

2013 DRAFTING REQUEST

Bill

Received: **3/4/2014** Received By: **emueller**
Wanted: **As time permits** Same as LRB: **-4400**
For: **Glenn Grothman (608) 266-7513** By/Representing: **Anne Sappenfield**
May Contact: Drafter: **emueller**
Subject: **Local Gov't - misc** Addl. Drafters:
Extra Copies: **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:

Repeal special incorporation provision for town of Ledgeview

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	_____	sbasford 3/7/2014		
/1		scalvin 3/11/2014	jmurphy 3/11/2014	_____	srose 3/11/2014	mbarman 3/12/2014	

FE Sent For:

*None
Needed*

<END>

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/1	EMM 3/11/14	/1 sac 03/11/2014	/1 sac 03/11/2014	_____			

FE Sent For:

Jim
3/11

<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

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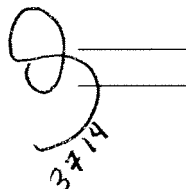
<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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1? emueller

/PI EVM
3/6/14

/PI SAC
03/07/2014

/PI SAC
03/07/2014



Handwritten signature and date 3/7/14

FE Sent For:

<END>

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

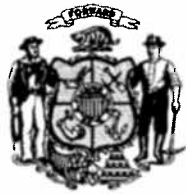
This case held that a statute created to provide an alternate process for incorporating the Town of Ledgeview into a village was a private law and was, therefore, unconstitutional.

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).



SAC

AMK

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

316/14

By End
at Fri
3/7

no changes

gen

1 **AN ACT ...; relating to:** incorporation of the town of Ledgeview in Brown County.

Analysis by the Legislative Reference Bureau

Under current law, all or part of a town or more than one town may incorporate as a city or village by a number of methods. Under the most generally applicable method, the procedures include the following:

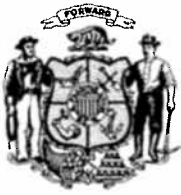
1. The circulation of an incorporation petition in the territory to be incorporated, and the filing of the petition with the circuit court.

2. A circuit court hearing on the petition at which the court determines whether a number of statutory standards are met, including resident population and population density.

3. If the court finds that the standards are met, a review of the petition by the Incorporation Review Board (board) for a determination on whether a number of statutory standards are met, including the characteristics of the territory, the level of governmental services that are desired or needed by the residents compared to the level of services offered by the proposed city or village, the impact upon the remainder of the town from which the territory is to be incorporated, and the impact of the proposed incorporation on the metropolitan community. If the board dismisses the petition, the circuit court must issue an order dismissing the petition.

4. If the board grants the petition, the circuit court must order an incorporation referendum. If a majority of the votes on the referendum are cast in favor of a village or city, the secretary of state must issue and record a certificate of incorporation.

The 2007 Biennial Budget Act (2007 Wis. Act 20) contained a provision, stating that, notwithstanding the current procedures for the incorporation of a town as a city or a village, the town of Ledgeview in Brown County may incorporate as a village



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-4377/P1
EVM:sac:ts

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMR

3/11/14

gen cat

Soon

1 AN ACT *to repeal* 66.0203 (11) of the statutes; **relating to:** incorporation of the
2 town of Ledgeview in Brown County.

Analysis by the Legislative Reference Bureau

Under current law, all or part of a town or more than one town may incorporate as a city or village by a number of methods. Under the most generally applicable method, the procedures include the following:

1. The circulation of an incorporation petition in the territory to be incorporated, and the filing of the petition with the circuit court.

2. A circuit court hearing on the petition at which the court determines whether a number of statutory standards are met, including resident population and population density.

3. If the court finds that the standards are met, a review of the petition by the Incorporation Review Board (board) for a determination on whether a number of statutory standards are met, including the characteristics of the territory, the level of governmental services that are desired or needed by the residents compared to the level of services offered by the proposed city or village, the impact upon the remainder of the town from which the territory is to be incorporated, and the impact of the proposed incorporation on the metropolitan community. If the board dismisses the petition, the circuit court must issue an order dismissing the petition.

4. If the board grants the petition, the circuit court must order an incorporation referendum. If a majority of the votes on the referendum are cast in favor of a village or city, the secretary of state must issue and record a certificate of incorporation.

The 2007 Biennial Budget Act (2007 Wis. Act 20) contained a provision, stating that, notwithstanding the current procedures for the incorporation of a town as a city

or a village, the town of Ledgeview in Brown County may incorporate as a village upon a successful referendum. The Wisconsin Court of Appeals in *State ex rel. Kuehne v. Burdette*, 320 Wis. 2d 784 (2009), held that the statute providing the special procedure for the incorporation of the town of Ledgeview was enacted in contravention of a provision of the Wisconsin Constitution restricting the enactment of a special or private law and permanently enjoined the town from incorporating under the statute.

This bill repeals the special provision regarding the incorporation of the town of Ledgeview.

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. 66.0203 (11) of the statutes is repealed.

2

(END)

Barman, Mike

From: Sen.Grothman
Sent: Wednesday, March 12, 2014 1:26 PM
To: LRB.Legal
Subject: Draft Review: LRB -4377/1 Topic: Repeal special incorporation provision for town of Ledgeview

Please Jacket LRB -4377/1 for the SENATE.