum ordered by the circuit court under s. 66.0203
21 (9) (f) may not be stayed pending the outcome of further litigation, unless the court
22 of appeals or the supreme court, upon an appeal or upon the filing of an original
23 action in the supreme court, concludes that a strong probability exists that the order
24 of the circuit court or the decision of the ~~department~~ board will be set aside.

25 **SECTION 15.** 66.0216 of the statutes is created to read:

1 **66.0216 Incorporation of certain towns surrounded by navigable**
2 **waterways. (1) PETITION.** If the resident population of a town exceeds 4,000, as
3 shown by the most recent federal census or by a census under sub. (2), the town is
4 wholly contained within a land area not exceeding 15 square miles, the land area is
5 surrounded by navigable waterways, the equalized valuation of the town exceeds
6 \$125,000,000, and a petition signed by at least 100 persons, each of whom is an
7 elector and taxpayer of the town, requesting submission of the question to the
8 electors of the town, is filed with the town clerk, the procedure for becoming a village
9 under this section is initiated. The procedure under this section may be used only
10 with respect to an area that constitutes an entire town. If at the time of the filing
11 of the incorporation petition any portion of the town is subject to a prior annexation
12 proceeding by an incorporated municipality, that portion of the town shall be
13 detached from the town if the annexation is determined to be valid either as a result
14 of the failure of the town, or a resident of the town, to have filed a valid legal objection
15 or by final judgment. If the annexation is determined by final judgment to be invalid,
16 the territory that is subject to the annexation shall become part of the village formed
17 under this section.

18 **(2) REFERENDUM.** At the next regular meeting of the town board following the
19 filing of the petition under sub. (1), the town board by resolution shall provide for a
20 referendum by the electors of the town. The resolution shall conform to the
21 requirements of s. 5.15 (1) and (2) and shall determine the numbers and boundaries
22 of each ward of the proposed village and the time of voting, which may not be earlier
23 than 6 weeks after the adoption of the resolution. The resolution may direct that a
24 census be taken of the resident population of the territory on a day not more than 10
25 weeks before the date of the election, exhibiting the name of every head of a family

1 and the name of every person who is a resident in good faith of the territory on that
2 day, and the lot or quarter section of land on which that person resides, which shall
3 be verified by the affixed affidavit of the person taking the census.

4 (3) NOTICE OF REFERENDUM. The town clerk shall publish the resolution adopted
5 under sub. (2) in a newspaper published in the town. If no newspaper is published
6 in the town, the town clerk shall publish the resolution in a newspaper designated
7 in the resolution. The town clerk shall publish the resolution once a week for 4
8 successive weeks, the first publication to be not more than 4 weeks before the
9 referendum.

10 (4) VOTING PROCEDURE. The referendum shall be conducted in the same manner
11 as elections for town board supervisors. The question appearing on the ballot shall
12 be "Shall the town of become a village?" Below the question shall appear 2
13 squares. To the left of one square shall appear the words "For a village" and to the
14 left of the other square shall appear the words "Against a village." The inspectors
15 shall make a return to the town clerk.

16 (5) CERTIFICATE OF INCORPORATION. If a majority of the votes are cast in favor
17 of a village, the town clerk shall certify that fact to the secretary of state, together
18 with the result of the census under sub. (2), if any, 4 copies of a description of the legal
19 boundaries of the town, and 4 copies of a plat of the town. The secretary of state shall
20 issue a certificate of incorporation and record the certificate in a book kept for that
21 purpose. The secretary of state shall provide 2 copies of the description and plat to
22 the department of transportation and one copy to the department of revenue.

23 (6) VILLAGE POWERS. A village incorporated under this section is a body
24 corporate and politic, with the powers and privileges of a municipal corporation at
25 common law and conferred by ch. 61.

1 (7) EXISTING ORDINANCES. (a) Ordinances in force in the territory or any part
2 of the territory, to the extent not inconsistent with ch. 61, continue in force until
3 altered or repealed.

4 (b) A county shoreland zoning ordinance enacted under s. 59.692 that is in force
5 in any part of the territory continues in force until altered under s. 59.692 (7) (ad).

6 (8) INTERIM OFFICERS, FIRST VILLAGE ELECTION. Section 66.0215 (8) and (9), as it
7 applies to a town that is incorporated as a city under s. 66.0215, applies to a town that
8 is incorporated as a village under this section.

9 SECTION 16. 66.0217 (14) of the statutes is created to read:

10 66.0217 (14) LAW APPLICABLE. Section 66.0203 (8) (c) applies to annexations
11 under this section.

12 SECTION 17. 66.0219 (8) of the statutes is amended to read:

13 66.0219 (8) LAW APPLICABLE. ~~Section~~ Sections 66.0203 (8) (c) and 66.0217 (11)
14 ~~applies~~ apply to annexations under this section.

15 SECTION 18. 66.0223 of the statutes is amended to read:

16 **66.0223 Annexation of territory owned by a city or village.** In addition
17 to other methods provided by law and subject to ss. 59.692 (7) and 66.0307 (7),
18 territory owned by and lying near but not necessarily contiguous to a village or city
19 may be annexed to a village or city by ordinance enacted by the board of trustees of
20 the village or the common council of the city, provided that in the case of
21 noncontiguous territory the use of the territory by the city or village is not contrary
22 to any town or county zoning regulation. The ordinance shall contain the exact
23 description of the territory annexed and the names of the towns from which
24 detached, and attaches the territory to the village or city upon the filing of 7 certified
25 copies of the ordinance in the office of the secretary of state, together with 7 copies

1 of a plat showing the boundaries of the territory attached. Two copies of the
2 ordinance and plat shall be forwarded by the secretary of state to the department of
3 transportation, one copy to the department of administration, one copy to the
4 department of natural resources, one copy to the department of revenue and one copy
5 to the department of public instruction. Within 10 days of filing the certified copies,
6 a copy of the ordinance and plat shall be mailed or delivered to the clerk of the county
7 in which the annexed territory is located. ~~Section~~ Sections 66.0203 (8) (c) and
8 66.0217 (11) applies apply to annexations under this section.

9 ~~SECTION 19. 66.0231 of the statutes is amended to read:~~

10 **66.0231 Notice of certain litigation affecting municipal status or**
11 **boundaries.** If a proceeding under ss. 61.187, 61.189, 61.74, 62.075, 66.0201 to
12 66.0213, 66.0215, 66.0216, 66.0217, 66.0221, 66.0223, 66.0227 or 66.0307 or other
13 sections relating to an incorporation, annexation, consolidation, dissolution or
14 detachment of territory of a city or village is contested by instigation of legal
15 proceedings, the clerk of the city or village involved in the proceedings shall file with
16 the secretary of state 4 copies of a notice of the commencement of the action. The
17 clerk shall file with the secretary of state 4 copies of any judgments rendered or
18 appeals taken in such cases. The notices or copies of judgments that are required
19 under this section may also be filed by an officer or attorney of any party of interest.
20 The secretary of state shall forward to the department of transportation 2 copies and
21 to the department of revenue and the department of administration one copy each
22 of any notice of action or judgment filed with the secretary of state under this section.

23 ~~SECTION 20. 66.1001 (3) (a) of the statutes is amended to read:~~

24 **66.1001 (3) (a) Municipal incorporation procedures under s. 66.0201, 66.0203**
25 **or, 66.0215, or 66.0216.**

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

LRB-3597/?dn

MES...:f:.....

Wlj

Senator Brown:

Would you like the bill to make any provision for a situation in which a person appointed to the board created in s. 15.105 (23) by the Towns Association, for example, resides in or owns property in a town that has an incorporation petition pending before the board?

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-3597/P1dn
MES:wlj:pg

November 3, 2003

Senator Brown:

Would you like the bill to make any provision for a situation in which a person appointed to the board created in s. 15.105 (23) by the Towns Association, for example, resides in or owns property in a town that has an incorporation petition pending before the board?

Marc E. Shovers
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Phone: (608) 266-0129
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State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-3597/P
MES:wjl:pg

RMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

WANTED:
Today

reger

1 AN ACT *to renumber* 66.0201 (2) (a); *to amend* 16.53 (14), 66.0203 (8) (b),
2 66.0203 (9) (title), (a), (b), (d), (e) (intro.), (f), (g) and (h), 66.0205 (intro.), 66.0207
3 (title), (1) (intro.) and (b), and (2) (intro.), 66.0209 (2) and (4), 66.0219 (8) and
4 66.0223; and *to create* 15.07 (2) (m), 15.07 (3) (bm) 5., 15.105 (23), 66.0201 (2)
5 (am), 66.0203 (8) (c), 66.0203 (9) (i) and 66.0217 (14) of the statutes; **relating**
6 **to:** changing the procedures for the incorporation of cities and villages, creating
7 a board to review incorporation petitions, and changing annexation procedures
8 affected by incorporation petitions.

Analysis by the Legislative Reference Bureau

Under current law, towns may incorporate as cities or villages by a number of methods if certain procedures are followed. Under one of the methods, the procedures include the following:

1. The circulation of an incorporation petition in the territory to be incorporated, and the filing of the petition with the circuit court.
2. A circuit court hearing on the petition at which the court determines whether a number of statutory standards are met, including resident population and population density.
3. If the court finds that the standards are met, a review of the petition by the Department of Administration (DOA) for a determination on whether a number of

statutory standards are met, including the characteristics of the territory, the level of governmental services that are desired or needed by the residents compared to the level of services offered by the proposed city or village, the impact upon the remainder of the town from which the territory is to be incorporated, and the impact of the proposed incorporation on the metropolitan community.

If DOA dismisses the petition, the circuit court must issue an order dismissing the petition. If DOA grants the petition, the circuit court must order an incorporation referendum. If a majority of the votes on the referendum are cast in favor of a village or city, the secretary of state must issue and record a certificate of incorporation.

This bill makes a number of changes in the way in which incorporation petitions are reviewed, and subjects certain annexation procedures to incorporation petitions. Under the bill, following circuit court review of an annexation petition, the court forwards a petition to an Incorporation Review Board, which the bill creates. The board is attached to DOA, and is made up of the following five people who serve at the pleasure of their appointing authority:

1. The secretary of DOA or his or her designee.
2. Two people appointed by the Wisconsin Towns Association.
3. One person appointed by the League of Wisconsin Municipalities.
4. One person appointed by the Wisconsin Alliance of Cities.

Before a circuit court may forward a petition to the board, the bill requires the court to determine whether an annexation proceeding that affects any territory in the incorporation petition has been initiated. If the court determines that an annexation proceeding was initiated before the publication of a notice of intent to circulate a petition for incorporation (notice), the court may refer the petition to the board only after the annexation proceeding is final.

If a court determines that an annexation proceeding was initiated on or within 30 days after the publication of the notice, the annexation may not proceed until the validity of the annexation is determined. If the incorporation process is valid and complete, the annexation is void. If the incorporation is invalid, the annexation may proceed.

If a court determines that an annexation proceeding was initiated more than 30 days after the publication of the notice, the annexation is void.

Generally, under current law, DOA has 90 days to review a petition of incorporation forwarded by a circuit court. Under this bill, the board has 180 days to review the petition.

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. 15.07 (2) (m) of the statutes is created to read:

1 15.07 (2) (m) The representative of the department of administration shall
2 serve as chairperson of the incorporation review board.

3 **SECTION 2.** 15.07 (3) (bm) 5. of the statutes is created to read:

4 15.07 (3) (bm) 5. The incorporation review board shall meet on the call of the
5 chairperson or a majority of the board’s members.

6 **SECTION 3.** 15.105 (23) of the statutes is created to read:

7

7 15.105 (23) INCORPORATION REVIEW BOARD. ^(a) There is created an incorporation
8 review board attached to the department of administration under s. 15.03. The board
9 shall consist of the secretary of administration or his or her designee, 2 members
10 appointed by the Wisconsin Towns Association, one member appointed by the League
11 of Wisconsin Municipalities, and one member appointed by the Wisconsin Alliance
12 of Cities. Members serve at the pleasure of the appointing authority. (H)

13 **SECTION 4.** 16.53 (14) of the statutes is amended to read:

14 16.53 (14) REVIEW OF PROPOSED INCORPORATIONS AND ANNEXATIONS. The
15 ~~department~~ incorporation review board may prescribe and collect a fee for review of
16 any petition for incorporation of a municipality under s. 66.0203 ~~or~~ The department
17 may prescribe and collect a fee for review of any petition for annexation of municipal
18 territory under s. 66.0217. The fee shall be paid by the person or persons filing the
19 petition for incorporation or by the person or persons filing the notice of the proposed
20 annexation.

21 **SECTION 5.** 66.0201 (2) (a) of the statutes is renumbered 66.0201 (2) (ar).

22 **SECTION 6.** 66.0201 (2) (am) of the statutes is created to read:

23 66.0201 (2) (am) “Board” means the incorporation review board.

24 **SECTION 7.** 66.0203 (8) (b) of the statutes is amended to read:

INS 3-12 ✓

1 66.0203 (8) (b) On the basis of the hearing the circuit court shall find if the
2 standards under s. 66.0205 are met. If the court finds that the standards are not met,
3 the court shall dismiss the petition. If Subject to par. (c), if the court finds that the
4 standards are met the court shall refer the petition to the department board. Upon
5 payment of any fee imposed under s. 16.53 (14), the department board shall
6 determine whether the standards under s. 66.0207 are met.

7 **SECTION 8.** 66.0203 (8) (c) of the statutes is created to read:

8 66.0203 (8) (c) 1. The court shall determine whether an annexation proceeding
9 that affects any territory included in the incorporation petition has been initiated
10 under s. 66.0217, 66.0219, or 66.0223.

11 2. If the court determines that an annexation proceeding described under subd.
12 1. was initiated before the publication of the notice under sub. (1), the court shall
13 refer the petition to the board when the annexation proceeding is final. If the
14 annexation is determined to be valid, the court shall exclude the annexed territory
15 from the territory proposed to be incorporated when it refers the petition to the board.

16 3. If the court determines that an annexation proceeding described under subd.
17 1. was initiated on or within 30 days after the publication of the notice under sub.
18 (1), the annexation may not proceed until the validity of the incorporation has been
19 determined. If the incorporation is determined to be valid and complete, the
20 annexation is void. If the incorporation is determined to be invalid, the annexation
21 may proceed.

22 4. If the court determines that an annexation proceeding described under subd.
23 1. was initiated more than 30 days after the publication of the notice under sub. (1),
24 the annexation is void.

1 **SECTION 9.** 66.0203 (9) (title), (a), (b), (d), (e) (intro.), (f), (g) and (h) of the
2 statutes are amended to read:

3 66.0203 (9) (title) ~~FUNCTION OF THE DEPARTMENT~~ BOARD. (a) Upon receipt of the
4 petition from the circuit court and payment of any fee imposed under s. 16.53 (14),
5 the ~~department~~ board shall make any necessary investigation to apply the standards
6 under s. 66.0207.

7 (b) Within ~~20~~ 30 days after the receipt by the ~~department~~ board of the petition
8 from the circuit court and payment of any fee imposed under s. 16.53 (14), whichever
9 is later, any party in interest may request a hearing. Upon receipt of the request, the
10 ~~department~~ board shall schedule a hearing at a place in or convenient to the territory
11 sought to be incorporated.

12 (d) Unless the court sets a different time limit, the ~~department~~ board shall
13 prepare its findings and determination, citing the supporting evidence, within ~~90~~
14 180 days after receipt of the referral from the court and payment of any fee imposed
15 under s. 16.53 (14), whichever is later. The findings and determination shall be
16 forwarded by the ~~department~~ board to the circuit court. Copies of the findings and
17 determination shall be sent by certified or registered mail to the designated
18 representative of the petitioners, and to all town and municipal clerks entitled to
19 receive mailed notice of the petition under sub. (4).

20 (e) (intro.) The determination of the ~~department~~ board made in accordance with
21 the standards under ss. 66.0205, 66.0207 and 66.0217 (6) (c) shall be one of the
22 following:

23 (f) If the ~~department~~ board determines that the petition shall be dismissed
24 under par. (e) 1., the circuit court shall issue an order dismissing the petition. If the

1 department board grants the petition, the circuit court shall order an incorporation
2 referendum as provided in s. 66.0211.

3 (g) The findings of both the court and the ~~department~~ board shall be based upon
4 facts as they existed at the time of the filing of the petition.

5 (h) Except for an incorporation petition which describes the territory
6 recommended by the ~~department~~ board under s. ~~66.0203 sub.~~ (9) (e) 3., no petition
7 for the incorporation of the same or substantially the same territory may be
8 entertained for one year following the date of dismissal under par. (f) of the petition
9 or the date of any election at which incorporation was rejected by the electors.

10 SECTION 10. 66.0203 (9) (i) of the statutes is created to read:

11 66.0203 (9) (i) If the board fails to make a determination within the time limit
12 under par. (d), the board shall refund the fees imposed by the board under s. 16.53

13 (14) *and shall then make a determination as quickly as possible*

14 SECTION 11. 66.0205 (intro.) of the statutes is amended to read:

15 **66.0205 Standards to be applied by the circuit court.** (intro.) Before
16 referring the incorporation petition as provided in s. 66.0203 (2) to the ~~department~~
17 board, the court shall determine whether the petition meets the formal and signature
18 requirements and shall further find that the following minimum requirements are
19 met:

20 SECTION 12. 66.0207 (title), (1) (intro.) and (b), and (2) (intro.) of the statutes
21 are amended to read:

22 **66.0207 (title) Standards to be applied by the ~~department~~ board.**

23 (1) (intro.) The ~~department~~ board may approve for referendum only those
24 proposed incorporations which meet the following requirements:

1 (b) *Territory beyond the core.* The territory beyond the most densely populated
2 one-half square mile specified in s. 66.0205 (1) or the most densely populated square
3 mile specified in s. 66.0205 (2) shall have an average of more than 30 housing units
4 per quarter section or an assessed value, as defined in s. 66.0217 (1) (a) for real estate
5 tax purposes, more than 25% of which is attributable to existing or potential
6 mercantile, manufacturing or public utility uses. The territory beyond the most
7 densely populated square mile as specified in s. 66.0205 (3) or (4) shall have the
8 potential for residential or other urban land use development on a substantial scale
9 within the next 3 years. The ~~department~~ board may waive these requirements to the
10 extent that water, terrain or geography prevents the development.

11 (2) (intro.) In addition to complying with each of the applicable standards set
12 forth in sub. (1) and s. 66.0205 in order to be approved for referendum, a proposed
13 incorporation must be in the public interest as determined by the ~~department~~ board
14 upon consideration of the following:

15 **SECTION 13.** 66.0209 (2) and (4) of the statutes are amended to read:

16 66.0209 (2) The decision of the ~~department~~ board made under s. 66.0203 (9) is
17 subject to judicial review under ch. 227.

18 (4) An incorporation referendum ordered by the circuit court under s. 66.0203
19 (9) (f) may not be stayed pending the outcome of further litigation, unless the court
20 of appeals or the supreme court, upon an appeal or upon the filing of an original
21 action in the supreme court, concludes that a strong probability exists that the order
22 of the circuit court or the decision of the ~~department~~ board will be set aside.

23 **SECTION 14.** 66.0217 (14) of the statutes is created to read:

24 66.0217 (14) **LAW APPLICABLE.** Section 66.0203 (8) (c) applies to annexations
25 under this section.

1 **SECTION 15.** 66.0219 (8) of the statutes is amended to read:

2 66.0219 (8) ~~LAW APPLICABLE. Section~~ Sections 66.0203 (8) (c) and 66.0217 (11)
3 ~~applies~~ apply to annexations under this section.

4 **SECTION 16.** 66.0223 of the statutes is amended to read:

5 **66.0223 Annexation of territory owned by a city or village.** In addition
6 to other methods provided by law and subject to ss. 59.692 (7) and 66.0307 (7),
7 territory owned by and lying near but not necessarily contiguous to a village or city
8 may be annexed to a village or city by ordinance enacted by the board of trustees of
9 the village or the common council of the city, provided that in the case of
10 noncontiguous territory the use of the territory by the city or village is not contrary
11 to any town or county zoning regulation. The ordinance shall contain the exact
12 description of the territory annexed and the names of the towns from which
13 detached, and attaches the territory to the village or city upon the filing of 7 certified
14 copies of the ordinance in the office of the secretary of state, together with 7 copies
15 of a plat showing the boundaries of the territory attached. Two copies of the
16 ordinance and plat shall be forwarded by the secretary of state to the department of
17 transportation, one copy to the department of administration, one copy to the
18 department of natural resources, one copy to the department of revenue and one copy
19 to the department of public instruction. Within 10 days of filing the certified copies,
20 a copy of the ordinance and plat shall be mailed or delivered to the clerk of the county
21 in which the annexed territory is located. ~~Section~~ Sections 66.0203 (8) (c) and
22 66.0217 (11) ~~applies~~ apply to annexations under this section.

23 **SECTION 17. Initial applicability.**

24 (1) The treatment of sections 16.53 (14), 66.0203 (8) (b) and (c) and (9) (title),
25 (a), (b), (d), (e) (intro.), (f), (g), (h), and (i), 66.0205 (intro.), 66.0207 (title), (1) (intro.)

1 and (b), and (2) (intro.), 66.0217 (14), 66.0219 (8), and 66.0223 of the statutes first
2 applies to a petition for incorporation of a village or city that is filed with a circuit
3 court under section 66.0203 (2) of the statutes on the effective date of this subsection.

4 (END)

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FROM THE
LEGISLATIVE REFERENCE BUREAU

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(b) No member of the incorporation review board may review a petition referred to the board under s. 66.0203 (8) (b) if any of the following apply:

1. The member owns property in, or resides in, the town that is the subject of the incorporation petition.

2. The member owns property in, or resides in, a city or village that is contiguous to the town that is the subject of the incorporation petition.

(c) If the secretary of administration is affected by par. (b), he or she shall appoint a designee to review the petition ~~who is not so affected~~. If any other member of the board is affected by par. (b), that person's appointing authority shall remove that person from the board and shall appoint another member to review the petition who is not so affected.

Barman, Mike

From: Shovers, Marc
Sent: Monday, November 17, 2003 10:38 AM
To: Barman, Mike
Subject: LRB 03-3597/1

Hi Mike:

Missy from Sen. Brown's office called and asked if we could jacket this for the Senate.
Thanks.

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