

Fiscal Estimate Narratives

DOA 1/8/2024

LRB Number	23-4336/1	Introduction Number	SB-0691	Estimate Type	Original
Description water and sewerage system connections and annexation of territory and extraterritorial zoning in certain towns					

Assumptions Used in Arriving at Fiscal Estimate

2023 Senate Bill 691 (SB-691) would grant a town the direct power to designate itself as an "urban town" through approvals at their town meeting, if the town meets certain population number and density criteria, it provides certain law enforcement services, and it has enacted a subdivision ordinance under s. 236.46 (2) (ac), Wis. Stats., and a zoning ordinance under s. 60.61 or 60.62, Wis. Stats., or are subject to county zoning under s. 59.69, Wis. Stats.

The bill would exclude designated urban towns from the typical authority of extraterritorial zoning jurisdiction that may be exercised by nearby municipalities under s. 62.23 (7) (a), Wis. Stats, as well as extraterritorial plat approval jurisdiction that may other be exercised by the same under 236.02 (5), Wis. Stats. Additionally, provided an urban town meets certain developmental density and assessed value criteria, nearby municipalities would be prohibited from annexing its territory, as prescribed under s. 66.0217 (14) (c), Wis. Stats., unless annexation is by unanimous approval under s. 66.0217 (2), Wis. Stats.

The bill would enable urban towns to request the extension or connection of water or sewerage service from adjacent governmental units, and vice versa, by written request, which the governmental unit or urban town may approve or deny within 45 days of the request. The urban town or governmental unit making the request would be responsible for the cost of construction and connection and would assume ownership and maintenance responsibilities for the portion of the water or sewerage system located in their jurisdiction unless the urban town and governmental unit agree otherwise. The governmental unit or urban town approving the connection would also be permitted to assess a reasonable fee to landowners who benefit from the connection.

Such requests could only be denied if the water or sewerage system does not have sufficient capacity to serve the area requested. The system would be considered as having sufficient capacity if the urban town or governmental unit agreed to pay for the expansion to accommodate their request. Any denials of such requests would be appealable to the Public Service Commission, and the decision of the Commission could be appealed to the circuit court for the county in which the connection would occur.

The bill would also enable landowners to request lateral connection to the water or sewerage system of an urban town or governmental units under the same conditions and with the same appellate process. An urban town or governmental unit may not prohibit such a lateral connection except under the circumstance of prior nonpayment of water or sewerage charges.

Lastly, the bill would prohibit intergovernmental cooperation agreements from including limitations on the ability of an urban town to seek or obtain extension or connection of water service.

The Department of Administration (Department) anticipates there would be an impact on revenue under the Municipal Boundary Review Program (Program) of the Department's Division of Intergovernmental Relations (DIR). The Program is responsible for reviewing proposed municipal incorporations, annexations, and cooperative boundary plan agreements and is supported directly by revenue generated through fees assessed on incorporation and annexation reviews.

The Program reviews both unanimous and non-unanimous annexations in counties containing 50,000 or more people, and most if not all qualified urban town territory would be in these populous counties.

Under the proposed legislation, non-unanimous annexations would be prohibited. Because the bill would require that governmental units allow qualified urban town territories to connect to their water and sewerage systems, the need to annex into a city or village for these services would no longer exist. This would result in a reduction of many of the unanimous annexations as well. The changes in the bill would thus result in a reduction of the number of annexations submitted for review, and thus a decrease in the fee revenue derived from those reviews by the Department, although the extent of the impact is unknown.

The Department and Incorporation Review Board, respectively, have the statutory authority to prescribe fees under a fee-for-service model for annexation and incorporation reviews. Both Municipal Boundary Review and Plat Review Program fees are collected under s. 20. 505 (1) (iu), Wis. Stats., Plat and proposed incorporation and annexation review, numeric 129, a continuing, program revenue appropriation. Plat reviews are charged via a fee schedule as prescribed in Admin Rule (Chapter 49). The revenues collected under s. 20.505 (1) (iu) are used to support the activities and administration of both Municipal Boundary and Plat reviews, including DIR staff and supplies and services.

It is not anticipated that the DIR workload would significantly decrease under the proposed bill, and personnel needs would not decrease under the Municipal Boundary and Review Plat Review Programs overall. Therefore, a net zero change in expenditures in the appropriation is anticipated.

The fee schedule for annexation and incorporations would need to be evaluated and potentially modified based upon the anticipated reduction in fees collected in the Municipal Boundary Review Program, whereas revenues under the Plat Review program are anticipated to remain sufficient to support current or increased activity without changes to the fee schedule in Chapter Adm 49.

Due to the wide variance in population, geography, and water and sewerage system capability among municipalities, the local impact is indeterminate. With reference to the provisions related to extending or connecting water or sewerage systems, the bill presents potential new costs related to connections and maintenance but also ensures that the cost is borne directly by the requestor and the landowners benefiting from new connections or extensions. As a result, the provisions would be ostensibly fiscally neutral for the urban town or governmental unit approving the request.

The provisions are largely permissive given that connection or extension requests must be approved by the urban town or governmental unit, except in cases where a denial of a request would be overturned by the Public Service Commission or county circuit court upon appeal. However, as mentioned above, the costs would be borne by the requestor either directly or by assessment of a reasonable fee of benefitting landowners.

Long-Range Fiscal Implications