



**SENATE SUBSTITUTE AMENDMENT 1,
TO 2011 SENATE BILL 129**

January 9, 2012 – Offered by Senator LASEE.

1 **AN ACT** *to repeal* 66.0217 (14) (b) 2.; *to consolidate, renumber and amend*
2 66.0217 (14) (b) (intro.) and 1.; *to amend* 66.0217 (11) (c); and *to create* 66.0217
3 (6) (d) of the statutes; **relating to:** Department of Administration review of
4 annexations of town territory, county board approval of certain annexations,
5 and authorizing towns to challenge certain city or village annexations.

Analysis by the Legislative Reference Bureau

Generally, under current law, a city or village may annex contiguous town territory if the city or village agrees to make limited payments to the town based on property taxes the town levied on the annexed territory. However, current law prohibits a city or village from annexing town land located in a county in which no part of the city or village is located unless both the town and county boards approve the cross-county annexation. Under this substitute amendment, county board approval is no longer needed.

Under current law, one method of annexation is direct annexation by unanimous approval. If a petition for direct annexation by unanimous approval signed by all of the electors residing in the territory and the owners of all of the real property in the territory is filed with the city or village clerk, and with the town clerk of all of the involved towns, along with a scale map and a legal description of the

property to be annexed, the governing body of the city or village may, generally, annex the property by a two-thirds vote of the body. Such an annexation, however, is subject to Department of Administration (DOA) advisory review as if the annexation petition were for direct, but not unanimous, annexation or annexation by referendum. In addition, such an annexation is limited to town land that is contiguous to the annexing city or village.

Under current law, a town may not challenge in court, on any grounds, any direct annexation by unanimous approval as well as several other types of annexations.

Under this substitute amendment, the town affected by an annexation may ask DOA to review the proposed annexation, within 30 days of the ordinance's enactment, to determine whether it violates the current law requirements related to contiguity or the prohibition against cross-county annexation. DOA must complete its review within 20 days of receiving the town's request. If DOA does not complete its review within 20 days, it is as if DOA found no violation of current law requirements.

The substitute amendment requires DOA to send a copy of its findings to any affected landowner, the annexing city or village, and the affected town. If DOA finds that the annexation violates either of the requirements, the affected town may challenge the annexation in circuit court within 45 days of receiving DOA's findings. Under the substitute amendment, the losing party in the court action must pay the court costs and the prevailing party's reasonable attorney fees.

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

1 **SECTION 1.** 66.0217 (6) (d) of the statutes is created to read:

2 66.0217 **(6)** (d) *Direct annexation by unanimous approval.* 1. Upon the request
3 of the town affected by the annexation, the department shall review an annexation
4 under sub. (2) to determine whether the annexation violates any of the following,
5 provided that the town submits its request to the department within 30 days of the
6 enactment of the annexation ordinance:

7 a. The requirement under sub. (2) regarding the contiguity of the territory to
8 be annexed with the annexing city or village.

9 b. The requirement under sub. (14) (b).

1 2. Following its review, and within 20 days of receiving the town's request, the
2 department shall send a copy of its findings to any affected landowner, the town
3 affected by the annexation, and the annexing city or village. If the department does
4 not complete its review and send a copy of its findings within 20 days of receiving the
5 town's request, the effect on the town and the annexing city or village shall be the
6 same as if the department found no violation of the requirements specified in subd.

7 1. If the department finds that an annexation violates any requirement specified in
8 subd. 1., the town from which territory is annexed may, within 45 days of its receipt
9 of the department's findings, challenge the annexation in circuit court.

10 3. If the town commences an action to challenge the annexation and the circuit
11 court rules against the town, the town shall pay the court costs and the city's or
12 village's reasonable attorney fees incurred in defending the annexation. If the town
13 commences an action to challenge the annexation and the circuit court rules in the
14 town's favor and upholds the town's challenge, the city or village shall pay the court
15 costs and the town's reasonable attorney fees incurred in challenging the
16 annexation.

17 **SECTION 2.** 66.0217 (11) (c) of the statutes is amended to read:

18 66.0217 **(11)** (c) No Except as provided in sub. (6) (d) 2., no action on any
19 grounds, whether procedural or jurisdictional, to contest the validity of an
20 annexation under sub. (2), may be brought by any town.

21 **SECTION 3.** 66.0217 (14) (b) (intro.) and 1. of the statutes are consolidated,
22 renumbered 66.0217 (14) (b) and amended to read:

23 66.0217 **(14)** (b) No territory may be annexed by a city or village under this
24 section if no part of the city or village is located in the same county as the territory

1 that is subject to the proposed annexation unless ~~all of the following occur: 1. The~~
2 the town board adopts a resolution approving the proposed annexation.

3 **SECTION 4.** 66.0217 (14) (b) 2. of the statutes is repealed.

4 **SECTION 5. Initial applicability.**

5 (1) This act first applies to any annexation that commences on the effective date
6 of this subsection.

7 (END)