

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

March 9, 2004 – Offered by Representative GARD.

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 (11) (c), 66.0217  
3           (14), 66.0219 (10), 66.0221 (3) and 66.0223 (2) of the statutes; **relating to:**  
4           limiting the authority of cities and villages to annex territory and specifying the  
5           boundaries for certain annexations.

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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, no city or village may annex any territory unless 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, except that a city village may avoid making payments to the town if the city or village, and the town, enter into a boundary agreement.

Also under this substitute amendment, 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 unless the town board and the county board in which the territory is located approve the annexation. If the annexation is of city-owned or village-owned territory, the city or village, and the town, must enter into a boundary agreement.

Under this substitute amendment, no town may bring an action to challenge on any grounds a direct annexation by unanimous approval.

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 (11) (c) of the statutes is created to read:

14 66.0217 (11) (c) No action on any grounds, whether procedural or jurisdictional,  
15 to contest the validity of an annexation under sub. (2), may be brought by any town.

16 **SECTION 4.** 66.0217 (14) of the statutes is created to read:

17 66.0217 (14) LIMITATIONS ON ANNEXATION AUTHORITY. (a) 1. Except as provided  
18 in subd. 2., no territory may be annexed by a city or village under this section unless  
19 the city or village agrees to pay annually to the town, for 5 years, an amount equal  
20 to the amount of property taxes that the town levied on the annexed territory, as  
21 shown by the tax roll under s. 70.65, in the year in which the annexation is final.

22 2. No payments under subd. 1. must be made if the city or village, and the town,  
23 enter into a boundary agreement under s. 66.0225, 66.0301, or 66.0307.

1 (b) No territory may be annexed by a city or village under this section if no part  
2 of the city or village is located in the same county as the territory that is subject to  
3 the proposed annexation unless all of the following occur:

4 1. The town board adopts a resolution approving the proposed annexation.

5 2. The county board of the county in which the territory is located adopts a  
6 resolution approving the proposed annexation.

7 **SECTION 5.** 66.0219 (intro.) of the statutes is amended to read:

8 **66.0219 Annexation by referendum initiated by city or village.** (intro.)

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

12 The definitions in s. 66.0217 (1) apply to this section.

13 **SECTION 6.** 66.0219 (10) of the statutes is created to read:

14 **66.0219 (10) LIMITATIONS ON ANNEXATION AUTHORITY.** (a) 1. Except as provided  
15 in subd. 2., no territory may be annexed by a city or village under this section unless  
16 the city or village agrees to pay annually to the town, for 5 years, an amount equal  
17 to the amount of property taxes that the town levied on the annexed territory, as  
18 shown by the tax roll under s. 70.65, in the year in which the annexation is final.

19 2. No payments under subd. 1. must be made if the city or village, and the town,  
20 enter into a boundary agreement under s. 66.0225, 66.0301, or 66.0307.

21 (b) No territory may be annexed by a city or village under this section if no part  
22 of the city or village is located in the same county as the territory that is subject to  
23 the proposed annexation unless all of the following occur:

24 1. The town board adopts a resolution approving the proposed annexation.

1           2. The county board of the county in which the territory is located adopts a  
2 resolution approving the proposed annexation.

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

4           66.0221 (1) Upon its own motion and subject to sub. (3) and s. 66.0307 (7), a  
5 city or village, by a two-thirds vote of the entire membership of its governing body,  
6 may enact an ordinance annexing territory which comprises a portion of a town or  
7 towns and which was completely surrounded by territory of the city or village on  
8 December 2, 1973. The ordinance shall include all surrounded town areas except  
9 those that are exempt by mutual agreement of all of the governing bodies involved.  
10 The annexation ordinance shall contain a legal description of the territory and the  
11 name of the town or towns from which the territory is detached. Upon enactment of  
12 the ordinance, the city or village clerk immediately shall file 6 certified copies of the  
13 ordinance in the office of the secretary of state, together with 6 copies of a scale map.  
14 The secretary of state shall forward 2 copies of the ordinance and scale map to the  
15 department of transportation, one copy to the department of natural resources, one  
16 copy to the department of revenue and one copy to the department of administration.  
17 This subsection does not apply if the town island was created only by the annexation  
18 of a railroad right-of-way or drainage ditch. This subsection does not apply to land  
19 owned by a town government which has existing town government buildings located  
20 on the land. No town island may be annexed under this subsection if the island  
21 consists of over 65 acres or contains over 100 residents. Section 66.0217 (11) applies  
22 to annexations under this subsection. Except as provided in sub. (2), after  
23 December 2, 1973, no city or village may, by annexation, create a town area which  
24 is completely surrounded by the city or village.

25           **SECTION 8.** 66.0221 (3) of the statutes is created to read:

1           66.0221 **(3)** (a) 1. Except as provided in subd. 2., no territory may be annexed  
2 by a city or village under this section unless the city or village agrees to pay annually  
3 to the town, for 5 years, an amount equal to the amount of property taxes that the  
4 town levied on the annexed territory, as shown by the tax roll under s. 70.65, in the  
5 year in which the annexation is final.

6           2. No payments under subd. 1. must be made if the city or village, and the town,  
7 enter into a boundary agreement under s. 66.0225, 66.0301, or 66.0307.

8           (b) No territory may be annexed by a city or village under this section if no part  
9 of the city or village is located in the same county as the territory that is subject to  
10 the proposed annexation unless all of the following occur:

11           1. The town board adopts a resolution approving the proposed annexation.

12           2. The county board of the county in which the territory is located adopts a  
13 resolution approving the proposed annexation.

14           **SECTION 9.** 66.0223 of the statutes is renumbered 66.0223 (1) and amended to  
15 read:

16           66.0223 **(1)** In addition to other methods provided by law and subject to sub.  
17 (2) and ss. 59.692 (7) and 66.0307 (7), territory owned by and lying near but not  
18 necessarily contiguous to a village or city may be annexed to a village or city by  
19 ordinance enacted by the board of trustees of the village or the common council of the  
20 city, provided that in the case of noncontiguous territory the use of the territory by  
21 the city or village is not contrary to any town or county zoning regulation. The  
22 ordinance shall contain the exact description of the territory annexed and the names  
23 of the towns from which detached, and attaches the territory to the village or city  
24 upon the filing of 7 certified copies of the ordinance in the office of the secretary of  
25 state, together with 7 copies of a plat showing the boundaries of the territory

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

8 **SECTION 10.** 66.0223 (2) of the statutes is created to read:

9 66.0223 (2) No territory may be annexed by a city or village under this section  
10 if no part of the city or village is located in the same county as the territory that is  
11 subject to the proposed annexation unless all of the following occur:

12 (a) The town board adopts a resolution approving the proposed annexation.

13 (b) The county board of the county in which the territory is located adopts a  
14 resolution approving the proposed annexation.

15 (c) The city or village, and the town, enter into a boundary agreement under  
16 s. 66.0225, 66.0301, or 66.0307.

17 **SECTION 11. Initial applicability.**

18 (1) This act first applies to any annexation that has not taken effect on the  
19 effective date of this subsection.

20 (END)