



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2011 Senate Bill 129

**Senate Substitute
Amendment 1**

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CURRENT LAW

Direct annexation by unanimous approval is one of several methods by which Wisconsin cities and villages may annex unincorporated (i.e., town) land. Under current law, a town may not bring an action to contest the validity of an annexation by unanimous approval. The prohibition applies to any legal action, whether procedural or jurisdictional, to contest the validity of such an annexation. [s. 66.0217 (11) (c), Stats.]

2011 SENATE BILL 129

2011 Senate Bill 129 repeals the provision in current law that prohibits a town from bringing a legal action to contest the validity of an annexation by unanimous approval. The change would apply to any annexation that commences on or after the effective date of the legislation.

SENATE SUBSTITUTE AMENDMENT 1

Under current law, a city or village may not annex territory in a county in which no part of the city or village lies, unless the town board and the county board both adopt resolutions approving the proposed annexation. Senate Substitute Amendment 1 (SSA 1) eliminates the requirement for the county board to adopt a resolution approving the annexation.

SSA 1 generally retains the provision prohibiting towns from contesting direct annexations by unanimous approval. However, SSA 1 creates an exception whereby a town may bring such an action pursuant to specified findings by the Department of Administration (DOA).

Specifically, SSA 1 authorizes an affected town to request DOA review of an annexation by unanimous approval within 30 days of the enactment of an annexation ordinance. Upon the receipt of

such a request, DOA must review the annexation to determine whether the annexation violates one or both of the following limitations on annexations:

- No territory may be annexed by a city or village by the direct annexation by unanimous approval procedure unless the territory to be annexed is contiguous to the annexing city or village. [s. 66.2017 (2), Stats.]
- A city or village may not annex territory if no part of the city or village is located in the same county in which the territory to be annexed is located, unless the town board adopts a resolution approving the proposed annexation. [s. 66.2017 (14) (b), Stats., as amended by SSA 1.]

Within 20 days of receiving the town's request for review, DOA must send a copy of its findings to the town, any affected landowner, and the annexing city or village. If DOA finds that the annexation violates either of the above requirements, the town may challenge the annexation in circuit court within 45 days of the town's receipt of DOA's findings.

If DOA does not complete its review of an annexation within 20 days of receiving the town's request for a review, the effect on the town and the annexing city or village is the same as if DOA found no violation of the requirements specified above, and the town is prohibited from bringing an action to contest the validity of the annexation.

Senate Substitute Amendment 1 also provides that if the court rules against a town that commences an action under these provisions, the town must pay the court costs and the defending city's or village's reasonable attorney fees. Likewise, if the town prevails in the court action, the defending city or village must pay the court costs and reasonable attorney fees incurred by the town.

LEGISLATIVE HISTORY

Senate Substitute Amendment 1 was offered on January 9, 2012, by Senator Lasee. On February 16, 2012, the Senate Committee on Economic Development, Veterans and Military Affairs voted to recommend adoption of the amendment, and passage of the bill, as amended, on successive votes of Ayes, 7; Noes, 0.

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