

State of Wisconsin



2011 Senate Bill 150

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2011 WISCONSIN ACT 39

AN ACT *to renumber and amend* 59.10 (3) (c); *to amend* 5.15 (1) (a) 1. and 2., 5.15 (1) (b), 5.15 (1) (c), 5.15 (2) (bm), 5.15 (2) (e) and (f) (intro.), 5.15 (2) (f) 4., 5.15 (2) (g), 5.15 (4), 5.15 (6) (a), 5.15 (7), 5.18, 59.10 (2) (a), 59.10 (2) (d), 59.10 (3) (b) 1., 59.10 (3) (b) 2., 59.10 (3) (b) 4., 59.10 (3) (cm) 1., 59.10 (6), 62.08 (1), 62.08 (2), 62.08 (4m) and 119.08 (1) (b); and *to create* 5.15 (2) (b) (intro.), 5.15 (4) (c), 59.10 (3) (b) 3., 59.10 (3) (c) 2. and 3., 751.035 and 801.50 (4m) of the statutes; **relating to:** division of municipalities into wards and redistricting of supervisory and aldermanic districts and appointing a panel to hear challenges to the apportionment of a congressional or legislative district, and hearing certain appeals.

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

SECTION 1. 5.15 (1) (a) 1. and 2. of the statutes are amended to read:

5.15 (1) (a) 1. Every city, village, and town in this state shall by ordinance or resolution of its common council or village or town board, respectively, be divided into wards as provided in this section, except as authorized in sub. (2). The boundaries of the wards established under this section, and the number assigned to each ward, are intended to be as permanent as possible, and to this end each ward shall when created contain a population at a convenient point within the applicable population range under sub. (2) (b), with due consideration for the known trends of population increase or decrease within that part of the municipality in which the ward is located.

2. Once established, the boundaries of each ward shall remain unchanged until a further decennial federal census of population indicates that the population of a ward is then above or below the applicable population range, or until the ward boundaries are required to be changed to permit creation of supervisory or aldermanic

districts of substantially equal population or to enhance the participation of members of a racial or language minority group in the political process and their ability to elect representatives of their choice, or until otherwise authorized or required under this section.

SECTION 2. 5.15 (1) (b) of the statutes is amended to read:

5.15 (1) (b) Except as authorized in sub. (2) (a), within 60 days after the receipt of a tentative supervisory district plan and written statement, if any, from the county board of each county in which a municipality is located, the governing body of the municipality shall adjust its wards according to the schedule shown in sub. (2). All territory contained within the municipality, and only the territory so contained, on August 1 following April 1 of the year of the federal decennial census shall be contained within a ward established under the division ordinance or resolution. Except as authorized in sub. (2), each ward shall consist of whole blocks, as utilized by the U.S. bureau of the census in the most recent federal decennial census. To suit the convenience of the voters residing therein each ward shall, as far as practicable, be kept compact and observe the community of interest of

* Section 991.11, WISCONSIN STATUTES 2009-10: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

existing neighborhoods and other settlements. All territory within a ward shall be contiguous, except for island territory as defined in sub. (2) (f) 3. Enactment or adoption of a division ordinance or resolution requires the affirmative vote of a majority of the members of the governing body.

SECTION 3. 5.15 (1) (c) of the statutes is amended to read:

5.15 (1) (c) The wards established by municipal governing bodies in a division ordinance or resolution enacted or adopted under this section ~~on the basis of the published results of each federal decennial census of population~~ shall govern the adjustment of supervisory districts under s. 59.10 (2) (a) and (3) (b) and of aldermanic districts under s. 62.08 (1) for the purpose of local elections beginning on January 1 of the 2nd year commencing after the year of the census until revised under this section on the basis of the results of the next decennial census of population unless adjusted under sub. (2) (f) 4., (6) (a) or (7), or unless adjusted, as a matter of statewide concern, ~~in the enactment of a division is required to effect an act of the legislature redistricting legislative districts under article IV, section 3, of the constitution on the basis of the most recent decennial census of population or redistricting congressional districts. The populations of wards under each decennial ward division shall be determined on the basis of the federal decennial census and any official corrections to the census issued on or before the date of adoption of the division ordinance or resolution to reflect the correct populations of the municipality and the blocks within the municipality on April 1 of the year of the census.~~

SECTION 4. 5.15 (2) (b) (intro.) of the statutes is created to read:

5.15 (2) (b) (intro.) Except for wards created to effect an act of the legislature redistricting legislative districts under article IV, section 3, of the constitution or redistricting congressional districts and except as authorized under pars. (bm), (c), (e), and (f) and sub. (7), wards shall contain the following numbers of inhabitants:

SECTION 5. 5.15 (2) (bm) of the statutes is amended to read:

5.15 (2) (bm) Every city electing the members of its common council from aldermanic districts shall assemble the blocks wholly or partially contained within the city into wards that will enable the creation of aldermanic districts that are substantially equal in population. If a block is partly contained within the city, the city shall divide the block to form a ward containing the portion of the block that lies within the city.

SECTION 6. 5.15 (2) (e) and (f) (intro.) of the statutes are amended to read:

5.15 (2) (e) ~~Notwithstanding par. (b), if~~ If territory is detached from a city, village or town after ~~adoption of a decennial ward plan April 1 of the year of the federal decennial census,~~ and the remaining portion of the ward

to which it was attached falls below the prescribed minimum population for the applicable range, the remaining portion of the population may be constituted a ward by itself.

(f) (intro.) ~~Notwithstanding par. (b), any~~ Any city, village or town may establish a ward below the prescribed minimum population for the applicable range whenever the proposed ward is established under par. (a), (d) or (e) or whenever the proposed ward contains solely:

SECTION 7. 5.15 (2) (f) 4. of the statutes is amended to read:

5.15 (2) (f) 4. New territory which becomes a part of a city, village or town after ~~the adoption of a decennial ward plan April 1 of the year of the federal decennial census.~~

SECTION 8. 5.15 (2) (g) of the statutes is amended to read:

5.15 (2) (g) If a block is affected by an annexation or detachment which establishes a municipal boundary that subdivides the block, the municipalities in which the block is contained shall incorporate only the portion of the block contained within their boundaries in their ward ~~plans~~ division ordinances or resolutions.

SECTION 9. 5.15 (4) of the statutes is amended to read:

5.15 (4) (a) ~~The~~ Except as provided in par. (c), the division ordinance or resolution shall number all wards in the municipality ~~in~~ with unique whole numbers in consecutive order, beginning with the number one, shall designate the polling place for each ward, and shall describe the boundaries of each ward consistent with the conventions set forth in s. 4.003. The ordinance or resolution shall be accompanied by a list of the block numbers used by the U.S. bureau of the census that are wholly or partly contained within each ward, with any block numbers partly contained within a ward identified, and a map of the municipality which illustrates the revised ward boundaries. If the legislature, in an act redistricting legislative districts under article IV, section 3, of the constitution, or in redistricting congressional districts, establishes a district boundary within a municipality that does not coincide with the boundary of a ward established under the ordinance or resolution of the municipality, the municipal governing body shall, no later than May 15 of the 2nd year following the year of the federal decennial census on which the act is based, amend the ordinance or resolution to the extent required to effect the act. The amended ordinance or resolution shall designate the polling place for any ward that is created to effect the legislative act. Nothing in this paragraph shall be construed to compel a county or city to alter or redraw supervisory or aldermanic districts.

(b) Within 5 days after adoption or enactment of an ordinance or resolution under this section or any amendment thereto, the municipal clerk shall transmit one copy of the ordinance or resolution or the amendment to the

county clerk of each county in which the municipality is contained, accompanied by the list and map specified in par. (a). If the population of the municipality exceeds 10,000, the municipal clerk shall furnish one copy to the legislative reference bureau at the same time. Each copy shall identify the name of the municipality and the county or counties in which it is located.

SECTION 9m. 5.15 (4) (c) of the statutes is created to read:

5.15 (4) (c) Wards that are created to effect an act of the legislature redistricting legislative districts or congressional districts and wards authorized under sub. (2) (bm), (c), (e), or (f) or (7) may be numbered with a combination of whole numbers and letters.

SECTION 10. 5.15 (6) (a) of the statutes is amended to read:

5.15 (6) (a) Following any municipality-wide special federal census of population, the governing body of the municipality in which the special census was held may, by ordinance or resolution, adjust the ward boundaries, but no ward line adjustment may cross the boundary of ~~an~~ a congressional, assembly, or supervisory district. The municipal clerk shall transmit copies of the ordinance or resolution in compliance with sub. (4) (b).

SECTION 11. 5.15 (7) of the statutes is amended to read:

5.15 (7) If a new town is created or if part of a town is annexed to a city or village during a decennial period ~~after the period for ward adjustments under sub. (1) (b) April 1 of the year of the federal decennial census,~~ the town board of any town to which territory is attached or from which territory is detached, without regard to the time provisions of sub. (1) (b), may, by ordinance or resolution, create new wards or adjust the existing wards in that town, but no to the extent required to reflect the change. If a municipality is consolidated with another municipality during a decennial period after April 1 of the year of the federal decennial census, the governing body of the consolidated municipality, without regard to the time provisions under sub. (1) (b), may, by ordinance or resolution, create new wards or adjust the existing wards of the municipality to the extent required to reflect the change. No ward line adjustment under this subsection may cross the boundary of ~~an~~ a congressional, assembly, or supervisory district. The town municipal clerk shall transmit copies of the ordinance or resolution making the adjustment in compliance with sub. (4) (b).

SECTION 12. 5.18 of the statutes is amended to read:

5.18 Enforcement of division requirement. If any municipality fails to comply with s. 5.15, the county in which the municipality is located or any elector of the municipality may submit to the circuit court for any county in which the municipality is located within 14 days from the expiration of the 60-day period under s. 5.15 (1) (b) a proposed plan for the division of the municipality into wards in compliance with this section. If the

circuit court finds that the existing division of the municipality into wards fails to comply with s. 5.15, it shall review the plan submitted by the petitioner and after reasonable notice to the municipality may promulgate the plan, or any other plan in compliance with s. 5.15, as a temporary ward plan for the municipality to remain in effect until superseded by a ward plan enacted or adopted by the governing body in compliance with s. 5.15.

SECTION 13. 59.10 (2) (a) of the statutes is amended to read:

59.10 (2) (a) *Composition; supervisory districts.* Within 60 days after the population count by census block, established in the decennial federal census of population, and maps showing the location and numbering of census blocks become available in printed form from the federal government or are published for distribution by an agency of this state, but no later than July 1 following the year of each decennial census, the board shall adopt and transmit to the governing body of each city and village wholly or partially contained within the county a tentative county supervisory district plan to be considered by the cities and villages when dividing into wards. The tentative plan shall specify the number of supervisors to be elected and shall divide the county into a number of districts equal to the number of supervisors, with each district substantially equal in population and consisting of contiguous whole wards or municipalities, except as authorized in sub. (3) (b) 2. Except as otherwise provided in this paragraph, the board shall develop and adopt the tentative plan in accordance with sub. (3) (b) 1. The tentative plan shall not include provision for division of any census block, as utilized by the U.S. bureau of the census in the most recent federal decennial census, unless the block is bisected by a municipal boundary or unless a division is required to enable creation of supervisory districts that are substantially equal in population. The board shall adopt a final plan by enacting an ordinance in accordance with sub. (3) (b) 2. to 4. Changes to the final plan shall be governed by par. (d) and sub. (3) (c).

SECTION 14. 59.10 (2) (d) of the statutes is amended to read:

59.10 (2) (d) *Changes during decade.* 1. 'Number of supervisors; redistricting.' The board may, not more than once prior to November 15, 2010, decrease the number of supervisors after the enactment of a supervisory district plan under par. (a). In that case, the board shall redistrict, readjust, and change the boundaries of supervisory districts, so that the number of districts equals the number of supervisors, the districts are substantially equal in population according to the most recent county-wide federal census, the districts are in as compact a form as possible, and the districts consist of contiguous municipalities or contiguous whole wards in existence at the time at which the amended redistricting plan is adopted, except as authorized in sub. (3) (b) 2. In the redistricting amended plan, the board shall adhere to the requirements

under sub. (3) (b) 2. with regard to contiguity and shall, to the extent possible, place whole contiguous municipalities or contiguous parts of the same municipality within the same district. In ~~redistricting under this subdivision~~ the amended plan, the original numbers of the districts in their geographic outlines, to the extent possible, shall be retained. The chairperson of the board shall file a certified copy of any ~~redistricting~~ amended plan adopted under this subdivision with the secretary of state.

2. 'Election; term.' Any ~~redistricting~~ amended plan enacted under subd. 1. becomes effective on the first November 15 following its enactment, and first applies to the spring election following the plan's effective date. Any ~~redistricting~~ amended plan enacted under subd. 1. shall remain in effect until the effective date of a redistricting plan subsequently enacted under par. (a). Supervisors elected from the districts created under subd. 1. shall serve for 4-year terms and shall take office on the 3rd Monday in April following their election.

SECTION 15. 59.10 (3) (b) 1. of the statutes is amended to read:

59.10 (3) (b) 1. Within 60 days after the population count by census block, established in the decennial federal census of population, and maps showing the location and numbering of census blocks become available in printed form from the federal government or are published for distribution by an agency of this state, but no later than July 1 following the year of each decennial census, each board shall propose a tentative county supervisory district plan setting forth the number of supervisory districts proposed by the board and tentative boundaries or a description of boundary requirements, hold a public hearing on the proposed plan and adopt a tentative plan. The proposed plan may be amended after the public hearing. The tentative plan shall divide the county into a number of districts equal to the number of supervisors, with each district substantially equal in population. The board shall solicit suggestions from municipalities concerning the development of an appropriate plan. ~~The board shall transmit to each municipal governing body in the county the tentative plan that is adopted. Each~~ Except as authorized in this subdivision, each district shall consist of whole wards or municipalities. ~~Each district shall be designated to be represented by one supervisor, and all districts shall be substantially equal in population. Territory within each supervisory district to be created under the tentative plan shall be contiguous, except as authorized in subd. 2.~~ In the tentative plan, the board shall, whenever possible, place whole contiguous municipalities or contiguous parts of the same municipality within the same district. If the division of a municipality is sought by the board, the board shall provide with the plan a written statement to the municipality affected by each proposed division specifying the approximate location of the territory from which a ward is sought to be created for contiguity purposes and the approximate population of the

ward proposed to effectuate the division. The tentative plan shall not include provision for division of any census block unless the block is bisected by a municipal boundary or unless a division is required to enable creation of supervisory districts that are substantially equal in population. The board shall transmit a copy of the tentative plan that is adopted to each municipal governing body in the county.

SECTION 16. 59.10 (3) (b) 2. of the statutes is amended to read:

59.10 (3) (b) 2. Within 60 days after every municipality in the county adjusts its wards under s. 5.15, the board shall hold a public hearing and shall then adopt a final supervisory district plan, numbering each district. Wards Territory within each supervisory district created by the plan shall be contiguous, except that one or more wards located within a city or village which is wholly surrounded by another city or water, or both, may be combined with one or more noncontiguous wards, or one or more wards ~~or portions of wards~~ consisting of island territory as defined in s. 5.15 (2) (f) 3. may be combined with one or more noncontiguous wards ~~or portions of wards~~ within the same municipality, to form a supervisory district.

SECTION 17. 59.10 (3) (b) 3. of the statutes is created to read:

59.10 (3) (b) 3. The populations of supervisory districts under the tentative plan shall be determined on the basis of the federal decennial census and any official corrections to the census issued on or before the date that the tentative plan is adopted to reflect the correct population of the county and municipalities and blocks within the county on April 1 of the year of the census. The populations of supervisory districts under the final plan shall be determined on the basis of the federal decennial census and any official corrections to the census to reflect the correct populations of the county and the municipalities and blocks within the county on April 1 of the year of the census, if the corrections as they affect any municipality are issued prior to division of the municipality into wards under s. 5.15, or if a municipality is not divided into wards, prior to adoption of the final plan.

SECTION 18. 59.10 (3) (b) 4. of the statutes is amended to read:

59.10 (3) (b) 4. The chairperson of the board shall file a certified copy of the final districting plan with the secretary of state. Unless otherwise ordered under sub. (6), a plan enacted and filed under this paragraph, together with any authorized amendment that is enacted and filed under this section, remains in effect until the plan is superseded by a subsequent plan enacted under this subsection and a certified copy of that plan is filed with the secretary of state.

SECTION 19. 59.10 (3) (c) of the statutes is renumbered 59.10 (3) (c) 1. and amended to read:

59.10 (3) (c) 1. After the enactment of a plan of supervisory districts under par. (b), the board may amend the plan to reflect a municipal incorporation, annexation, detachment or consolidation ~~may serve as a basis for altering between federal decennial censuses the boundaries of supervisory districts, in the discretion of the board.~~ The number of supervisory districts in the county shall not be changed by any action under this paragraph. ~~Any plan of county supervisory districts enacted under par. (b) may be amended under this paragraph but shall remain in effect as amended until superseded by another plan enacted by the board under par. (b) and filed subdivision.~~

4. The chairperson of the board shall file a certified copy of any amended plan under this paragraph with the secretary of state.

SECTION 20. 59.10 (3) (c) 2. and 3. of the statutes are created to read:

59.10 (3) (c) 2. Within 60 days after enactment or adoption of a revised division ordinance or resolution under s. 5.15 (4) (a), the board shall amend the county supervisory district plan under par. (b) to reflect any renumbering of the wards specified in the plan.

3. The districts under the amended plan shall be substantially equal in population according to the most recent countywide federal census and shall be in as compact a form as possible. The board shall adhere to the requirements of par. (b) 2. with regard to contiguity and shall, to the extent possible, place whole contiguous municipalities or contiguous parts of the same municipality within the same district. In the amended plan, the original numbers of the districts in their geographic outlines, to the extent possible, shall be retained. An amended plan becomes effective on the first November 15 following its enactment.

SECTION 21. 59.10 (3) (cm) 1. of the statutes is amended to read:

59.10 (3) (cm) 1. 'Number of supervisors; redistricting.' Except as provided in subd. 3., following the enactment of a decennial supervisory district plan under par. (b), the board may decrease the number of supervisors. In that case, the board shall redistrict, readjust, and change the boundaries of supervisory districts, so that the number of districts equals the number of supervisors, the districts are substantially equal in population according to the most recent countywide federal census, the districts are in as compact a form as possible, and the districts consist of contiguous municipalities or contiguous whole wards in existence at the time at which the redistricting plan is adopted, except as authorized in par. (b) 1. In the redistricting plan, the board shall adhere to the requirements under par. (b) 2. with regard to contiguity and shall, to the extent possible, place whole contiguous municipalities or contiguous parts of the same municipality within the same district. In redistricting under this subdivision, the original numbers of the districts in their geographic

outlines, to the extent possible, shall be retained. No plan may be enacted under this subdivision during review of the sufficiency of a petition filed under subd. 2. nor after a referendum is scheduled on such a petition. However, if the electors of the county reject a change in the number of supervisory districts under subd. 2., the board may then take action under this subdivision except as provided in subd. 3. The county clerk shall file a certified copy of any redistricting plan enacted under this subdivision with the secretary of state.

SECTION 22. 59.10 (6) of the statutes is amended to read:

59.10 (6) ENFORCEMENT OF DIVISION REQUIREMENT. If a county fails to comply with sub. (2) (a) or (3) (b), any municipality located in whole or in part within the county or any elector of the county may submit to the circuit court for the county within 14 days from the expiration of either 60-day period under sub. (2) (a) or (3) (b) a proposed tentative supervisory district plan or a final plan for creation of supervisory districts in compliance with this section. If the court finds that the existing division of the county into supervisory districts fails to comply with this section, it shall review the plan submitted by the petitioner and after reasonable notice to the county may promulgate the plan, or any other plan in compliance with this section, ~~as a temporary supervisory district~~ and the plan shall be in effect until superseded by a districting plan adopted by the board in compliance with this section.

SECTION 23. 62.08 (1) of the statutes is amended to read:

62.08 (1) Within 60 days after the wards have been readjusted under s. 5.15 (1) and (2) the common council of every city, including any every 1st class city of the first class, shall redistrict the boundaries of its aldermanic districts, by an ordinance introduced at a regular meeting of the council, published as a class 2 notice, under ch. 985, and thereafter adopted by a majority vote of all the members of the council, so that all aldermanic districts are as compact in area as possible and contain, as nearly as practicable by combining contiguous whole wards, an equal number of inhabitants according to the most recent decennial federal census of population. Territory within each aldermanic district to be created under the plan shall be contiguous, except that territory within the city that is wholly surrounded by another city or water, or both, may be combined with noncontiguous territory, or island territory, as defined in s. 5.15 (2) (f) 3., may be combined with noncontiguous territory within the same municipality to form an aldermanic district. The aldermanic district plan shall not include provision for division of any census block unless the block is bisected by a municipal boundary or the division is made as required under s. 5.15 (2) (c). The populations of the aldermanic districts shall be determined on the basis of the federal decennial census and any official corrections to the census to reflect the

correct populations of the municipality and the blocks within the municipality on April 1 of the year of the census, if the corrections are issued prior to division of the municipality into wards under s. 5.15. Within 60 days after enactment or adoption of a revised division ordinance or resolution under s. 5.15 (4) (a), the common council shall amend the aldermanic district plan to reflect any renumbering of the wards specified in the plan.

SECTION 24. 62.08 (2) of the statutes is amended to read:

62.08 (2) If territory becomes a part of any city after ~~adoption of the ordinance under sub. (1) April 1 of the year of the federal decennial census,~~ the limitations of s. 5.15 relating to population or area do not apply to the creation of new wards in the attached territory, or to the addition of the territory to an existing ward, but no ward line adjustment may cross the boundary of ~~an a congressional assembly, or supervisory~~ district.

SECTION 25. 62.08 (4m) of the statutes is amended to read:

62.08 (4m) If in a city that is solely contained within one county the aldermanic districts are coterminous with the supervisory districts of the county and the county board decreases the number of supervisors in the county after enactment of a redistricting plan under s. 59.10 (3) (cm), the common council of the city may, by a majority vote of all of the members of the council, no later than November 15 immediately preceding the expiration of the terms of office of members of the council, decrease the number of aldermanic districts and the corresponding number of members of the council in the city to maintain coterminous boundaries between the aldermanic and supervisory districts and may change the expiration date of the term of any council member to an earlier date than the date provided under the current ordinance if required to implement the redistricting or to maintain classes of members. Any amended aldermanic district plan that is adopted under this subsection is subject to the same procedures and requirements that apply to decennial plans adopted under sub. (1).

SECTION 27. 119.08 (1) (b) of the statutes is amended to read:

119.08 (1) (b) Within 60 days after the common council of the city enacts an ordinance ~~determining or adopts a resolution adjusting~~ the boundaries of the ~~aldermanic districts wards~~ in the city following the federal decennial census under s. ~~62.08 5.15 (1) and (2),~~ the board shall, by vote of a majority of the membership of the board, adopt an election district apportionment plan for the election of board members which shall be effective until the city enacts a new ordinance under s. 62.08 (1) ~~redetermining the aldermanic district boundaries adjusting the boundaries of its wards under s. 5.15 (1) and (2).~~

SECTION 28. 751.035 of the statutes is created to read:

751.035 Assignment to a judicial panel; appeals.

(1) Upon receiving notice under s. 801.50 (4m), the supreme court shall appoint a panel consisting of 3 circuit court judges to hear the matter. The supreme court shall choose one judge from each of 3 circuits and shall assign one of the circuits as the venue for all hearings and filings in the matter.

(2) Notwithstanding s. 801.58, no party may move for substitution of any circuit court judge assigned under this section.

(3) An appeal from any order or decision issued by the panel assigned pursuant to sub. (1) may be heard by the supreme court and may not be heard by a court of appeals for any district.

SECTION 29. 801.50 (4m) of the statutes is created to read:

801.50 (4m) Venue of an action to challenge the apportionment of any congressional or state legislative district shall be as provided in s. 751.035. Not more than 5 days after an action to challenge the apportionment of a congressional or state legislative district is filed, the clerk of courts for the county where the action is filed shall notify the clerk of the supreme court of the filing.

SECTION 30. Initial applicability.

(2) The treatment of section 5.15 (1) (b) of the statutes first applies retroactively to wards adjusted in response to the 2010 federal decennial census of population.