



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1997 ASSEMBLY BILL 114**

January 15, 1998 - Offered by Representative LADWIG.

1 **AN ACT to amend** 60.61 (2) (intro.), 60.62 (1), 60.62 (2), 60.62 (3), 62.23 (7a) (a),
2 66.021 (2) (intro.), 66.024 (intro.), 66.025, 66.32 and 236.02 (5); and **to create**
3 60.10 (1) (g) and 60.225 of the statutes; **relating to:** the authority of certain
4 towns to become urban towns.

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

5 **SECTION 1.** 60.10 (1) (g) of the statutes is created to read:
6 60.10 (1) (g) *Approval of resolutions.* Approve a resolution adopted by the town
7 board under s. 60.225 (1).

8 **SECTION 2.** 60.225 of the statutes is created to read:

9 **60.225 Urban towns. (1) PROCESS; REQUIREMENTS.** Subject to sub. (1m), if a
10 town board is authorized to exercise village powers under s. 60.10 (2) (c), and subject
11 to sub. (2), a town board may adopt a resolution declaring its town to be an urban

1 town that is subject to this section if, on the date of adoption of the resolution, all of
2 the following conditions are satisfied:

3 (a) The population of the town is at least 7,500.

4 (b) The equalized value of the town exceeds all of the following amounts:

5 1. According to the most recent assessment, \$360,000,000.

6 2. On a per person basis, \$40,000 according to the most recent assessment.

7 (c) The town provides law enforcement services, 24 hours a day, by establishing
8 a town police department, by creating a joint police department with another city,
9 village or town under s. 60.56 or by contracting with another person under s. 60.56.

10 (d) The town provides fire protection services, 24 hours a day, by establishing
11 a town fire department or by creating a joint fire department with another city,
12 village or town under s. 60.55.

13 (e) The town provides emergency medical technician services, 24 hours a day,
14 by an emergency medical technician, as defined in s. 146.50 (1) (e).

15 (f) The town board adopts a comprehensive land use plan as part of a master
16 plan under s. 62.23 (2) and (3) that is administered by a planner who is employed by
17 the town.

18 (g) At least 30% of the town residents receive water supply and sanitary sewage
19 disposal services from one of the following:

20 1. A town sanitary district created by the town under subch. IX.

21 2. A town utility district created under s. 66.072.

22 3. A metropolitan sewerage district created under ss. 66.20 to 66.26 or under
23 ss. 66.88 to 66.918.

24 4. A public utility created under s. 196.01 (5).

25 5. A town sanitary district created by another town under subch. IX.

1 6. A city or village.

2 7. A city-owned treatment works or village-owned treatment works in which
3 the town has an interest under an intergovernmental cooperation agreement under
4 s. 66.30.

5 (h) The town board consists of 5 supervisors.

6 **(1m) PROCEDURE.** (a) Subject to par. (c) and except as provided in par. (b), a town
7 board may proceed under sub. (1) only if the town board adopts a resolution declaring
8 its intent to proceed under this paragraph and only if the town board institutes
9 proceedings under s. 66.02 to consolidate the town with a city or village on or after
10 the effective date of this paragraph ... [revisor inserts date], and if, between 1986 and
11 1996, the town board has done one of the following:

12 1. Instituted proceedings to incorporate the town as a city or village under s.
13 66.012.

14 2. Instituted proceedings to incorporate the town as a city or village under ss.
15 66.013 to 66.019.

16 (b) Subject to par. (c), if a town board has not instituted one of the proceedings
17 under par. (a) 1. or 2. between 1986 and 1996, the town board may proceed under sub.
18 (1) only if the town board adopts a resolution declaring its intent to proceed under
19 this paragraph and only if the town board, within a 3-year period beginning on the
20 date of the adoption of the resolution declaring its intent to proceed under this
21 paragraph, institutes proceedings under s. 66.02 to consolidate the town with a city
22 or village and the town board institutes proceedings described under par. (a) 1. or 2.

23 (c) The town board may adopt a resolution under sub. (1) only if the town board
24 institutes the proceedings under par. (a) or under par. (b) and the proceedings do not

1 result in either a consolidation under s. 66.02 or the incorporation of the town as a
2 city or village under s. 66.012 or under ss. 66.013 to 66.019.

3 **(2) RATIFICATION.** (a) If a town board adopts a resolution under sub. (1), the
4 town board shall call a referendum to approve the resolution adopted under sub. (1).
5 The referendum shall be called for that purpose at the next spring primary or election
6 or September primary or general election, or the town board may call and conduct
7 a special referendum under s. 8.55, to be held not sooner than 45 days after the
8 referendum is called by the town board. The town board shall call for a referendum
9 under this subsection not later than 90 days after the adoption of a resolution under
10 sub. (1). The referendum question shall be: “Do you approve of the town board’s
11 adoption of the resolution declaring the Town of [insert name of town] to be an
12 urban town?”.

13 (b) A resolution adopted by a town board under sub. (1) may not take effect until
14 the resolution is approved in a referendum called for by the town board under par.

15 (a). If the referendum is approved by the electors of the town, the town clerk shall
16 certify that fact to the secretary of state. The secretary of state shall issue a
17 certificate of urban town status and shall record that status in a book kept for that
18 purpose.

19 **(3) POWERS.** (a) A town that is subject to this section may exercise any statutory
20 power that a village may exercise, except as follows:

21 1. A town acting under this section does not have home rule powers under
22 article XI, section 3, of the constitution or under s. 61.34 (5).

23 2. A town acting under this section may not exercise extraterritorial zoning
24 powers under s. 62.23 (7a) or 66.32, offensive industry regulation under s. 66.052 (1),

1 extraterritorial plat approval under s. 236.10 or wetlands in shorelands zoning
2 authority under s. 61.351.

3 3. A town acting under this section may not exercise annexation of territory
4 powers under s. 66.021, 66.024 or 66.025.

5 4. A town acting under this section may not create a tax incremental financing
6 district under s. 66.46.

7 5. A town acting under this section may not adopt a village form of governance
8 by acting under ss. 61.19 to 61.325.

9 (b) 1. Except for a wetlands in shorelands zoning ordinance, no town may be
10 subject to any county zoning ordinance that is enacted by a county board after a town
11 board adopts a resolution under sub. (1) unless the town board approves the
12 ordinance or until the resolution adopted by the town board under sub. (1) is defeated
13 in a referendum that is held under sub. (2).

14 2. If a town board adopts a resolution under sub. (1) and the resolution is
15 ratified under sub. (2), a town board may adopt a resolution revoking its approval of
16 any county zoning ordinance, other than a wetlands in shorelands zoning ordinance,
17 if the town board notifies the county board in writing at least 60 days before the
18 resolution revoking approval of a county zoning ordinance takes effect.

19 3. Beginning on the effective date of the resolution revoking town approval of
20 a county zoning ordinance, a town that is subject to this section may enact zoning
21 ordinances only under s. 62.23.

22 (c) No town territory may be annexed by a city or village under s. 66.021, 66.024
23 or 66.025 during the 3-year period described under sub. (1m) (b), during the period
24 beginning after a town board adopts a resolution under sub. (1) and before a
25 ratification vote under sub. (2) or at any time after the electors of the town approve

1 such a resolution under sub. (2), unless the town board approves the proposed
2 annexation or unless the land proposed to be annexed is less than 300 acres and at
3 least 85% of the border of such land is contiguous to the annexing city or village.

4 (d) No town may be subject to the extraterritorial zoning jurisdiction or
5 extraterritorial plat approval jurisdiction of a city or village during the period
6 beginning after a town board adopts a resolution under sub. (1) and before a
7 ratification vote under sub. (2) or at any time after the electors of the town approve
8 such a resolution under sub. (2).

9 (e) 1. If a town is a party to a cooperative boundary plan under s. 66.023 or
10 similar cooperative boundary agreement under s. 66.30 on the date on which the
11 town becomes an urban town, the terms of the plan or agreement, or any approved
12 amendments to the plan or agreement, shall remain in effect until the expiration of
13 the planning period that is specified in the plan or the expiration of the agreement.

14 2. A town may become a party to a cooperative boundary plan under s. 66.023
15 any time before the first day of the 24th month beginning after the effective date of
16 this subdivision ... [revisor inserts date]. If a town becomes a party to such a plan
17 under this subdivision, the terms of the plan, or any approved amendments to the
18 plan, shall remain in effect until the expiration of the planning period that is
19 specified in the plan.

20 3. Except as provided in this paragraph and in par. (c), the boundaries of an
21 urban town may not be changed under s. 66.02 or 66.022, or by the acquisition or
22 disposal of territory by any means, unless the town agrees to the change.

23 **SECTION 3.** 60.61 (2) (intro.) of the statutes is amended to read:

1 60.61 (2) EXTENT OF AUTHORITY. (intro.) Subject to subs. (3) and (3m), if a town
2 is located in a county which has not enacted a county zoning ordinance under s. 59.69,
3 the town board of a town that is not subject to s. 60.225, by ordinance, may:

4 **SECTION 4.** 60.62 (1) of the statutes, as affected by 1997 Wisconsin Act 27, is
5 amended to read:

6 60.62 (1) Subject to subs. (2), (3) and (4) and to s. 60.225 (3) (b) 3., if a town board
7 has been granted authority to exercise village powers under s. 60.10 (2) (c), the board
8 may ~~adopt~~ enact zoning ordinances under s. 61.35.

9 **SECTION 5.** 60.62 (2) of the statutes is amended to read:

10 60.62 (2) If the county in which the town is located has enacted a zoning
11 ordinance under s. 59.69, the exercise of the authority under sub. (1) is subject to
12 approval by the town meeting or by a referendum vote of the electors of the town held
13 at the time of any regular or special election, except that this subsection does not
14 apply if a town board revokes its approval of a county zoning ordinance under s.
15 60.225 (3) (b) 2.

16 **SECTION 6.** 60.62 (3) of the statutes is amended to read:

17 60.62 (3) In counties having a county zoning ordinance, no zoning ordinance
18 or amendment of a zoning ordinance may be ~~adopted~~ enacted under this section
19 unless it is approved by the county board, except that this subsection does not apply
20 if a town board revokes its approval of a county zoning ordinance under s. 60.225 (3)
21 (b) 2.

22 **SECTION 7.** 62.23 (7a) (a) of the statutes is amended to read:

23 62.23 (7a) (a) Extraterritorial zoning jurisdiction means the unincorporated
24 area, except as provided in s. 60.225 (3) (d)., within 3 miles of the corporate limits of
25 a first, second or third class city, or 1 1/2 miles of a fourth class city or a village.

1 Wherever extraterritorial zoning jurisdictions overlap, the provisions of s. 66.32
2 shall apply and any subsequent alteration of the corporate limits of the city by
3 annexation, detachment or consolidation proceedings shall not affect the dividing
4 line as initially determined under s. 66.32. The governing body of the city shall
5 specify by resolution the description of the area to be zoned within its extraterritorial
6 zoning jurisdiction sufficiently accurate to determine its location and such area shall
7 be contiguous to the city. The boundary line of such area shall follow government lot
8 or survey section or fractional section lines or public roads, but need not extend to
9 the limits of the extraterritorial zoning jurisdiction. Within 15 days of the adoption
10 of the resolution the governing body shall declare its intention to prepare a
11 comprehensive zoning ordinance for all or part of its extraterritorial zoning
12 jurisdiction by the publication of the resolution in a newspaper having general
13 circulation in the area proposed to be zoned, as a class 1 notice, under ch. 985. The
14 city clerk shall mail a certified copy of the resolution and a scale map reasonably
15 showing the boundaries of the extraterritorial jurisdiction to the clerk of the county
16 in which the extraterritorial jurisdiction area is located and to the town clerk of each
17 town, any part of which is included in such area.

18 **SECTION 8.** 66.021 (2) (intro.) of the statutes is amended to read:

19 66.021 (2) METHODS OF ANNEXATION. (intro.) Subject to s. 66.023 (7) and except
20 as provided in s. 60.225 (3) (c), territory contiguous to any city or village may be
21 annexed thereto in the following ways:

22 **SECTION 9.** 66.024 (intro.) of the statutes is amended to read:

23 **66.024 Annexation by referendum; court order.** (intro.) As a complete
24 alternative to any other annexation procedure, and subject to s. 66.023 (7) and except
25 as provided in s. 60.225 (3) (c), unincorporated territory which contains electors and

1 is contiguous to a city or village may be annexed thereto in the manner hereafter
2 provided. The definitions in s. 66.021 (1) shall apply to this section.

3 **SECTION 10.** 66.025 of the statutes, as affected by 1997 Wisconsin Act 27, is
4 amended to read:

5 **66.025 Annexation of owned territory.** In addition to other methods
6 provided by law and subject to ss. 59.692 (7) and 66.023 (7) and except as provided
7 in s. 60.225 (3) (c), territory owned by and lying near but not necessarily contiguous
8 to a village or city may be annexed to a village or city by ordinance enacted by the
9 board of trustees of the village or the common council of the city, provided that in the
10 case of noncontiguous territory the use of the territory by the city or village is not
11 contrary to any town or county zoning regulation. The ordinance shall contain the
12 exact description of the territory annexed and the names of the towns from which
13 detached, and shall operate to attach the territory to the village or city upon the filing
14 of 6 certified copies thereof in the office of the secretary of state, together with 6 copies
15 of a plat showing the boundaries of the territory attached. Two copies of the
16 ordinance and plat shall be forwarded by the secretary of state to the department of
17 transportation, one copy to the department of natural resources, one copy to the
18 department of revenue and one copy to the department of public instruction.

19 **SECTION 11.** 66.32 of the statutes is amended to read:

20 **66.32 Extraterritorial powers.** The extraterritorial powers granted to cities
21 and villages by statute, including ss. 30.745, 62.23 (2) and (7a), 66.052, 236.10 and
22 254.57, may not be exercised within the corporate limits of another city or village and
23 may not be exercised within the corporate limits of a town during the period
24 beginning after the town's board has adopted a resolution under s. 60.225 (1) and
25 before a ratification vote under s. 60.225 (2) or at any time the electors of the town

1 approve such a resolution under s. 60.225 (2). Wherever these statutory
2 extraterritorial powers overlap, the jurisdiction over the overlapping area shall be
3 divided on a line all points of which are equidistant from the boundaries of each
4 municipality concerned so that not more than one municipality shall exercise power
5 over any area.

6 **SECTION 12.** 236.02 (5) of the statutes is amended to read:

7 236.02 (5) “Extraterritorial plat approval jurisdiction” means the
8 unincorporated area, except as provided in s. 60.225 (3) (d), within 3 miles of the
9 corporate limits of a first, second or third class city, or 1 1/2 miles of a fourth class city
10 or a village.

11 (END)