

2013 DRAFTING REQUEST

Bill

Received: **3/4/2014** Received By: **emueller**
 Wanted: **As time permits** Same as LRB: **-4401**
 For: **Glenn Grothman (608) 266-7513** By/Representing: **Anne Sappenfield**
 May Contact: Drafter: **emueller**
 Subject: **Local Gov't - misc** Addl. Drafters:
Transportation - highways Extra Copies: **ARG, MES**

Submit via email: **YES**
 Requester's email: **Sen.Grothman@legis.wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Municipalities acting together on highway actions

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	emueller 3/6/2014			_____			
/P1	emueller 3/11/2014	scalvin 3/7/2014	rschluet 3/7/2014	_____	lparisi 3/7/2014		
/1		scalvin 3/11/2014	jfrantze 3/12/2014	_____	sbasford 3/12/2014	mbarman 3/12/2014	

FE Sent For:

*None
Needed*

<END>

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/1	CEM 3/11/14	11 SAC 03/11/2014	11 SAC 03/11/2014				

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3/12

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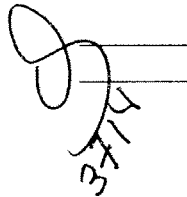
Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/? emueller

1/P1 EJM
3/6/14

1/P1 SAL
03/04/2014

1/P1 SAC
03/07/2014



FE Sent For:

<END>

Mueller, Eric

From: Sappenfield, Anne
Sent: Tuesday, March 11, 2014 9:38 AM
To: Mueller, Eric
Subject: bill drafts

Hi Eric,

Could you please draft LRB—4376/P1 and 4377/P1 as /1's? Please remove the law revision note, as well. Also, I need a companion for each. Sen. Grothman and Rep. Jim Ott will be introducing them, so they are the requestors from this point on.

Thank you, and let me know if you have any questions.

Anne

Anne Sappenfield
Principal Attorney
WI Legislative Council
(608) 267-9485

Mueller, Eric

From: Sappenfield, Anne
Sent: Monday, March 03, 2014 2:32 PM
To: Mueller, Eric
Subject: Law revision drafts

Hi Eric,

The Law Revision Committee requested several bill drafts at their last meeting. I am sending a couple of them to you. I'm not sure you're the right drafter, so pass them on if not.

Below is the information we sent to committee members for purposes of discussion before the meeting. The committee requested codifying each of the decisions as discussed below. I did include sample draft language, but I don't necessarily think it is the best approach. It was more for discussion purposes.

Please let me know if you have any questions or if you need further direction. Could you let me know when you think you could have a preliminary draft to us?

Thanks! By the way, I enjoyed spending some time with you at the Senate Scholars dinner.

Anne

Anne Sappenfield
Principal Attorney
WI Legislative Council
(608) 267-9485

1. *Dawson v. Town of Jackson*, 2011 WI 77.

In this case, the WI Supreme Court discussed what it meant for the governing bodies of municipalities to "act together" on an application to lay out, alter, or discontinue a highway on the line between a town and another town, a city, or a village or a highway extending from one town into an adjoining town, city or village. The plaintiff argued that the governing bodies "acting together" should have their votes counted as if they were one body. The Court held that the application, to be successful, required a majority vote from each governing body.

We're not sure the best way to draft this if you would like to codify the Court's decision, but something like the following would provide some clarity:

82.21(2) CONTENTS OF THE APPLICATION OR RESOLUTION. An application or resolution under sub. (1) shall contain a legal description of the highway to be discontinued or of the proposed highway to be laid out or altered and a scale map of the land that would be affected by the application. Upon completion of the requirements of sub. (1), the governing bodies of the municipalities, acting together in cooperation but as separate governing bodies, shall proceed under ss. 82.10 to 82.13.

2. *Kuehne v. Burdette*, 2009 WI App 119

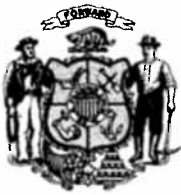
This case held that a statute created to provide an alternate process for incorporating the Town of Ledgeview into a village was a private law and was, therefore, unconstitutional.

This provision of the statutes could be repealed.

66.0203(11) TOWN OF LEDGEVIEW IN BROWN COUNTY MAY BECOME A VILLAGE.

(a) The town of Ledgeview, in Brown County, may become a village if the town holds, and approves, an incorporation referendum as described in s. 66.0211 (3). None of the other procedures contained in ss. 66.0201 to 66.0213 need to be fulfilled, and no approval by the department's incorporation review board under s. 66.0207 is necessary for the town to become a village.

(b) The town of Ledgeview, in Brown County, shall enter into a boundary agreement with the city of De Pere, under s. 66.0307, except that the agreement need not be completed before the town holds a referendum on incorporation, as described in s. 66.0211 (3).



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-4376/P1

EVM: /:....

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

3/6/14

RMR

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3/7

Sen

1 **AN ACT ...; relating to:** laying out, altering, or discontinuing a town line highway.

Analysis by the Legislative Reference Bureau

Under current law, the procedure to lay out, alter, or discontinue a highway on the line between a town and another town, a city, or a village (municipality), or a highway extending from one town into an adjoining municipality, may be initiated when one of the following occurs in each affected municipality: 1) six resident freeholders of the municipality deliver an application to lay out, alter, or discontinue a town line highway to the clerk of every municipality that would be affected by the proposal, or 2) the town board, city council, or village board introduces a resolution to lay out, alter, or discontinue a town line highway. After the requisite applications are delivered or resolutions are adopted, the governing bodies of the municipalities, "acting together," take the actions affecting the covered town line highway. The Wisconsin Supreme Court in *Dawson v. Town of Jackson*, 336 Wis.2d 318 (2011) determined that the "acting together" requirement means that the municipal governing bodies must "come together and cooperate to resolve a joint application, but ... does not mandate the creation of a combined board. The approval of both governing bodies is necessary..." This bill clarifies the language of the statute to confirm the holding of the Wisconsin Supreme Court.

Ins. analysis

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is introduced by the Law Revision Committee under s. 13.83 (1) (c) 1. and 5., stats., as a result of the Legislative Reference Bureau's case and opinion review under s. 13.92 (2) (j), stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

1 **SECTION 1.** 82.21 (2) of the statutes is amended to read:

2 **82.21 (2) CONTENTS OF THE APPLICATION OR RESOLUTION.** An application or
3 resolution under sub. (1) shall contain a legal description of the highway to be
4 discontinued or of the proposed highway to be laid out or altered and a scale map of
5 the land that would be affected by the application. Upon completion of the
6 requirements of sub. (1), the governing bodies of the municipalities, acting together
7 in cooperation, but voting upon applications or resolutions as separate governing
8 bodies, shall proceed under ss. 82.10 to 82.13.


9 History: 2003 a. 214 ss. 46 to 53, 58, 60, 169.

(END)

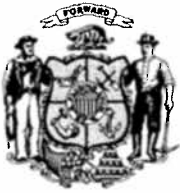
2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4376/P1ins
EVM:sac:...

1 **Insert analysis**

2  The Wisconsin Supreme Court in *Dawson v. Town of Jackson*, 336 Wis. 2d 318
3 (2011) determined that the “acting together” requirement means that, while the
4 municipal governing bodies must “come together and cooperate to resolve a joint
5 application . . . the statute does not mandate the creation of a new, combined board.
6 Approval of both [governing bodies] is necessary”

7



RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

3/11/14

RPB

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1 **AN ACT to amend** 82.21 (2) of the statutes; **relating to:** laying out, altering, or
2 discontinuing a town line highway.

Analysis by the Legislative Reference Bureau

Under current law, the procedure to lay out, alter, or discontinue a highway on the line between a town and another town, a city, or a village (municipality), or a highway extending from one town into an adjoining municipality, may be initiated when one of the following occurs in each affected municipality: 1) six resident freeholders of the municipality deliver an application to lay out, alter, or discontinue a town line highway to the clerk of every municipality that would be affected by the proposal, or 2) the town board, city council, or village board introduces a resolution to lay out, alter, or discontinue a town line highway. After the requisite applications are delivered or resolutions are adopted, the governing bodies of the municipalities, "acting together," take the actions affecting the covered town line highway. The Wisconsin Supreme Court in *Dawson v. Town of Jackson*, 336 Wis. 2d 318 (2011) determined that the "acting together" requirement means that, while the municipal governing bodies must "come together and cooperate to resolve a joint application. . . the statute does not mandate the creation of a new, combined board. Approval of both [governing bodies] is necessary" This bill clarifies the language of the statute to confirm the holding of the Wisconsin Supreme Court.

soft return

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(END)

Barman, Mike

From: Sen.Grothman
Sent: Wednesday, March 12, 2014 1:26 PM
To: LRB.Legal
Subject: Draft Review: LRB -4376/1 Topic: Municipalities acting together on highway actions

Please Jacket LRB -4376/1 for the SENATE.