

AVERAGE NET ANNUAL GROWTH of SELECTED CITIES

COMPARED to CONTIGUCUS TOWNSHIPS

1960 Equalized Values multiplied by 4.405 based on All Urban CPI Index of 1960 Average 29.6, 1990 July, 130.4. All Equalized Values copied by the Wisconsin Alliance of Cities from Department of Revenue files, August 1990.

Average net Annual growth is: 1990 Equalized Value

-1960 Equalized Value x 4.405

Difference ÷ by 1960 Equalized Value x 4.405
 ÷ by 30

Cities/Village/Townships	1960		1980		1990		Net Annual Average Rate of Growth
	Equalized Value						
Cities	12,131,071,405	53,537,179,615	74,149,312,080				1.29%
Villages	1,893,011,850	11,803,727,450	18,407,227,050				4.02%
Townships	4,820,167,865	43,139,562,824	48,813,768,030				4.33%
Total	18,844,251,120	108,480,469,889	141,370,307,160				2.34%

AVERAGE NET ANNUAL GROWTH

City/Town	1960			1980			1990			Net Annual Average Rate of Growth
	Equalized Value									
Appleton	259,714,000	1,124,834,510	1,875,741,800						2.13%	
Grand Chute	25,004,000	302,757,550	692,783,500						17.6%	
Menasha	49,181,520	334,803,720	532,619,100						4.86%	
Buchanan	6,514,800	38,058,190	73,727,100						5.23%	
Beloit	171,739,700	537,375,050	591,999,010						- .73%	
Town of Beloit	26,336,180	144,750,070	146,969,200						.89%	
Turtle	18,014,540	71,745,050	70,985,400						-10%	
Eau Claire	177,601,980	826,764,690	1,232,213,400						1.92%	
Hallie	7,721,000	76,335,820	102,101,320						6.67%	
Seymour	4,967,030	43,966,220	59,204,000						5.69%	
Union	6,329,095	64,216,580	78,651,800						6.07%	
Washington	13,416,055	138,812,850	188,485,800						7.30%	

AVERAGE NET ANNUAL GROWTH

City/Town	1960		1980		Net Annual Average Rate of Growth
	Equalized Value	Equalized Value	Equalized Value	Equalized Value	
Green Bay	348,298,390	1,807,094,210	2,426,527,800	1.94%	
Bellevue	3,602,240	15,552,670	175,898,000	33.62%	
Hobart	4,678,270	26,550,300	133,505,800	18.26%	
Scott	8,003,130	48,173,580	67,511,200	3.05%	
Fond du Lac	132,479,460	631,339,690	921,804,800	1.93%	
Town of Fond du Lac	18,164,750	133,758,300	109,625,900	1.23%	
Friendship	6,611,390	42,282,560	44,624,000	1.77%	
Taycheedah	8,796,900	82,057,390	105,062,900	5.86%	
Kenosha	344,822,800	1,390,580,014	1,814,316,500	.65%	
Somers	26,395,575	186,396,440	228,556,100	3.22%	
Pleasant Prairie	35,895,750	311,241,050	422,107,300	5.57%	

AVERAGE NET ANNUAL GROWTH

City/Town	1960		1980		1990		Net Annual Average Rate of Growth
	Equalized Value						
Janesville	184,279,810	1,102,439,080	1,396,064,200				2.4%
Town of Janesville	8,145,430	81,905,880	92,280,600				5.24%
Rock	7,260,730	63,049,810	75,004,200				2.48%
La Prairie	7,946,970	58,229,900	38,203,100				.30%
Harmony	9,216,770	71,371,930	65,584,600				2.06%
La Crosse	238,315,050	1,025,365,040	1,262,140,500				.67%
Campbell	5,179,400	73,776,410	101,275,300				11.46%
Medary	5,767,440	47,413,710	41,536,300				2.12%
Onalaska	6,220,610	104,410,230	125,338,560				11.91%
Shelby	26,184,540	123,201,530	141,951,650				.77%

AVERAGE NET ANNUAL GROWTH

City/Town	1960		1980		1990		Net Annual Average Rate of Growth
	Equalized Value						
Madison	711,579,860	3,694,622,830	6,229,402,400				3.29%
Town of Madison	9,961,150	127,376,930	184,630,900				10.69%
Burke	9,006,750	89,560,430	125,092,400				8.04%
Dunn	9,393,940	123,844,950	164,620,700				9.90%
Middleton	9,356,290	112,981,430	191,004,700				12.11%
Bloomington Grove	20,155,740	55,331,530	72,959,100				-.72%
Milwaukee	3,762,188,200	10,252,210,990	12,808,006,900				-.76%
Manitowoc	172,304,480	655,642,330	727,304,200				-.15%
Town of Manitowoc	3,112,210	24,425,640	23,402,100				2.36%
Manitowoc Rapids	8,370,500	60,003,140	63,387,100				2.40%
Newton	7,251,480	51,490,680	58,030,400				2.72%
Town of Two Rivers	7,037,560	45,864,630	47,795,400				1.81%

AVERAGE NET ANNUAL GROWTH

City/Town	1960		1980		1990		Net Annual Average Rate of Growth
	Equalized Value						
Merrill	34,551,800	147,974,110	169,701,400				.38%
Town of Merrill	3,650,870	44,976,980	43,647,600				5.71%
Scott	2,939,610	23,448,140	20,886,900				2.04%
Pine River	3,336,425	31,454,540	29,625,400				3.39%
Neenah	108,765,650	462,960,680	728,789,500				1.74%
Town of Neenah	15,501,630	80,137,570	99,498,900				1.52%
Menasha	49,181,520	334,803,720	532,619,100				4.86%
Racine	460,207,600	1,463,707,100	1,752,404,400				--.45%
Mount Pleasant	76,433,650	460,113,640	527,897,700				1.89%
Caledonia	39,823,900	633,939,330	643,467,500				8.89%

AVERAGE NET ANNUAL GROWTH

City/Town	1960 Equalized Value	1980 Equalized Value	1990 Equalized Value	Net Annual Average Rate of Growth
Sheboygan	203,052,200	872,005,310	1,154,104,000	.97%
Sheboygan Falls	8,304,700	56,134,170	54,144,200	1.60%
Town of Sheboygan	13,357,110	95,413,420	136,419,100	4.40%
Wilson	9,574,240	97,520,080	108,097,400	5.20%
Stevens Point	61,902,465	445,024,550	590,389,700	3.88%
Hull	5,306,310	92,154,650	135,316,900	15.96%
Linwood	1,409,225	21,227,050	27,188,900	11.27%
Plover	5,321,755	85,418,590	104,769,600	11.56%
Two Rivers	58,924,310	234,797,280	240,468,200	-.25%
Town of Two Rivers	7,037,560	45,864,630	47,795,400	1.81%
Town of Manitowoc	3,112,210	24,425,640	23,402,100	2.36%

AVERAGE NET ANNUAL GROWTH

City/Town	1960		1980		1990		Net Annual Average Rate of Growth
	Equalized Value						
Waukesha	171,543,300	1,232,376,030	1,903,461,100				5.06%
Town of Brookfield	12,458,500	151,762,530	371,442,900				19.23%
Town of Pewaukee	29,256,350	279,720,830	583,166,900				11.75%
Town of Waukesha	24,123,050	198,437,770	311,247,800				6.43%
Wausau	158,538,560	739,838,350	992,990,100				1.41%
Rib Mountain	8,749,680	110,197,850	181,188,300				12.34%
Weston	8,049,245	215,015,330	266,351,000				21.70%
Mauwatosa	403,027,650	1,759,823,240	2,288,668,300				.96%
West Allis	467,997,500	1,536,895,355	1,866,247,100				-.32%

AVERAGE NET ANNUAL GROWTH

City/Town	1960		1980		1990		Net Annual Average Rate of Growth
	Equalized Value						
Marshfield	55,074,890	384,935,300	456,541,900			2.94%	
Cameron	1,421,320	15,015,600	19,486,400			7.04%	
Lincoln	3,541,325	34,422,200	41,628,400			5.56%	
Town of Marshfield	2,504,345	19,088,000	21,587,800			3.19%	
McMillian	3,724,865	39,822,600	43,974,800			5.60%	
Spencer	2,711,520	21,264,100	18,497,900			1.83%	
Wisconsin Rapids	90,877,600	405,977,000	502,106,900			.85%	
Grand Rapids	16,054,310	130,369,600	167,930,500			4.58%	
Port Edwards	1,003,030	24,370,500	27,887,800			17.71%	
Rudolph	2,648,240	26,602,700	24,014,100			3.53%	
Seneca	1,815,690	22,011,000	24,410,700			6.84%	
Sigel	3,400,045	26,119,100	22,337,300			1.64%	

TIEBOUT OR SAMUELSON:

The 21st Century Deserves More

Edward J. Huck*

For more than 35 years, the issue of municipal consolidation has brought attention to a publication, *A Pure Theory of Local Expenditures* by Charles Tiebout.¹ Tiebout's article, a rebuttal of economist Paul Samuelson, has defined the boundaries of modern urban policy debate. Advocates of both Tiebout and Samuelson contend that the authors articulate polar opposite opinions in the still-hot debate on whether it is better government to have a myriad of small municipalities or fewer larger units of government. Samuelson emphasizes social and economic justice, and Tiebout advocates economic efficiency.

I contend they are not mutually exclusive in terms of an outcome. That is, it is not necessary to consolidate in order to reach economic and social justice, but consolidation may be the final outcome if Tiebout's publication is taken as gospel.

Here's the story. In 1956 when centralizing government was a pretty intellectually appealing answer to the problems social economic efficiency, Tiebout voiced a compelling argument against consolidation. He advocated that providing a range of local municipal choices was imperative, because "people vote with their feet." That is, people will simply move to a community that offers a level of services that suits them.²

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¹ Charles M. Tiebout, *A Pure Theory of Local Expenditures*, 64 J. POL. ECON. 416 (1956).

² *Id.*

In Tiebout's model, each citizen chooses the community that best satisfies his or her own particular demands. Competition, thereby, provides that all citizens in each community agree on their service levels. Today, Tiebout's followers believe that local competition is the perfect solution.

Tiebout strongly refuted Paul Samuelson's 1954, article "The Pure Theory of Public Expenditures."³ Samuelson had analyzed the "free rider problem," the concern that some folks would try to reduce their own tax burden while enjoying the benefits of services supplied by another taxpayer. This free ridership creates a range of tax and service disparities for municipalities. In Samuelson's model, since markets don't always provide public goods efficiently, some form of governmental intervention is needed. Today many of Samuelson's followers advocate for the merger of multiple municipalities by state or federal mandate.

The polarism created by Samuelson and Tiebout reappears today whenever there is talk of municipal government mergers, annexation, or regionalism. The questions of economic and social justice, or for that matter, economies of scale and diseconomies of scale, almost never seem to seep into the discussion together. We continue to create neat little boxes of debate; big is bad and small is good or visa-versa. Rarely are these points of view exclusively right. *How about the possibility that both Tiebout and Samuelson were right, at least partially?* What if we should reframe the urban policy debate along multiple dimensions?

If we agree that "Tiebout's Hypothesis," which assumes that citizens can "vote with their feet," is only correct in that certain incomes have that ability, then we can move forward and deal with exclusionary zoning and racism. In 1957, neither was much

considered. Nor were there many differences in corporate culture, ownership, and behavior. Today, “[c]ompanies increasingly go, and are started, where talented and creative people are.”⁴ Not so in 1957. Let us not use Tiebout to continue racial segregation along with wealth and poverty segregation in 2004. The point often made is that any government organization that indeed prevents the mobilization of a people because of race is wrong.⁵ But does this mean regional government? Does this mean municipal mergers are the only way to achieve social and economic justice?

We should also recognize that Tiebout was right about providing government services that may become less useful to others or have little utility for others. People who have the income to move will move when they feel the services and the environment provided by their city no longer justify the taxes they pay. We can’t rope them in. We must find ways to focus on efficiency and quality of life. Building walls to keep people in isn’t any more right than keeping them out. So now what?

Mayor Henry Maier, Bruce Katz, Myron Orfield, David Rusk and Me

I started working for city governments in 1984. The honorable Henry Maier was Mayor of the great City of Milwaukee. You could count on the Mayor for two quotes; “Those bastards at the Milwaukee Journal” and “those goddamn suburbs!” The mayor, as well as every mayor today, knows that a full service city must prepare to serve both daytime and nighttime populations. The infrastructure and services that protect families 24-7, commerce and its workforce, healthcare facilities, universities and many other institutions of learning, and government serve many people beyond the residents of the

³ Paul Samuelson, *The Pure Theory of Public Expenditures*, 36 REV. ECON. AND STAT. 350 (1954).

⁴ RICHARD FLORIDA, *THE RISE OF THE CREATIVE CLASS* 283.

city. Mayor Maier's awareness that people of wealth could live near his great city and never pay for all the benefits it provided was always on his mind. Today those first ring suburbs are Milwaukee's allies against a new ring of suburban growth. Eventually this new ring will join an unenviable club. The fact remains that when concentration of poverty and wealth are in close proximity and in different political jurisdictions there are going to be problems that cannot be solved within the borders of any single jurisdiction,

Henry Maier would not have advocated combining suburban government with his city. Concerns of representation and local choices remain valid. Forget Tiebout and Samuelson; it's time to admit each made valid points in their time and move on to seeking better ways to serve a taxpaying public.

Before someone accuses me of being an apostle of Bruce Katz, Myron Orfield, and David Rusk, let me declare I am an apostle of Bruce Katz, Myron Orfield and David Rusk.⁶ I also believe in Regional solutions. These men have brought new and exciting ideas on revenue sharing, housing policies, race, and income policies. Like a breath of fresh air, they filled me with ideas and energy to find a new way for Wisconsin.

For almost 20 years, I've worked for more than two dozen mayors who govern cities that range from 8,500 to 575,000 in population. They all know the importance of serving the public, which is no small task. Their work, which used to receive accolades and honor, is now chastised by state and federal politicians trying to make points with a cynical public, both on the left and right of the political spectrum. City leaders' goals are

⁵ REFLECTIONS ON REGIONALISM (Bruce Katz ed. 2000); BRUCE KATZ AND MARGERY AUSTIN TURNER, WHO SHOULD RUN THE HOUSING VOUCHER PROGRAM? A REFORM PROPOSAL (2000), at <http://www.brook.edu/es/urban/vouchers/report.pdf>.

⁶ See *id.* See also DAVID RUSK, INSIDE GAME/OUTSIDE GAME (1999); DAVID RUSK, CITIES WITHOUT SUBURBS (2d ed. 1995); MYRON ORFIELD, AMERICAN METROPOLITICS: THE NEW SUBURBAN REALITY (2002); MYRON ORFIELD, METROPOLITICS: A REGIONAL AGENDA FOR COMMUNITY AND STABILITY (1997).

related to building their cities through economic development, housing development, transportation systems, and a quality of life that entices young people, regardless of race or religious orientation.

What these leaders need are the tools to better govern. Those tools can take shape by looking at a natural economic area (Metropolitan Statistical Area) and creating a regional focus for land use, housing, transportation, economic vitality, and revenue sharing.

Revenue Sharing Can Reduce the Need to Consolidate

In Wisconsin we have a system of intergovernmental transfer from state revenues called “state shared revenues.” It is a program with the goal to neutralize tax base and tax rate differences among local governments. Through the shared revenue program, Wisconsin distributes state tax revenues to municipal and county governments for use at their discretion. The program is a fundamental element of Wisconsin’s local finance structure and the state’s overall program of property tax relief.⁷ Wisconsin’s practice of sharing state taxes with local governments dates back to 1911, when a share of the new state income tax was earmarked for local governments to compensate them for property tax exemptions for intangible property and household furnishings.⁸ The shared revenue program is successful, but it is constantly under siege. The state budget allocates each year more than \$900 million of general-purpose revenues into the program. This irritates some conservative legislators, who believe in the Tiebout theories, even if they are not aware of the genesis of their thoughts. The truth is, however, the program does a decent job of making sure that every municipality in the state can compete for jobs and people.

⁷ Information Paper, *Shared Revenue Program*, WIS. LEGIS. FISCAL BUREAU.

⁸ *Id.*

Most of the revenue is distributed through an entitlement that uses two factors: (1) per capita property wealth; and (2) net local revenue effort. The lower a local government's per capita property wealth and the higher its net revenue effort, the greater is the local government's revenue entitlement.⁹

Why isn't such a wonderful program duplicated more often? Because Tiebout's hypothesis is often used to confuse the public and accuse local governments of spending other peoples' money. Of course, no one questions the practice in the NFL where teams share revenue to insure each team can compete. That's a good thing. My friend and colleague Dan Thompson, Director of the League of Wisconsin Municipalities, points out that revenue sharing occurs within every city today between rich and poor. It just goes unnoticed. This is why the consolidation of many cities into one or the creation of a regional government is appealing to so many politicians.

The criticisms of shared revenues in Wisconsin are twofold: first, it is too closely tied to spending at the local level; and second, there is no connection between revenues received from the state and revenues raised locally. The criticisms are more political than policy, but they are threatening to the program. The spending issue can be addressed by going to a foundation plan and by defining "need."¹⁰ A foundation plan would require a mill rate effort before state aid would be given. Need can be defined by measuring relative income, poverty, and property values within a defined region. The logistics of regional revenue sharing is more difficult.

Shortcomings of the Minnesota Model

⁹ *Id.*

¹⁰ MYRON ORFIELD AND THOMAS LUCE, WISCONSIN METROPATTERNS: REGIONAL COOPERATION, ECONOMIC GROWTH AND ENVIRONMENTAL PROTECTION (2002).

Ideally, tax-base sharing should use total values, including residential properties. Using the increases in value for commercial/industrial real property, while politically more feasible, locks in existing inequities. Communities with high residential property values, but little commercial and industrial base, benefit disproportionately under the Minnesota model. Tax base sharing in Wisconsin would require a regional government or other constitutional changes.

Regional Government would require a Constitutional Change

In Wisconsin cities and villages have constitutional “home rule” powers. This means that unless the state legislature expressly restricts cities and villages from an action, the local government can go forward. I mention this because county government that overlaps cities and villages does not have constitutional legal standing. That is, city and village governments are legally stronger than county government. To further complicate legal matters in Wisconsin, there is case law that says that state government cannot force one level of government to levy a tax and give it involuntarily to another level of government.¹¹ This makes regional revenue sharing, as most would conceive it, impossible under current law.

Functionally what that means is that, in order to create tax base sharing, the state would need to create “regional government.” There would have to be a constitutional change that recognizes regional government and places it within the context of Wisconsin law.

Constitutional Convention

In 1846, the Wisconsin Territory held its first constitutional convention. Article XVIII, section 2, stated:

Every tenth year after this constitution shall have taken effect it shall be the duty of the legislature to submit to the people at the next annual election the question whether they are in favor of calling a convention to revise the constitution or not; and a majority of the qualified electors voting thereon shall have voted in favor of a convention, the legislature shall at its next session provide by law for holding a convention, to be holden (sic) within six months thereafter; and such convention shall consist of a number of members not less than that of the house of representatives, nor more than that of both houses of the legislature.¹²

The electorate rejected the constitution, and this language was not included in the 1848 constitution.

The Wisconsin Alliance of Cities, my organization, has called for a new convention without a predetermined outcome. We believe regional government is an option that our state should consider as part of the debate over a new constitution. Nineteenth century government cannot continue if we are to compete in this “New World” economy. But constitutional conventions do not come easily and there are many questions that legally need to be answered about what it would take to call a convention in Wisconsin. Other states do not have the barriers that Wisconsin has. In some of those states, consolidation and regional government already exist.

To Avoid Regional Government, State Government Must Intervene

How do we share revenue regionally without creating a regional government? The answer lies in state government. State government can create regions by legislation. The new legislation would require the Department of Revenue to measure income, sales, and property value growth within each of the regions and apply a predetermined rate

¹¹ **SUPPORT NEEDED**

¹² **MORE INFORMATION** THE CONVENTION OF 1846, Wisconsin Historical Publications, constitutional series, volume 2, 1919

against the growth. The revenue then could be divided and distributed on a “need” or “equalizing” basis.¹³

The regions could follow the lines of Metropolitan Statistical Areas or, where there are none, combine the remaining counties into a statewide program. The idea is that, in a defined area, everyone has a stake in economic growth. The idea of defining community as a region is not unheard of. The “Valley” in California, “Utopia” in Utah, and Hwy. 128 in Massachusetts are illustrations. Branding and marketing regionally need a thread to bind them together. That thread is regional revenue sharing for local governments.

Many business people do not understand the dynamics of urban decay or the real costs associated with decline. More importantly, it is not understood that the decline is a cancer that starts at the core and works it’s way outward. It drives taxes up in older areas with higher concentrations of poverty and drives taxes up in newer suburban/ex-urban communities because of redundancy of infrastructure and other marginal costs.

Revenue sharing, at least on a regional level, is essential for every state in America. Regional revenue sharing can mitigate the impacts of development sprawl and encourage local government leaders to overcome local competition and instead build the region. But it is only part of the picture.

Inclusionary Zoning, Regional Land Use, and Economic Planning and Utilities

Completes the Package

¹³ **IS THIS ONLINE?** “A shared revenue proposal,” Edward J. Huck, March, 2004. Wisconsin could provide for using the natural economic regions where most people live and work as follows: Region one: Douglas County; Region two: Pierce and St. Croix Counties; Region three: Eau Claire and Chippewa Counties; Region four: La Crosse County; Region five: Marathon, Wood, and Portage Counties; Region six: Brown, Winnebago, Calumet, Outagamie, and Fond du Lac Counties; Region Seven: Sheboygan County; Region Eight: Milwaukee, Waukesha, Ozaukee, and Washington Counties; Region Nine: Racine County; Region Ten: Kenosha County; Region Eleven: Dane County; Region Twelve: Rock County.

In addition to regional revenue sharing, we need a non-governmental body to coordinate data collection and planning, assess strengths and weaknesses within any economic region, analyze economic trends, and incorporate goals that can be measured with strategies for implementation. This should be a non-governmental institution, an institute, if you will, to educate and recommend policy changes that deal with economic development, land use, and inclusionary housing laws.

The fundamental purpose of inclusionary zoning is to allow the development of affordable housing to become an integral part of development. The zoning requirement could be voluntary (offering developer incentives) or mandatory. An inclusionary zoning ordinance would set forth a minimum percentage of units to be provided in a specific residential development that are affordable to households at a given income level, defined as a percentage of the median income of the area.

The key is inclusionary zoning across incomes in every neighborhood. Today we bus students from neighborhood to neighborhood in order to equalize the distribution of poor or minority students within a school district. In Milwaukee, we use vouchers so parents can choose between public and private schools. We do this because we know that poorer income students accomplish greater academic success when exposed to other students.¹⁴

As stated before, systems of local government that do not allow for the freedom of movement within our society by income or race are wrong. Even with revenue sharing and regional marketing, we cannot ignore concentrations of poverty and the impacts on

¹⁴ David Rusk has done extensive work in this area. *See, e.g.*, DAVID RUSK, *INSIDE GAME/OUTSIDE GAME* 325-26 (1999).

many families. Inclusionary zoning creates better outcomes than government consolidation, because it integrates neighborhoods not cities.

Efficiency of Service Delivery

In an editorial by the *Milwaukee Journal Sentinel*, dated September 16, 2002, the Editors asked, “Why not propose regional transportation authority that would cover airports, rail and highway? Or maybe a planning board that could coordinate development across the area? What about creating a regional authority for the various sports and arts venues in the metropolitan area? What about merging some governments?”

Families in Wisconsin (and likely everywhere) really do not care who provides a particular service, only that it be done efficiently and at the least amount of cost to the taxpayer. Using contract law between local governments is an effective and politically appealing way of reducing marginal costs. The creation of “utilities” that cross local political lines to provide service is, in a word, doable.

Utilities are another way of accomplishing the outcomes of Samuelson and Tiebout without consolidation of municipal governments. Regional service delivery should be based on capturing economies of scale, not consolidating governments. Elimination of redundancy, which may include mixing private sector with government sector employees, can occur when two or more municipalities create a regional utility.

Creating utilities can increase the use of fees to offset Wisconsin’s high property taxes. Only eight states rely on the property tax to a greater extent for their local revenue than Wisconsin. When fees are not counted in comparing state tax burdens, Wisconsin is

frequently listed in the top 10 for tax burden. The greater use of fees is a fair way of getting Wisconsin out the top 10.

Fees must have a close nexus to the service being provided.¹⁵ A fee for services offered, not rendered, as a per square foot fee for fire service, could significantly reduce property taxes. Services rendered would require the fee only be assessed if the fire truck came to your house. Services offered means they only need to be available to come to your house. (This would require a legislative change in Wisconsin.) In addition, the fees would shift the burden to all property owners, allowing for discrimination of the fees based on inventory and height of building and relieving homeowners from the subsidization of large institutions and manufacturing properties.

Regional utilities for garbage, recycling, and landfill siting could also bring savings and again be funded by fees. Road plowing and maintenance are other possibilities. Concentrating on service levels and efficiency instead of governmental incorporation allows for total creativity. Consolidation of municipalities is less likely to allow for the kind of creativity that contract law can accommodate.

Conclusions

If social justice issues and issues such as the “free rider” described by Samuelson are not considered, there are likely to be more calls for (if not more) government consolidation. But it need not be. Both conservatives and liberals should consider the package I have described: *regional revenue sharing, inclusionary zoning, and utility regional service delivery*. Zoning law changes would reduce the need for school busing. Revenue sharing would reduce the need to consolidate or annex property. Regional utilities would reduce property taxes and increase efficient allocation of costs.

In the end, it isn't whether Samuelson or Tiebout are right. It's about better government and better service to the taxed public in the 21st Century.

¹⁵ Town of Janesville v. Rock County, 451 N.W.2d 436 (Wis. Ct. App. 1989).

COMPARISON OF WAC PROPOSAL TO CURRENT ANNEXATION PROCEDURES

WAC Alternative Procedure

Current Law

Availability

1. Only available to cities and villages with a population of 10,000 or more.

Availability

1. Available to all cities and villages without regard to population level.

Territory subject to annexation

1. Must be contiguous to the city or village;
2. Must be located within previously-designated municipal service area;
3. Must meet established criteria indicating that the territory is undergoing urbanization.

Territory subject to annexation

1. Must be contiguous to the city or village.

Advance planning

1. The city or village must adopt a Municipal Service Plan which establishes a timetable for the provision of necessary services to the area before it may initiate any annexation.

Advance planning

1. No requirement that the city or village establish a plan for providing municipal services to the area proposed for annexation.

Citizen participation

1. Prior notice and a public hearing must precede adoption of the Municipal Service Plan;
2. Publication of a notice that the plan has been adopted is required and the plan itself must be made available for public inspection in the clerk's office.

Citizen participation

1. Prior publication of intent to either annex or petition for annexation is required;
2. No public hearing is required, however the annexation may be made subject to a referendum by petition of electors within the area that is proposed for annexation.

Governing body action

1. A 2/3 vote of the governing body is required to adopt a resolution initiating annexation, as well as the final ordinance.

Governing body action

1. A 2/3 vote of the governing body is required to adopt the final annexation ordinance.

State review

1. The Municipal Service Plan and a map of the service area must be filed with the State of Wisconsin DOD to guide it in the subsequent review of a proposed annexation;
2. DOD must review and approve all annexations under this procedure.

State review

1. For annexations affecting territory located within a county having a population of 50,000 or more, the Department of Development may issue an advisory opinion that the proposed annexation is against the public interest.

Limitations

1. Prohibitions included against the annexation creating a town island;
2. An annexation may not reduce the property value of the remainder of the town to the point that it is unable to reasonably support the provision of services to residents remaining in the town.

Limitations

1. The prohibition against creation of town islands currently exists;
2. No other limitations regarding the impact on the remainder of the town are specified by statute.

Post annexation requirements

1. The city or village is required to provide municipal services to the annexed area within the time frame established by the Municipal Service

Post annexation requirements

1. No requirement that the city or village provide services to the annexed area within a certain time frame is statutorily prescribed.

1 AN ACT to amend 66.026, 117.132 (1m) (a) and 144.07 (1m); and to create
 2 66.023 of the statutes, relating to a method that certain cities and
 3 villages with a population of at least 10,000 may use to annex town
 4 territory.

Analysis by the Legislative Reference Bureau

Under current law, town territory contiguous to any city or village may be annexed by the city or village under several methods. The methods include direct annexation, under which a petition for annexation signed by the required number of electors and landowners is filed with the city or village clerk; annexation by referendum, under which a petition for referendum signed by the required number of electors and landowners is filed with the city or village clerk and a referendum is held in the town; or annexation by referendum and court order, under which a city or village applies to a circuit court for an order that an annexation referendum be held in the territory proposed for annexation.

This bill creates a new method for annexation that a city with a population of at least 10,000 or a village with a population of at least 10,000 may use to annex town territory. Under this bill, if certain procedures are complied with, a city or village may annex town territory that has land use characteristics, service demands or population levels usually associated with a city or village, as determined by the department of development, or territory that has recently changed its zoning classification from agricultural to a classification more suitable to development. The procedures that must be complied with include adoption by the city or village of a plan to provide municipal services to the territory and filing a petition requesting that the department of development issue a determination that the proposed annexation is not against the public interest.

The city or village must also submit to the department of development a resolution that identifies which annexation criteria in at least 2 out of 4 listed categories is applicable to the territory proposed for annexation. The required categories include need of the territory by the city or village, land use characteristics in the territory, provision of municipal services to the territory and population characteristics in the territory.

The department of development makes its determination based on a review of the resolution submitted by the city or village and the municipal services plan adopted by the city or village. If the department of development determines that the proposed annexation is not against the public interest, the city or village may annex the territory. If the department determines that the proposed annexation is against the public interest, the territory may not be annexed.

If 2 or more cities or villages seek to annex the same territory, they must either reach agreement on the portion that each will attempt to annex or submit the dispute to the department of development for a final determination on the portion of territory that each may attempt to annex. If they cannot reach an agreement and do not submit the dispute to the department, none of the cities or villages involved may annex any of the disputed territory.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly,

do enact as follows:

1 SECTION 1. 66.023 of the statutes is created to read:

2 66.023 ANNEXATION OF URBAN AREAS. (1) DEFINITIONS. In this

3 section:

4 (a) "City" means a city that has a population of at least 10,000.

5 (b) "Department" means the department of development.

6 (c) "Members-elect" has the meaning given in s. 59.001 (2m).

7 (d) "Municipal service area" means the area identified on the
8 municipal service map included in a municipal service plan adopted by a
9 city or village under sub. (2) (b).

10 (e) "Noncontiguous development" means development in an area of a
11 town that is separated from a contiguous city or village by undeveloped
12 territory.

13 (f) "Threatened urbanization" means that the area has been included
14 in the described territory for which an incorporation proceeding has been
15 initiated, or that the area has recently changed its zoning classification
16 from agricultural use to a classification more suitable for development.

1 (g) "Town island" means territory that comprises part of a town or
2 towns and that is completely surrounded by territory of one or more
3 cities, one or more villages or one or more cities and one or more
4 villages.

5 (h) "Urban area" means territory, within a town, which has land use
6 characteristics, service demands or population levels usually associated
7 with a city or village, as determined by the department based on the fac-
8 tors in sub. (3).

9 (i) "Village" means a village that has a population of at least
10 10,000.

11 (2) PROCEDURES. As a complete alternative to any other annexation
12 procedure and subject to sub. (9), an urban area, or an area subject to
13 threatened urbanization, that is contiguous to a city or village and is
14 contained in the city's or village's municipal service area may be annexed
15 by the city or village if all of the following procedures are complied
16 with:

17 (a) Adoption of proposed plan. The governing body of the city or
18 village adopts a proposed plan for providing municipal services to the
19 territory proposed to be annexed. The proposed municipal service plan
20 shall include a map of the territory within which services will be pro-
21 vided and the projected length of time until services are extended to this
22 territory. Before final adoption of the proposed plan, the governing body
23 of the city or village shall hold a public hearing on the plan at which
24 interested parties are afforded a reasonable opportunity to express their
25 views on the proposed plan. Notice of the hearing shall be published as a
26 class 1 notice, under ch. 985. Prior to publication, a copy of the pro-
27 posed plan and notice of the hearing shall be sent by 1st class mail to

1 the clerk of every town containing territory within the proposed municipal
2 service area. The proposed plan may be amended at or after the hearing.

3 (b) Adoption of plan. Following the public hearing, the governing
4 body of the city or village adopts the proposed municipal service plan. A
5 copy of the adopted plan shall be filed with the department. A copy shall
6 also be filed with the city's or village's clerk and it shall be available
7 for public inspection. Notice of adoption of the municipal service plan
8 shall be published as a class 1 notice, under ch. 985. Subsequent amend-
9 ment of a plan adopted under this paragraph must follow the procedures in
10 par. (a) and this paragraph. Any municipal service area contained in a
11 plan adopted under this paragraph may be shown on the official map adopted
12 under s. 62.23 (6), subject to s. 62.23 (6) (d) and (h).

13 (c) Adoption and publication of resolution. 1. Following adoption
14 of a municipal service plan under par. (b), the governing body of the city
15 or village adopts a resolution, by a two-thirds vote of the members-elect,
16 which does all of the following:

17 a. Identifies the criteria under sub. (3) that are satisfied and de-
18 scribes how the characteristics of the territory meet the criteria.

19 b. Declares the governing body's intention to petition the department
20 for a determination that the proposed annexation is not against the public
21 interest.

22 c. Includes the legal description of the territory to be annexed.

23 d. Provides the name and mailing address of the city's or village's
24 clerk.

25 2. A resolution adopted under subd. 1 and a map of the territory to
26 be annexed in relation to the city or village is published as a class 1
27 notice, under ch. 985.

1 3. No later than 5 days after the date of publication under subd. 2,
2 a copy of the resolution and the map is served upon the clerk of each town
3 in which the territory to be annexed is located. Such service may be
4 either by personal service or by registered mail with return receipt
5 requested.

6 4. No later than 30 days after the date of publication under subd. 2,
7 the city or village sends a petition, including a copy of the resolution
8 and the map, to the department asking for a determination of whether the
9 proposed annexation is or is not in the public interest, as determined
10 under sub. (4) (b).

11 (3) ANNEXATION CRITERIA. Town territory contiguous to a city or
12 village and located within the city's or village's municipal service area
13 may be annexed under this section if at least one subdivision under each
14 of at least 2 of the following paragraphs is applicable as determined by
15 the department:

16 (a) Need. Annexation is necessary to:

17 1. Properly manage urban growth patterns and maintain the economic
18 stability of the metropolitan community.

19 2. Protect against threatened urbanization or noncontiguous
20 development.

21 3. Improve public safety and health and to ensure the provision of
22 the full range of municipal services required by present or planned
23 development in the area.

24 4. Resolve present or potential environmental problems in the area.

25 5. Eliminate fragmented or irregular jurisdictional boundaries which
26 result in duplication of services, planning and service inefficiencies or
27 confusion over which jurisdiction is to provide services.

1 (b) Land use. 1. Present zoning regulations or the actual use of
2 the land within the territory proposed for annexation is more compatible
3 with land use within the city or village than with land use in the
4 remainder of the town.

5 2. The proposed use of the land within the territory proposed for
6 annexation is more compatible with land use within the city or village
7 than with land use in the remainder of the town.

8 3. If the territory proposed for annexation contains the entire town,
9 the present use of land within the territory is compatible to the land use
10 within the city or village.

11 (c) Provision of service. 1. The present, planned or potential use
12 of land within the territory proposed for annexation would benefit sig-
13 nificantly from the provision of the municipal services offered by the
14 city or village.

15 2. Municipal services provided by the city or village would be more
16 efficient than similar services provided by the town, county or other
17 nearby, but not necessarily contiguous, city or village.

18 3. Services and facilities in the city or village are being used to a
19 significant degree by residents of the territory proposed to be annexed.

20 (d) Population characteristics. 1. Population density within the
21 territory proposed to be annexed is more consistent with the population
22 density of the annexing city or village than with the population density
23 of the remaining portion of the town.

24 2. Population density within the territory proposed to be annexed,
25 after planned development occurs, will be more consistent with the popu-
26 lation density of the city or village than with the population density of
27 the remaining portion of the town.

1 3. Population within the territory proposed for annexation has grown
2 at a rate significantly greater than the rate of population growth within
3 the remainder of the town.

4 4. If the territory proposed for annexation contains the entire town,
5 the population density and distribution within the developed areas of the
6 town is similar to the population density and distribution in the devel-
7 oped areas of the city or village.

8 5. If the territory proposed for annexation contains distinct areas
9 of vacant land, the subdivisions in this paragraph may not be considered.

10 (4) REVIEW BY DEPARTMENT; CITY, VILLAGE RESPONSE. (a) Review
11 requirements. No later than 30 days after receipt of a petition under
12 sub. (2) (c) 4, the department shall determine whether the annexation is
13 not against the public interest, as specified in par. (b). The department
14 shall base its determination on a review of the petition, resolution and
15 map adopted by the city or village. The department shall notify the clerk
16 of the city or village, and the clerk of each town whose territory is
17 affected, of its determination by 1st class mail. If the department
18 determines that the annexation is against the public interest, it shall
19 specify in a letter to the city's or village's clerk the reasons for the
20 department's determination. If the department determines that the annex-
21 ation is not against the public interest, it shall send the city or
22 village a certificate so stating.

23 (b) Public interest. For purposes of this subsection, public inter-
24 est is determined by the department after consideration of all of the
25 following:

26 1. Whether the municipal services, including zoning, to be supplied
27 to the territory proposed for annexation could clearly be better supplied

1 by the town, county, annexing city or village, or other nearby, but not
2 necessarily contiguous, city or village.

3 2. The shape of the proposed annexation and the homogeneity of the
4 territory with the annexing city or village and any other nearby, but not
5 necessarily contiguous, city, village or town.

6 3. Whether the territory remaining within the town after the proposed
7 annexation is completed would be an uneconomic remnant. An uneconomic
8 remnant is created if the department determines that the property tax rate
9 that would have to be levied on property in the territory remaining within
10 the town after annexation to continue the preannexation level of municipal
11 services within the remainder of the town would exceed the statewide
12 average property tax rate for the prior year for municipal services.

13 (c) City, village options. 1. If the department determines that the
14 proposed annexation is not against the public interest or is against the
15 public interest only because an uneconomic remnant is created, the gov-
16 erning body of the city or village may, subject to subd. 2, by a two-
17 thirds vote of its members-elect, adopt an ordinance annexing the
18 territory. The annexation is effective upon adoption of the annexation
19 ordinance.

20 2. If the department determines that the proposed annexation is
21 against the public interest only because an uneconomic remnant is created,
22 the governing body of the city or village may annex the territory under
23 subd. 1, but only if the city or village also annexes the uneconomic rem-
24 nant under this section by amending the plan adopted under sub. (2) (b).

25 3. If the department determines that the proposed annexation is
26 against the public interest, the governing body of the city or village may
27 not annex the territory under this section.

1 (5) FILING REQUIREMENTS; SURVEYS. (a) The clerk of a city or
2 village that has annexed territory shall file immediately with the secre-
3 tary of state a certified copy of the ordinance, certificate from the
4 department and plat and one copy with each company that provides any
5 utility service in the annexed area plus one such copy with the register
6 of deeds and one copy with the clerk of any affected school district,
7 signed by the clerk, describing the annexed territory and the associated
8 population. Failure to file shall not invalidate the annexation and the
9 duty to file shall be a continuing one. The information filed with the
10 secretary of state shall be utilized in making recommendations for
11 adjustments to entitlements under the federal revenue sharing program and
12 distribution of funds under ch. 79. The clerk shall certify annually to
13 the secretary of state and to the register of deeds a legal description of
14 the total boundaries of the city or village as those boundaries existed on
15 December 1, unless there has been no change in the preceding 12 months.

16 (b) Within 10 days after receipt of the ordinance, certificate and
17 plat, the secretary of state shall forward 2 copies of the ordinance,
18 certificate and plat to the department of transportation, one copy to the
19 department of administration, one copy to the department of revenue, one
20 copy to the department of public instruction, one copy to the department
21 of development and 2 copies to the clerk of the town from which the ter-
22 ritory was annexed.

23 (c) Any city or village may direct a survey of its present boundaries
24 to be made, and when properly attested the survey and plat may be filed in
25 the office of the register of deeds in the county in which the city or
26 village is located, whereupon the survey and plat shall be prima facie
27 evidence of the facts therein set forth.

1 (6) ACTION. An action on any grounds to contest the validity of an
2 annexation shall be commenced no later than 30 days after the date on
3 which the annexation ordinance was adopted. An action contesting an
4 annexation shall be given preference in the circuit court. The court,
5 upon application of the annexing city or village, may require a party
6 bringing the action to post a bond as a condition of maintaining the suit.
7 The amount of the bond shall be an amount determined by the court to be
8 sufficient to cover the actual costs, including reasonable attorney fees,
9 of both parties. If the party's action is not successful, the party shall
10 pay the costs of the action.

11 (7) COMPETING CLAIMS. If 2 or more cities or villages seek to annex
12 the same territory, under this section, they must try to reach an agree-
13 ment on the portion that each may include in its proposed plan, under sub.
14 (2) (a). If they are unable to reach an agreement, they may submit the
15 dispute to the department for resolution. No later than 45 days after
16 receiving a request to settle the dispute, the department shall notify the
17 clerk of each city or village by 1st class mail as to the portion that
18 each city or village may include in its proposed plan under sub. (2) (a).
19 The decision of the department is final. If they do not submit the dis-
20 pute to the department and they do not reach an agreement, none of the
21 cities or villages may annex any of the disputed territory under this
22 section.

23 (8) POSTANNEXATION REQUIREMENT. A city or village annexing territory
24 under this section shall provide adequate municipal services to the
25 annexed territory within a reasonable time after annexation, as provided
26 for under its municipal service plan adopted under sub. (2) (b).

1 (9) IMPACT ON REMAINDER OF TOWN. No territory may be annexed under
2 this section if it would result in the creation of a town island or an
3 uneconomic remnant, as determined by the department under sub. (4) (b) 3.

4 SECTION 2. 66.026 of the statutes is amended to read:

5 66.026 NOTICE OF LITIGATION. Whenever any proceedings under ss.
6 61.187, 61.189, 61.74, 62.075, 66.012, 66.013 to 66.019, 66.021, ~~66.022,~~
7 to 66.023 or 66.025 or other sections relating to an incorporation,
8 annexation, consolidation, dissolution or detachment of territory of a
9 city or village are contested by instigation of legal proceedings, the
10 clerk of the city or village involved in such proceedings shall forthwith
11 file with the secretary of state 4 copies of a notice of the commencement
12 of such action. The clerk shall also file with the secretary of state 4
13 copies of any judgments rendered or appeals taken in such cases. The
14 notices or copies of judgments as herein required may also be filed by an
15 officer or attorney of any party of interest. The secretary of state
16 shall forward to the department of transportation 2 copies and to the
17 department of revenue one copy of any notice of action or judgment filed
18 with the secretary of state pursuant to this section.

19 SECTION 3. 117.132 (1m) (a) of the statutes, as created by 1989
20 Wisconsin Act 114, is amended to read:

21 117.132 (1m) (a) "Annexed" means annexed or attached under ~~s- ss.~~
22 66.021, ~~66.022, 66.024,~~ to 66.025 or 66.027.

23 SECTION 4. 144.07 (1m) of the statutes is amended to read:

24 144.07 (1m) An order by the department for the connection of unin-
25 corporated territory to a city or village system or plant under this
26 section shall not become effective for 30 days following issuance. Within
27 30 days following issuance of the order, the governing body of a city or
28 village subject to an order under this section may commence an annexation

1 proceeding under s. 66.023 or 66.024 to annex the unincorporated territory
2 subject to the order. If the result of the referendum under s. 66.024 (4)
3 is in favor of annexation or if a city or village adopts an annexation
4 ordinance under s. 66.023 (4) (c) 1, the territory shall be annexed to the
5 city or village for all purposes, and sewerage service shall be extended
6 to the territory subject to the order. If an application for an annexa-
7 tion referendum is denied under s. 66.024 (2) ~~or~~, if the referendum under
8 s. 66.024 (4) is against the annexation, if the department of development
9 determines that the proposed annexation is against the public interest
10 under s. 66.023 (4) (c) 3 or if the city or village may, but does not,
11 adopt an ordinance under s. 66.023 (4) (c) 1, the order shall be void. If
12 an annexation proceeding is not commenced within the 30-day period, the
13 order shall become effective.

14

(End)