

**SENATE SUBSTITUTE AMENDMENT 1,  
TO 2003 SENATE BILL 87**

January 28, 2004 – Offered by Senators A. LASEE and ELLIS.

1     **AN ACT** *to renumber and amend* 66.0223; *to amend* 66.0217 (2), 66.0217 (3)  
2           (intro.), 66.0219 (intro.) and 66.0221 (1); and *to create* 66.0217 (14), 66.0219  
3           (10), 66.0221 (3) and 66.0223 (2) of the statutes; **relating to:** limiting the  
4           authority of cities and villages to annex territory and specifying the boundaries  
5           for certain annexations, and requiring cities and villages to make payments to  
6           certain towns from which land is annexed.

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***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 3) a legal description of the property to be annexed. Such an annexation, however, is subject to Department of Administration 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.

Under this substitute amendment, and subject to an exception, no city or village may annex any territory if none of the city's or village's territory is in the same county as the territory to be annexed. Also under this substitute amendment, in general and subject to the same exception, no annexation of town territory may occur unless the entire annexation follows one or more of the following: 1) a surveyor's section line that is no lower than a quarter-quarter section line; 2) natural boundaries; or 3) the center line of a highway.

Under the exception created in the substitute amendment, an annexation that otherwise would be prohibited under the substitute amendment may proceed if the city or village, and the town, enter into a boundary agreement and, in the case of the annexation of town territory, the city or village agrees to pay to the town, for five years, an amount equal to the amount of property taxes that the town imposed on that territory in the year in which the annexation is final.

This substitute amendment first applies to any annexation that has not taken effect on the day that the substitute amendment takes effect.

***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 Except as provided
- 3 in sub. (14), and subject to s. 66.0307 (7), if a petition for direct annexation signed
- 4 by all of the electors residing in the territory and the owners of all of the real property
- 5 in the territory is filed with the city or village clerk, and with the town clerk of the
- 6 town or towns in which the territory is located, together with a scale map and a legal

1 description of the property to be annexed, an annexation ordinance for the  
2 annexation of the territory may be enacted by a two-thirds vote of the elected  
3 members of the governing body of the city or village without compliance with the  
4 notice requirements of sub. (4). In an annexation under this subsection, subject to  
5 sub. (6), the person filing the petition with the city or village clerk and the town clerk  
6 shall, within 5 days of the filing, mail a copy of the scale map and a legal description  
7 of the territory to be annexed to the department and the governing body shall review  
8 the advice of the department, if any, before enacting the annexation ordinance.

9 **SECTION 2.** 66.0217 (3) (intro.) of the statutes is amended to read:

10 66.0217 (3) OTHER METHODS OF ANNEXATION. (intro.) Subject to s. 66.0307 (7),  
11 and except as provided in sub. (14), territory contiguous to a city or village may be  
12 annexed to the city or village in the following ways:

13 **SECTION 3.** 66.0217 (14) of the statutes is created to read:

14 66.0217 (14) LIMITATIONS ON ANNEXATION AUTHORITY. (a) Except as provided in  
15 par. (c), no territory may be annexed by a city or village under this section if no part  
16 of the city or village is located in the same county as the territory that is subject to  
17 the proposed annexation.

18 (b) Except as provided in par. (c), no territory may be annexed by a city or village  
19 under this section unless the entire annexation follows one or more of the following:

- 20 1. A natural boundary.
- 21 2. The center line of a highway.
- 22 3. A surveyor's section line that is no lower than a quarter-quarter section line.

23 (c) Territory to which par. (a) or (b) applies may be annexed by a city or village  
24 if all of the following apply:

1           1. The city or village, and the town, enter into a boundary agreement under s.  
2 66.0307.

3           2. The city or village agrees to pay annually to the town, for 5 years, an amount  
4 equal to the amount of property taxes that the town levied on the annexed territory,  
5 as shown by the tax roll under s. 70.65, in the year in which the annexation is final.

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

7           **66.0219 Annexation by referendum initiated by city or village.** (intro.)

8 As a complete alternative to any other annexation procedure, and subject to sub. (10)  
9 and s. 66.0307 (7), unincorporated territory which contains electors and is  
10 contiguous to a city or village may be annexed to the city or village under this section.  
11 The definitions in s. 66.0217 (1) apply to this section.

12           **SECTION 5.** 66.0219 (10) of the statutes is created to read:

13           **66.0219 (10) LIMITATIONS ON ANNEXATION AUTHORITY.** (a) Except as provided in  
14 par. (c), no territory may be annexed by a city or village under this section if no part  
15 of the city or village is located in the same county as the territory that is subject to  
16 the proposed annexation.

17           (b) Except as provided in par. (c), no territory may be annexed by a city or village  
18 under this section unless the entire annexation follows one or more of the following:

19           1. A natural boundary.

20           2. The center line of a highway.

21           3. A surveyor's section line that is no lower than a quarter-quarter section line.

22           (c) Territory to which par. (a) or (b) applies may be annexed by a city or village  
23 if all of the following apply:

24           1. The city or village, and the town, enter into a boundary agreement under s.  
25 66.0307.

1           2. The city or village agrees to pay annually to the town, for 5 years, an amount  
2 equal to the amount of property taxes that the town levied on the annexed territory,  
3 as shown by the tax roll under s. 70.65, in the year in which the annexation is final.

4           **SECTION 6.** 66.0221 (1) of the statutes is amended to read:

5           66.0221 (1) Upon its own motion and subject to sub. (3) and s. 66.0307 (7), a  
6 city or village, by a two-thirds vote of the entire membership of its governing body,  
7 may enact an ordinance annexing territory which comprises a portion of a town or  
8 towns and which was completely surrounded by territory of the city or village on  
9 December 2, 1973. The ordinance shall include all surrounded town areas except  
10 those that are exempt by mutual agreement of all of the governing bodies involved.  
11 The annexation ordinance shall contain a legal description of the territory and the  
12 name of the town or towns from which the territory is detached. Upon enactment of  
13 the ordinance, the city or village clerk immediately shall file 6 certified copies of the  
14 ordinance in the office of the secretary of state, together with 6 copies of a scale map.  
15 The secretary of state shall forward 2 copies of the ordinance and scale map to the  
16 department of transportation, one copy to the department of natural resources, one  
17 copy to the department of revenue and one copy to the department of administration.  
18 This subsection does not apply if the town island was created only by the annexation  
19 of a railroad right-of-way or drainage ditch. This subsection does not apply to land  
20 owned by a town government which has existing town government buildings located  
21 on the land. No town island may be annexed under this subsection if the island  
22 consists of over 65 acres or contains over 100 residents. Section 66.0217 (11) applies  
23 to annexations under this subsection. Except as provided in sub. (2), after  
24 December 2, 1973, no city or village may, by annexation, create a town area which  
25 is completely surrounded by the city or village.

1           **SECTION 7.** 66.0221 (3) of the statutes is created to read:

2           66.0221 **(3)** (a) Except as provided in par. (c), no territory may be annexed by  
3 a city or village under this section if no part of the city or village is located in the same  
4 county as the territory that is subject to the proposed annexation.

5           (b) Except as provided in par. (c), no territory may be annexed by a city or village  
6 under this section unless the entire annexation follows one or more of the following:

7           1. A natural boundary.

8           2. The center line of a highway.

9           3. A surveyor's section line that is no lower than a quarter-quarter section line.

10          (c) Territory to which par. (a) or (b) applies may be annexed by a city or village  
11 if all of the following apply:

12          1. The city or village, and the town, enter into a boundary agreement under s.  
13 66.0307.

14          2. The city or village agrees to pay annually to the town, for 5 years, an amount  
15 equal to the amount of property taxes that the town levied on the annexed territory,  
16 as shown by the tax roll under s. 70.65, in the year in which the annexation is final.

17          **SECTION 8.** 66.0223 of the statutes is renumbered 66.0223 (1) and amended to  
18 read:

19          66.0223 **(1) Annexation of territory owned by a city or village.** In  
20 addition to other methods provided by law and subject to sub. (2) and ss. 59.692 (7)  
21 and 66.0307 (7), territory owned by and lying near but not necessarily contiguous to  
22 a village or city may be annexed to a village or city by ordinance enacted by the board  
23 of trustees of the village or the common council of the city, provided that in the case  
24 of noncontiguous territory the use of the territory by the city or village is not contrary  
25 to any town or county zoning regulation. The ordinance shall contain the exact

1 description of the territory annexed and the names of the towns from which  
2 detached, and attaches the territory to the village or city upon the filing of 7 certified  
3 copies of the ordinance in the office of the secretary of state, together with 7 copies  
4 of a plat showing the boundaries of the territory attached. Two copies of the  
5 ordinance and plat shall be forwarded by the secretary of state to the department of  
6 transportation, one copy to the department of administration, one copy to the  
7 department of natural resources, one copy to the department of revenue and one copy  
8 to the department of public instruction. Within 10 days of filing the certified copies,  
9 a copy of the ordinance and plat shall be mailed or delivered to the clerk of the county  
10 in which the annexed territory is located. Section 66.0217 (11) applies to annexations  
11 under this section.

12 **SECTION 9.** 66.0223 (2) of the statutes is created to read:

13 66.0223 (2) (a) Except as provided in par. (c), no territory may be annexed by  
14 a city or village under this section if no part of the city or village is located in the same  
15 county as the territory that is subject to the proposed annexation.

16 (b) Except as provided in par. (c), no territory may be annexed by a city or village  
17 under this section unless the entire annexation follows one or more of the following:

- 18 1. A natural boundary.
- 19 2. The center line of a highway.
- 20 3. A surveyor's section line that is no lower than a quarter-quarter section line.

21 (c) Territory to which par. (a) or (b) applies may be annexed by a city or village  
22 if the city or village, and the town, enter into a boundary agreement under s. 66.0307.

23 **SECTION 10. Initial applicability.**

