



2009 ASSEMBLY BILL 239

April 30, 2009 - Introduced by Representatives JORGENSEN, CLARK, DANOU, HILGENBERG, BIES, BROOKS, GUNDERSON, KERKMAN, LEMAHIEU, A. OTT, PETERSEN, RIPP, ROTH, TOWNSEND and VOS, cosponsored by Senators HOLPERIN, A. LASEE and SCHULTZ. Referred to Committee on Renewable Energy and Rural Affairs.

1 **AN ACT** *to amend* 66.0217 (2) and 66.0217 (11) (c) of the statutes; **relating to:**
2 limiting a city's and village's use of direct annexation and authorizing limited
3 town challenges to an annexation.

Analysis by the Legislative Reference Bureau

Currently, town territory that is contiguous to any city or village may be annexed to that city or village under several methods if, in general, some of the city's or village's territory is in the same county as the territory to be annexed, unless both the town and county boards approve of the proposed annexation, and the city or village agrees to make limited payments to the town based on property taxes that the town levied on the annexed territory.

Three of the methods of annexation include the following: 1) direct annexation, under which a petition for annexation that was signed by the required number of electors and landowners is filed with the city or village clerk; 2) annexation by referendum, under which a petition for referendum that was signed by the required number of electors and landowners is filed with the city or village clerk, and a referendum is held and passes in the town; and 3) annexation by court order and referendum, under which the governing body of a city or village adopts a resolution declaring its intention to apply to the circuit court for an order for an annexation referendum.

Another method of annexation is direct annexation by unanimous approval. If a petition for direct annexation by unanimous approval signed by all of the electors residing in the territory and the owners of all of the real property in the territory is

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filed with the city or village clerk and the town clerk of all of the involved towns, along with a scale map and legal description of the property to be annexed, the governing body of the city or village may, generally, annex the property by a two-thirds vote of the body. Such an annexation, however, is subject to Department of Administration advisory review as if the annexation petition were for direct, but not unanimous, annexation or annexation by referendum.

Generally, cities and villages may also annex territory that is owned by the city or village and that lies near but not necessarily contiguous to the city or village by enacting an ordinance to annex such territory.

This bill limits the use of direct annexation by unanimous approval to town land that is contiguous to the annexing city or village.

Under current law, a town may not challenge in court, on any grounds, any direct annexation by unanimous approval as well as several other types of annexations. Under this bill, a town may challenge direct annexation by unanimous approval, as well as several other types of annexations, including annexation by referendum initiated by a city or village and annexation of city-owned or village-owned territory, but only on the issue of whether the territory proposed for annexation is contiguous to the annexing city or village.

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.** 66.0217 (2) of the statutes is amended to read:

2 66.0217 (2) DIRECT ANNEXATION BY UNANIMOUS APPROVAL. Except as provided in
3 this subsection and sub. (14), and subject to ss. 66.0301 (6) (d) and 66.0307 (7), if a
4 petition for direct annexation signed by all of the electors residing in the territory and
5 the owners of all of the real property in the territory is filed with the city or village
6 clerk, and with the town clerk of the town or towns in which the territory is located,
7 together with a scale map and a legal description of the property to be annexed, an
8 annexation ordinance for the annexation of the territory may be enacted by a
9 two-thirds vote of the elected members of the governing body of the city or village
10 without compliance with the notice requirements of sub. (4). In an annexation under
11 this subsection, subject to sub. (6), the person filing the petition with the city or

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1 village clerk and the town clerk shall, within 5 days of the filing, mail a copy of the
2 scale map and a legal description of the territory to be annexed to the department
3 and the governing body shall review the advice of the department, if any, before
4 enacting the annexation ordinance. No territory may be annexed by a city or village
5 under this subsection unless the territory to be annexed is contiguous to the
6 annexing city or village.

7 **SECTION 2.** 66.0217 (11) (c) of the statutes is amended to read:

8 66.0217 (11) (c) ~~No~~ Except for an action relating to the issue of whether the
9 territory to be annexed is contiguous to the annexing city or village, no action on any
10 grounds, whether procedural or jurisdictional, to contest the validity of an
11 annexation under sub. (2), may be brought by any town.

12 **SECTION 3. Initial applicability.**

13 (1) This act first applies to any annexation that commences on the effective date
14 of this subsection.

15 (END)