

## 2005 ASSEMBLY BILL 79

February 3, 2005 – Introduced by Representatives MUSSER, WOOD, LOTHIAN, LEMAHIEU, BERCEAU, GOTTLIEB, GUNDERSON, KERKMAN, JESKEWITZ, WARD, NASS, BIES, ZEPNICK, JENSEN, OTT, NELSON, KESTELL, KRAWCZYK, HUBLER, F. LASEE, KAUFERT, MOLEPSKE, VRAKAS, WIECKERT, MCCORMICK, PETTIS and TOWNSEND, cosponsored by Senators LEIBHAM, COWLES, ROESSLER, HARSDORF and GROTHMAN. Referred to Committee on Urban and Local Affairs.

1     **AN ACT** *to amend* 59.03 (2) (c), 59.26 (1) (intro.), 59.26 (2), 59.26 (3), 59.26 (8) (a),  
 2             61.65 (1) (a) (intro.), 62.09 (1) (a) and 62.13 (1); and *to create* 59.26 (10), 59.27  
 3             (13), 61.65 (1) (a) 4. and 62.13 (2s) of the statutes; **relating to:** authorizing a  
 4             city or a village to abolish its police department and contract for law  
 5             enforcement services with a county.

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### ***Analysis by the Legislative Reference Bureau***

Generally under current law, each city is required to have a board of police and fire commissioners. The board is required to appoint the chief of police and the chief of the fire department, and the chiefs are required to appoint subordinates subject to approval by the board. Also under current law, a village with a population of 5,000 or more is required to provide police protection by creating its own police department, by contracting for police protective services with a city, village, town, or county, or by creating a joint police department with a city, village, or town.

Current law authorizes a county to exercise any of its powers to provide services, such as water, sewer, streets and highways, fire, police, and health, in any municipality (city, village, or town), or part of a municipality that is located in the county, upon the request of the municipality. The municipality may adopt a resolution designating the function it would like the county to assume and the terms under which the power shall be exercised. If the county board approves the resolution, the county may then exercise the designated function in the municipality, and the county and municipality may enter into a contract under which the

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municipality agrees to appropriate money to the county to pay for the service to be provided by the county.

This bill specifically authorizes a city, or a village, to abolish its police department if it enters into a contract with a county for the sheriff to provide law enforcement services in all parts of the city or village. If a city or village is in more than one county, the city or village must enter into a contract with the county in which the greatest amount of the city's, or village's, equalized value, population, or territory is located.

Before a city or village may enter into such a contract, the common council or village board must adopt a resolution requesting that the county provide police protective services and stating that the services are to be provided exclusively by the county, and the county must approve the resolution. The contract must address at least the following issues:

1. The division of the city's assets and liabilities that relate to the city's police department.
2. A description of the level of services that the county will provide and the amount that the city will pay for the services.
3. A procedure for the city to request, or require, additional law enforcement services and the amount that the city will have to pay for the services.
4. The term of the agreement and procedures for the renewal, extension, or termination of the agreement.

No agreement that is entered into may take effect before the termination of any collective bargaining agreement that covers the city's police department employees.

The bill also provides that if a city or village and a county enter into a contract for the county to provide law enforcement services a sheriff is required, for approximately two years after the contract takes effect, and to the greatest extent possible, to hire any additional deputies that are needed from the ranks of former police officers who lost their positions when their departments were abolished. This requirement on a sheriff applies notwithstanding any current law provisions governing the hiring of deputies, such as a requirement that deputies be hired from a list of persons with the highest scores on a civil service exam, although the requirement does not apply to the extent that it conflicts with a collective bargaining agreement between a county and its employees.

The bill also authorizes, but does not require, a village with a population of under 5,000 to provide police protection services to the same extent as villages with a population of at least 5,000 are required to provide.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 59.03 (2) (c) of the statutes is amended to read:

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1           59.03 (2) (c) Whenever the request under par. (a) or acceptance under par. (b)  
2 of a municipality shall be is by resolution of its governing board, such the request or  
3 acceptance shall not go into effect until the expiration of 60 days from the adoption  
4 of the resolution or, in the case of county law enforcement services provided to a city  
5 as described in s. 62.13 (2s), as provided in s. 62.13 (2s) (d). If a petition under s. 9.20  
6 for direct legislation on the request or acceptance shall be is filed before the  
7 expiration of said 60 days, the resolution of the governing board shall be is of no effect  
8 but the request or acceptance of such municipality shall be determined by direct  
9 legislation, except that no petition for direct legislation under s. 9.20 may be filed to  
10 approve or reject a contract entered into by a city and a county under s. 62.13 (2s).

11           **SECTION 2.** 59.26 (1) (intro.) of the statutes is amended to read:

12           59.26 (1) (intro.) Within 10 days after entering upon the duties of the office of  
13 sheriff, the sheriff shall appoint some proper person, who is a resident of the county,  
14 undersheriff. However, in counties with a population of 500,000 or more the  
15 appointment of an undersheriff is optional. In counties where the sheriff's  
16 department is under civil service, the sheriff, in conformity with county ordinance,  
17 may, at the request of the affected deputy, grant a leave of absence to a deputy sheriff  
18 who the sheriff has appointed undersheriff, or to any other position in the sheriff's  
19 department, upon the deputy's acceptance of the appointment. Any deputy in a  
20 county under civil service granted leave of absence under this subsection upon  
21 completion of the appointive position shall immediately be returned to the position  
22 of deputy sheriff and shall continue therein without loss of any rights under the civil  
23 service law. The sheriff, however, may not grant such leave of absence to a deputy  
24 sheriff until the sheriff first secures the consent of the board by resolution duly  
25 adopted by the board. Within 10 days after entering upon the duties of the office of

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1 sheriff, the sheriff shall also appoint, subject to sub. (10), deputy sheriffs for the  
2 county as follows:

3 **SECTION 3.** 59.26 (2) of the statutes is amended to read:

4 59.26 **(2)** The Subject to sub. (10), the sheriff may appoint as many other  
5 deputies as the sheriff considers proper.

6 **SECTION 4.** 59.26 (3) of the statutes is amended to read:

7 59.26 **(3)** The Subject to sub. (10), the sheriff may fill vacancies in the office of  
8 any such appointee, and he or she may appoint a person to take the place of any  
9 undersheriff or deputy who becomes incapable of executing the duties of that office.

10 **SECTION 5.** 59.26 (8) (a) of the statutes is amended to read:

11 59.26 **(8)** (a) In any county with a population of less than 500,000, the board,  
12 by ordinance, may fix the number of deputy sheriffs to be appointed in that county  
13 at not less than that number required by sub. (1) (a) and (b) and may set the salary  
14 of those deputies. The Subject to sub. (10), the board may provide by ordinance that  
15 deputy sheriff positions be filled by appointment by the sheriff from a list of all  
16 persons with the 3 highest scores for each position based on a competitive  
17 examination. Such competitive examinations may be by a county civil service  
18 commission or by the division of merit recruitment and selection in the office of state  
19 employment relations at the option of the board and it shall so provide by ordinance.  
20 The division of merit recruitment and selection in the office of state employment  
21 relations shall, upon request of the board, conduct such examination according to the  
22 methods used in examinations for the state civil service and shall certify an eligible  
23 list of the names of all persons with the 3 highest scores on that examination for each  
24 position to the sheriff of that county who shall, subject to sub. (10), make an  
25 appointment from that list to fill the position within 10 days after he or she receives

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1 the eligible list. The county for which such examination is conducted shall pay the  
2 cost of that examination. If a civil service commission is decided upon for the  
3 selection of deputy sheriffs, then ss. 63.01 to 63.17 shall apply so far as consistent  
4 with this subsection, except ss. 63.03, 63.04 and 63.15 and except the provision  
5 governing minimum compensation of the commissioners. The ordinance or an  
6 amending ordinance may provide for employee grievance procedures and  
7 disciplinary actions, for hours of work, for tours of duty according to seniority and for  
8 other administrative regulations. Any board provision consistent with this  
9 paragraph and existing on July 25, 1951, is validated. If the sheriff fills a deputy  
10 sheriff position by promotion, the sheriff shall, subject to sub. (10), make the  
11 appointment to the position from a list of 3 deputy sheriffs who receive the highest  
12 scores in a competitive examination. Such competitive examinations may be by a  
13 county civil service commission or by the division of merit recruitment and selection  
14 in the office of state employment relations at the option of the board and it shall so  
15 provide by ordinance.

16 **SECTION 6.** 59.26 (10) of the statutes is created to read:

17 59.26 (10) (a) Notwithstanding the provisions in subs. (1) (intro.), (2), (3), and  
18 (8) (a), and subject to par. (b), if a county provides law enforcement services to a city  
19 or village under ss. 59.03 (2) (e) and 62.13 (2s) and if the sheriff appoints additional  
20 deputies under sub. (2) to provide the services, the sheriff shall, to the greatest extent  
21 possible, fill the additional deputy positions from the ranks of former police officers  
22 who lost their positions when their department was abolished under s. 62.13 (2s) (a).  
23 With regard to each contract that is entered into under s. 59.03 (2) (e), this provision  
24 does not apply on or after the first day of the 25th month beginning after the contract  
25 takes effect in the county.

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1 (b) Paragraph (a) applies only to the extent that it is not inconsistent with any  
2 collective bargaining agreement that is in effect between a county and its employees.

3 **SECTION 7.** 59.27 (13) of the statutes is created to read:

4 59.27 (13) Enforce all city, or village, ordinances in a city, or village, in which  
5 the sheriff provides law enforcement services under a contract described under s.  
6 62.13 (2s) (a).

7 **SECTION 8.** 61.65 (1) (a) (intro.) of the statutes is amended to read:

8 61.65 (1) (a) (intro.) Except as provided under s. 61.66, each village with a  
9 population of 5,000 or more shall, and each village with a population of under 5,000  
10 may provide police protection services by one of the following methods:

11 **SECTION 9.** 61.65 (1) (a) 4. of the statutes is created to read:

12 61.65 (1) (a) 4. Abolishing its police department and entering into a contract  
13 with a county under s. 59.03 (2) (e) for the county sheriff to provide law enforcement  
14 services in all parts of the village. If the village is located in more than one county,  
15 it may not abolish its police department under this subdivision unless the village  
16 enters into a contract under this subdivision with the county in which the greatest  
17 amount of the village's equalized value, population, or territory is located. If a village  
18 wishes to abolish its police department under this subdivision, it shall act under s.  
19 62.13 (2s), and s. 62.13 (2s), as it applies to cities, applies to villages.

20 **SECTION 10.** 62.09 (1) (a) of the statutes is amended to read:

21 62.09 (1) (a) The officers shall be a mayor, treasurer, clerk, comptroller,  
22 attorney, engineer, one or more assessors unless the city is assessed by a county  
23 assessor under s. 70.99, one or more constables as determined by the common  
24 council, a local health officer, as defined in s. 250.01 (5), or local board of health, as  
25 defined in s. 250.01 (3), street commissioner, board of police and fire commissioners

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1       except in cities where not applicable, chief of police except in a city that has abolished  
2       its police department under s. 62.13 (2s), chief of the fire department, board of public  
3       works, 2 alderpersons from each aldermanic district, and such other officers or  
4       boards as are created by law or by the council. If one alderperson from each  
5       aldermanic district is provided under s. 66.0211 (1), the council may, by ordinance  
6       adopted by a two-thirds vote of all its members and approved by the electors at a  
7       general or special election, provide that there shall be 2 alderpersons from each  
8       aldermanic district.

9               **SECTION 11.** 62.13 (1) of the statutes is amended to read:

10              **62.13 (1) COMMISSIONERS.** Except as provided in ~~sub.~~ subs. (2m) and (2s), each  
11       city shall have a board of police and fire commissioners consisting of 5 citizens, 3 of  
12       whom shall constitute a quorum. The mayor shall annually, between the last  
13       Monday of April and the first Monday of May, appoint in writing to be filed with the  
14       secretary of the board, one member for a term of 5 years. No appointment shall be  
15       made which will result in more than 3 members of the board belonging to the same  
16       political party. The board shall keep a record of its proceedings.

17              **SECTION 12.** 62.13 (2s) of the statutes is created to read:

18              **62.13 (2s) ABOLITION OF POLICE DEPARTMENT, COUNTY LAW ENFORCEMENT.** (a)  
19       Subject to pars. (b) to (d), a city may abolish its police department if it enters into a  
20       contract with a county under s. 59.03 (2) (e) for the county sheriff to provide law  
21       enforcement services in all parts of the city. If the city is located in more than one  
22       county, it may not abolish its police department under this paragraph unless the city  
23       enters into a contract under this paragraph with the county in which the greatest  
24       amount of the city's equalized value, population or territory is located.



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1 (b) If a city wishes to contract with a sheriff for law enforcement services, the  
2 common council shall adopt a resolution, as described under s. 59.03 (2) (a),  
3 requesting that such services be provided. The resolution shall provide that such  
4 services are to be provided exclusively by the county.

5 (c) The contract described under par. (a) shall address at least all of the  
6 following elements:

7 1. The division, with the county, of the city's assets and liabilities that relate  
8 to the city's police department and the amount that the county will pay, if any, for  
9 such assets.

10 2. A description of the level of law enforcement and the number of deputies that  
11 the county will provide to the city and the amount that the city will pay for the  
12 services in excess of the city's portion of the county's law enforcement levy.

13 3. A procedure for the city to request, or require, that the county provide  
14 additional law enforcement services and the cost the county may charge the city for  
15 providing additional services.

16 4. The term of the agreement and procedures for the renewal, extension, or  
17 termination of the agreement.

18 (d) No contract that is entered into under this subsection may take effect until  
19 all of the following occur:

20 1. The county board approves under s. 59.03 (2) (a) the resolution adopted  
21 under par. (b).

22 2. The governing bodies of the city and the county approve the contract.

23 3. The expiration of any collective bargaining agreement between the city and  
24 its police department employees.

25 (END)