



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1025/3
MES:kjf:rs

DOA:.....Stinebrink, BB0355 – Transfer from secretary of state to DOA the responsibility to record municipal boundary, name, and status changes

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

LOCAL GOVERNMENT

Generally under current law, if a municipality (a city, village, or town) changes its boundaries or its name, or if it changes status (dissolves or reorganizes as another form of local government), the municipality must file a certified copy of the change with the secretary of state. Depending on the type of action taken by the municipality, the secretary of state may then be required to notify other state agencies, such as DNR, DOR, or DOT, of the action taken and the secretary of state may be required to issue a certificate of incorporation to the municipality. Under this bill, certified copies of such changes, and certificates of incorporation related to such changes, must be filed with, and issued by, the secretary of DOA.

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

SECTION 1. 60.05 (4) of the statutes is amended to read:

60.05 (4) COURT ORDER. If, after the hearing under sub. (3), the court finds that the area of the proposed town meets the requirements of sub. (1), the court shall enter

an order establishing a new town under the name proposed in the petition and shall designate the location of the first town meeting of the new town. The clerk of court shall immediately file certified copies of the order with the secretary of state administration and the county clerk.

SECTION 2. 60.065 of the statutes is amended to read:

60.065 Change of town name. The name of a town shall be changed if a petition designating the new name is signed and filed with the town clerk under the procedures in s. 9.20 (1), certified by the town clerk under the procedure in s. 9.20 (3), approved by the electors in an election held under the procedures in s. 9.20 (4) and the result of the election is published in the town's official paper, or posted in the town, and the new name is filed ~~in the office of~~ with the secretary of state administration.

SECTION 3. 61.187 (2) (d) of the statutes is amended to read:

61.187 (2) (d) If, in accordance with par. (a), the results of the election under sub. (1) provide for dissolution, the village clerk shall, within 10 days after the election, record the petition and determination of the village board of canvassers in the office of the register of deeds of the county or counties in which the village is located and file with the secretary of state administration certified copies of the petition and the determination of inspectors of election. The village clerk shall also record in the office of the register of deeds a certificate by the village clerk showing the date on which the dissolution takes effect and file with the secretary of state administration 4 copies of the certificate. These documents shall be recorded and indexed by the register of deeds. The index shall include the volume or reel number and the page or image number of the original documents. The secretary of state

administration shall forward 2 copies of the certificate to the department of transportation and one to the department of revenue.

SECTION 4. 61.189 (2) of the statutes is amended to read:

61.189 (2) The election shall be noticed and conducted and the result canvassed and certified as in the case of regular village elections and the village clerk shall immediately file with the secretary of state administration 4 copies of a certification certifying the fact of holding such election and the result thereof and a description of the legal boundaries of such village or proposed city and 4 certified copies of a plat thereof; and thereupon a certificate of incorporation shall be issued to such city by the secretary of state administration. Two copies of the certification and plat shall be forwarded by the secretary of state administration to the department of transportation and one copy to the department of revenue. Thereafter such city shall in all things be governed by the general city charter law. All debts, obligations and liabilities existing against such village at the time of such change shall continue and become like debts, obligations and liabilities against such city, and such city may carry out and complete all proceedings then pending for the issue of bonds for improvements therein.

SECTION 5. 62.02 of the statutes is amended to read:

62.02 Repeal of special charters. All special charters for cities of the 2nd, 3rd and 4th classes are hereby repealed and such cities are hereby incorporated under this subchapter. The city clerk shall forthwith certify the boundaries of such city to the secretary of state administration, who shall file the same and issue to such city a certificate of incorporation as of the date when this subchapter became effective, and record the same.

SECTION 6. 62.075 (5) of the statutes is amended to read:

62.075 (5) NOTICE OF ENTRY OF JUDGMENT; UPON WHOM SERVED. A certified copy of every such order shall be filed with the town and city clerk and with the county clerk and 4 copies with the secretary of state administration. The secretary of state administration shall forward 2 copies to the department of transportation and one copy to the department of revenue.

SECTION 7. 62.26 (7) of the statutes is amended to read:

62.26 (7) CHANGE OF CITY NAME. The name of any city of the fourth class shall be changed if a majority of the electors shall address a written petition therefor to the council designating the new name, and the council shall by a two-thirds vote of all the members adopt an ordinance changing to such new name. The change shall be in effect upon publication of the ordinance in the official paper, and the filing of a copy thereof ~~in the office of~~ with the secretary of state administration.

SECTION 8. 66.0203 (7) (a) of the statutes is amended to read:

66.0203 (7) (a) No action to contest the validity of an incorporation on any grounds, whether procedural or jurisdictional, may be commenced after 60 days from the date of issuance of the certificate of incorporation by the secretary of state administration.

SECTION 9. 66.0211 (5) of the statutes is amended to read:

66.0211 (5) CERTIFICATION OF INCORPORATION. If a majority of the votes in an incorporation referendum are cast in favor of a village or city, the clerk of the circuit court shall certify the fact to the secretary of state administration and supply the secretary of state administration with a copy of a description of the legal boundaries of the village or city and the associated population and a copy of a plat of the village or city. Within 10 days of receipt of the description and plat, the secretary of state administration shall forward 2 copies to the department of transportation and one

copy each to the department of administration and the department of revenue. The secretary of state administration shall issue a certificate of incorporation and record the certificate.

SECTION 10. 66.0213 (4) (a) of the statutes is amended to read:

66.0213 (4) (a) Within 10 days after incorporation of the village or city, the county clerk of the county in which the petition was filed shall fix a time for the first election, and where appropriate designate the polling place or places, and name 3 inspectors of election for each place. The time for the election shall be fixed no less than 40 nor more than 50 days after the date of the certificate of incorporation issued by the secretary of state administration, irrespective of any other provision in the statutes. Nomination papers shall conform to ch. 8 to the extent applicable. Nomination papers shall be signed by not less than 5% nor more than 10% of the total votes cast at the referendum election, and be filed no later than 15 days before the time fixed for the election. Ten days' previous notice of the election shall be given by the county clerk by publication in the newspapers selected under s. 66.0211 (2) and by posting notices in 3 public places in the village or city, but failure to give notice does not invalidate the election.

SECTION 11. 66.0213 (6) of the statutes is amended to read:

66.0213 (6) REORGANIZATION OF CITY AS VILLAGE. If the population of any city falls below 1,000 as determined by the United States census, the council may upon filing of a petition conforming to the requirements of s. 8.40 containing the signatures of at least 15% of the electors submit at any general or city election the question whether the city shall reorganize as a village. If three-fifths of the votes cast on the question are for reorganization the mayor and council shall record the return in the office of the register of deeds, file a certified copy with the clerk of the circuit court,

and immediately call an election, to be conducted as are village elections, for the election of village officers. Upon the qualification of the officers, the board of trustees shall declare the city reorganized as a village, and the reorganization is effective. The clerk shall certify a copy of the declaration to the secretary of state administration who shall file the declaration and endorse a memorandum of the declaration on the record of the certificate of incorporation of the city. Rights and liabilities of the city continue in favor of or against the village. Ordinances, so far as within the power of the village, remain in force until changed.

SECTION 12. 66.0215 (5) of the statutes is amended to read:

66.0215 (5) CERTIFICATE OF INCORPORATION. If a majority of the votes are cast in favor of a city the clerk shall certify the fact to the secretary of state administration, together with the result of the census, if any, and 4 copies of a description of the legal boundaries of the town and 4 copies of a plat of the town. The secretary of state administration shall then issue a certificate of incorporation, and record the certificate in a book kept for that purpose. Two copies of the description and plat shall be forwarded by the secretary of state administration to the department of transportation and one copy to the department of revenue.

SECTION 13. 66.0216 (5) of the statutes is amended to read:

66.0216 (5) CERTIFICATE OF INCORPORATION. If a majority of the votes are cast in favor of a city or village, the town clerk shall certify that fact to the secretary of state administration together with 4 copies of a description of the legal boundaries of the town, and 4 copies of a plat of the town. The town clerk shall also send the secretary of state administration an incorporation fee of \$1,000. Upon receipt of the town clerk's certification, the incorporation fee, and other required documents, the secretary of state administration shall issue a certificate of incorporation and record

the certificate in a book kept for that purpose. The secretary of state administration shall provide 2 copies of the description and plat to the department of transportation and one copy to the department of revenue. The town clerk shall also transmit a copy of the certification and the resolution under sub. (1) to the county clerk.

SECTION 14. 66.0216 (6) of the statutes is amended to read:

66.0216 (6) ACTION. No action to contest the validity of an incorporation under this section on any grounds, whether procedural or jurisdictional, may be commenced after 60 days from the date of issuance of the certificate of incorporation by the secretary of state administration. In any such action, the burden of proof as to all issues is upon the person bringing the action to show that the incorporation is not valid. An action contesting an incorporation shall be given preference in the circuit court.

SECTION 15. 66.0217 (9) (b) of the statutes is amended to read:

66.0217 (9) (b) Within 10 days of receipt of the ordinance, certificate and plat, the secretary of state administration shall forward 2 copies of the ordinance, certificate and plat to the department of transportation, one copy to the department of administration, one copy to the department of revenue, one copy to the department of public instruction, one copy to the department, one copy to the department of natural resources, one copy to the department of agriculture, trade and consumer protection and 2 copies to the clerk of the municipality from which the territory was annexed.

SECTION 16. 66.0219 (7) of the statutes is amended to read:

66.0219 (7) APPEAL. An appeal from the order of the circuit court is limited to contested issues determined by the circuit court. An appeal shall not stay the conduct of the referendum election, if one is ordered, but the statement of the election

results and the copies of the certificate and plat may not be filed with the secretary of state administration until the appeal has been determined.

SECTION 17. 66.0227 (5) of the statutes is amended to read:

66.0227 (5) The ordinance, certificate and plat shall be filed and recorded in the same manner as annexations under s. 66.0217 (9) (a). The requirements for the secretary of state administration are the same as in s. 66.0217 (9) (b).

SECTION 18. 66.0301 (6) (e) of the statutes is amended to read:

66.0301 (6) (e) A boundary change included in an agreement under this subsection shall be accomplished by the enactment of an ordinance by the governing body designated to do so in the agreement. The filing and recording requirements under s. 66.0217 (9) (a), as they apply to cities and villages under s. 66.0217 (9) (a), apply to municipalities under this subsection. The requirements for the secretary of state administration under s. 66.0217 (9) (b), as they apply under that section, apply to the secretary of state administration when he or she receives an ordinance that is filed under this subsection.

SECTION 19. 66.0307 (10) of the statutes is amended to read:

66.0307 (10) BOUNDARY CHANGE ORDINANCE; FILING AND RECORDING REQUIREMENTS. A boundary change under a cooperative plan shall be accomplished by the enactment of an ordinance by the governing body designated to do so in the plan. The filing and recording requirements under s. 66.0217 (9) (a), as they apply to cities and villages under s. 66.0217 (9) (a), apply to municipalities under this subsection. The requirements for the secretary of state administration are the same as those required in s. 66.0217 (9) (b).

SECTION 9329. Initial applicability; Local Government.

(1) BOUNDARY, STATUS, NAME CHANGES. The treatment of sections 60.05 (4), 60.065, 61.187 (2) (d), 61.189 (2), 62.02, 62.075 (5), 62.26 (7), 66.0203 (7) (a), 66.0211 (5), 66.0213 (4) (a) and (6), 66.0215 (5), 66.0216 (5) and (6), 66.0217 (9) (a) and (b), 66.0219 (7), 66.0221 (1), 66.0223 (1), 66.0227 (5), 66.0231, 66.0301 (6) (e), and 66.0307 (10) of the statutes first applies to a document that is filed, recorded, supplied, provided, forwarded, or issued, or to a fact that is certified, on the effective date of this subsection.

(END)