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## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

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<b>2011 Wisconsin Act 128</b> [2011 Assembly Bill 181]	<b>Direct Annexations by Unanimous Approval</b>
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Direct annexation by unanimous approval is one of several methods by which Wisconsin cities and villages may annex unincorporated land. A direct annexation by unanimous approval is initiated by a petition signed by all electors and landowners within the area to be annexed. It must be approved by a 2/3rds vote of the governing body of the municipality to which the territory will be annexed.

The statutory authority for annexation by this method is limited to situations in which the territory to be annexed is contiguous to the annexing municipality. Additional limitations apply if the area to be annexed is located in a county in which no part of the annexing municipality is located.

### **Requirements for Annexation of Land in a Different County**

Under *prior law*, direct annexation by unanimous approval was not authorized with regard to territory in a county in which no part of the annexing municipality was located, unless resolutions approving the annexation were passed by both the town and the county in which the territory to be annexed was located. Under **2011 Wisconsin Act 128**, the town board must pass a resolution approving such an annexation, but a resolution by the county is not required.

### **Authority of Towns to Challenge Direct Annexations by Unanimous Approval**

Under *prior law*, towns were not authorized to bring actions to contest the validity of annexations effected through direct annexation by unanimous approval in any circumstances.

Under **2011 Wisconsin Act 128**, a town is generally prohibited from contesting direct annexations by unanimous approval. However, a town may bring such an action if the Department of Administration (DOA) makes specified findings.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

Specifically, a town may request DOA review of an annexation effected by the direct annexation by unanimous approval procedure, provided that the request is made within 30 days of the enactment of the relevant annexation ordinance. Upon receipt of such a request, DOA must review the annexation to determine whether the annexation violates one or both of the following limitations on annexations:

- No territory may be annexed by a city or village by the direct annexation by unanimous approval procedure unless the territory to be annexed is contiguous to the annexing city or village.
- In the absence of a supporting resolution by the town in which the territory to be annexed is located, a city or village may not annex territory if no part of the city or village is located in the same county in which the territory to be annexed is located.

Within 20 days of receiving the town's request, DOA must send a copy of its findings to the town, any affected landowner, and the annexing city or village. If DOA finds that an annexation violates either of the above requirements, the town may challenge the annexation in circuit court within 45 days of the town's receipt of DOA's findings. If DOA does not complete its review of an annexation within the 20-day timeline, the effect is the same as if DOA found no violation of the above requirements.

If a court rules against a town that commences an action under these provisions, the town must pay the court costs and the defending city's or village's reasonable attorney fees. Likewise, if the town prevails in the court action, the defending city or village must pay the court costs and reasonable attorney fees incurred by the town.

The Act applies to annexations commenced on or after the effective date of the Act.

***Effective date:*** April 5, 2011

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