State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-4336/1
EVM:amn&cdc

2023 BILL

AN ACT ***to amend*** 62.23 (7a) (a) and 236.02 (5); and ***to create*** 60.10 (1) (h), 66.0217 (14) (c) and 66.0813 (7) of the statutes; **relating to:** water and sewerage system connections and annexation of territory and extraterritorial zoning in certain towns.

Analysis by the Legislative Reference Bureau

This bill allows certain towns to designate themselves as "urban towns," a designation that would limit the effect of extraterritorial zoning and plat approval and annexation by other municipalities. The bill also requires local governments to allow connection, with certain limited exceptions, to their water or sewerage systems by certain other local governments.

Under the bill, a town that meets all of the following may designate itself as an "urban town" upon approval by the town meeting:

1. The town has a population of more than 5,000 and a population density of 750 persons in any one square mile.
2. The town provides law enforcement service.
3. The town has enacted a subdivision ordinance.
4. The town has enacted a zoning ordinance or is subject to county zoning.

Under the bill, a town that has been designated as an urban town is not subject to extraterritorial zoning or extraterritorial plat approval by a neighboring city or village. Also under the bill, certain significantly developed territory of an urban town may not be annexed to a city or village except by unanimous approval of all of the property owners of the property to be annexed. The territory covered by this

limitation is territory in the urban town that is within three miles of the corporate limits of a first, second, or third class city, or one and one–half miles of a fourth class city or a village if 1) the territory has an average of more than 30 housing units per quarter section or 2) the territory has an assessed value, more than 25 percent of which is attributable to existing or potential mercantile, manufacturing, or public utility uses.

The bill also requires certain governmental units (cities, villages, and sanitary or utility districts located in cities and villages) to allow connection with limited exceptions to their sewer or water systems by urban towns (urban towns and sanitary or utility districts located in urban towns), and vice versa. Specifically, under the bill, an urban town may request the extension or connection of water or sewer service from an adjacent governmental unit by filing a written request for connection. The governmental unit may disapprove a request only if its water or sewerage system does not have sufficient capacity to serve the area that is the subject of the request as of the date of the filing. Likewise, a governmental unit may request an extension or connection to the sewer or water system of an urban town and the request must be approved unless the system does not have sufficient capacity to serve the area covered by the request. The bill also provides that a landowner may request a lateral connection to the water or sewerage system of a governmental unit or urban town. A request of this sort may also be denied only upon a determination of insufficient capacity.

For further information see the 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:

SECTION 1. 60.10 (1) (h) of the statutes is created to read:

60.10 **(1)** (h) *Urban town designation.* Designate the town as an urban town if all of the following apply:

1. The town has a population of more than 5,000 and a population density of 750 persons in any one square mile.

2. The town provides law enforcement service in one of the manners provided under s. 60.56 (1) (a) 1. to 4.

3. The town has enacted a subdivision ordinance under s. 236.45 (2) (ac).

4. The town has enacted a zoning ordinance under s. 60.61 or 60.62 or is subject to county zoning under s. 59.69.

SECTION 2. 62.23 (7a) (a) of the statutes is amended to read:

62.23 **(7a)** (a) Extraterritorial zoning jurisdiction means the unincorporated area, other than qualified urban town territory, as defined in s. 66.0217 (14) (c) 1., within 3 miles of the corporate limits of a first, second or third class city, or 1 1/2 miles of a fourth class city or a village. The unincorporated area subject to extraterritorial zoning jurisdiction includes areas that are either surrounding or entirely surrounded by a single city or village. Wherever extraterritorial zoning jurisdictions overlap, the provisions of s. 66.0105 shall apply and any subsequent alteration of the corporate limits of the city by annexation, detachment or consolidation proceedings shall not affect the dividing line as initially determined under s. 66.0105. The governing body of the city shall specify by resolution the description of the area to be zoned within its extraterritorial zoning jurisdiction sufficiently accurate to determine its location and such area shall be contiguous to the city. The boundary line of such area shall follow government lot or survey section or fractional section lines or public roads, but need not extend to the limits of the extraterritorial zoning jurisdiction. Within 15 days of the adoption of the resolution the governing body shall declare its intention to prepare a comprehensive zoning ordinance for all or part of its extraterritorial zoning jurisdiction by the publication of the resolution in a newspaper having general circulation in the area proposed to be zoned, as a class 1 notice, under ch. 985. The city clerk shall mail a certified copy of the resolution and a scale map reasonably showing the boundaries of the extraterritorial jurisdiction to the clerk of the county in which the extraterritorial jurisdiction area is located and to the town clerk of each town, any part of which is included in such area.

SECTION 3. 66.0217 (14) (c) of the statutes is created to read:

66.0217 **(14)** (c) 1. In this paragraph, "qualified urban town territory" means the territory of an urban town designated under s. 60.10 (1) (h) that is within 3 miles of the corporate limits of a 1st, 2nd, or 3rd class city, or 1.5 miles of a 4th class city or a village if any of the following applies to the entire territory of the urban town satisfying the proximity requirement under this subd. 1. (intro.):

a. The territory has an average of more than 30 housing units per quarter section, excluding any mercantile, manufacturing, public utility developed areas, publicly owned land, and areas where residential development is impracticable due to geographic features, perpetually restricted development rights, or state law.

b. The territory has an assessed value for real estate tax purposes, more than 25 percent of which is attributable to existing or potential mercantile, manufacturing, or public utility uses.

2. No qualified urban town territory may be annexed to a city or village unless the annexation is by unanimous approval under sub. (2).

SECTION 4. 66.0813 (7) of the statutes is created to read:

66.0813 **(7)** (a) In this subsection:

1. "Commission" means the public service commission.

2. "Governmental unit" means a city or village that owns, operates, manages, or controls a water or sewerage system or a sanitary or utility district that owns, operates, manages, or controls a water or sewerage system that is located, in whole or in part, in a city or village.

3. "Lateral" means the water or sewer lateral or service pipes to be constructed or located from the lot line or near the lot line to the main or from the lot line to the building to be serviced, or both.

4. "Sewerage system" means all structures, conduits, pipelines, and appurtenances by which sewage, storm water, or surface water are collected, transported, pumped, treated, and disposed of, except plumbing inside and in connection with buildings served, and service pipes from building to street main.

5. "Urban town" means an urban town designated under s. 60.10 (1) (h) that owns, operates, manages, or controls a water or sewerage system or a sanitary or utility district that owns, operates, manages, or controls a water or sewerage system that is located, in whole or in part, in an urban town.

6. "Water system" means all structures, conduits, and appurtenances by means of which water is delivered to consumers, except piping and fixtures inside buildings served and service pipes from building to street main.

(b) 1. Notwithstanding subs. (1) and (3) to (5), an urban town may request the extension or connection of water or sewer service from an adjacent governmental unit by filing a written request for connection with the governmental unit's clerk or, if the governmental unit does not have a clerk, the governmental unit's secretary. The urban town shall specify in its request the area that will be served by the extension or connection. The urban town may specify the point on the water or sewerage system from which service is to be extended or connected.

2. A governmental unit shall make a written determination approving or denying a request under subd. 1. within 45 days of receiving the request. The governmental unit may disapprove a request under subd. 1. only if its water or sewerage system does not have sufficient capacity to serve the area that is the subject of the request as of the date of the filing under subd. 1. The system shall be considered to have sufficient capacity if the urban town agrees to pay for the expansion of the system to accommodate the request.

3. An urban town may appeal a denial under subd. 2. to the commission. The commission may include in its decision conditions on the extension or connection of service to ensure that costs resulting from the extension or connection are borne by the users causing the costs and that the connection point is reasonable. The urban town or the governmental unit may appeal the decision of the commission to the circuit court for the county in which the proposed extension or connection would occur.

4. Upon extension or connection pursuant to an approval under subd. 2. or 3., the portion of the water or sewerage system located in the urban town shall be owned and maintained by the urban town unless the urban town and the governmental unit agree otherwise.

5. Upon extension or connection pursuant to an approval under subd. 2. or 3., the governmental unit may charge benefited landowners in the urban town a fee that bears a reasonable relationship to the costs incurred by the governmental unit in providing the water or sewer service to those benefited properties. A fee is unreasonable under this subdivision if it does not directly arise out of the governmental unit's cost or if it is not proportionate to what a similarly situated parcel in the governmental unit would be charged for the same service.

6. The cost of an urban town's construction and connection of its water or sewerage system to a governmental unit's water or sewerage system pursuant to an approval under subd. 2. or 3. is the responsibility of the urban town.

(c) 1. Notwithstanding subs. (1) and (3) to (5), a governmental unit may request the extension or connection of water or sewer service from an adjacent urban town by filing a written request for connection with the urban town's clerk, or if the urban town does not have a clerk, the urban town's secretary. The governmental unit shall

specify in its request the area that will be served by the extension or connection. The governmental unit may specify the point on the water or sewerage system from which service is to be extended or connected.

2. An urban town shall make a written determination approving or denying a request under subd. 1. within 45 days of receiving the request. The urban town may disapprove a request under subd. 1. only if its water or sewerage system does not have sufficient capacity to serve the area that is the subject of the request as of the date of the filing under subd. 1. The system shall be considered to have sufficient capacity if the governmental unit agrees to pay for the expansion of the system to accommodate the request.

3. A governmental unit may appeal a denial under subd. 2. to the commission. The commission may include in its decision conditions on the extension or connection of service to ensure that costs resulting from the extension or connection are borne by the users causing the costs and that the connection point is reasonable. The urban town or governmental unit may appeal the decision of the commission to the circuit court for the county in which the proposed extension or connection would occur.

4. Upon extension or connection pursuant to an approval under subd. 2. or 3., the portion of the water or sewerage system located in the governmental unit shall be owned and maintained by the governmental unit unless the urban town and the governmental unit agree otherwise.

5. Upon extension or connection pursuant to an approval under subd. 2. or 3., the urban town may charge benefited landowners in the governmental unit a fee that bears a reasonable relationship to the costs incurred by the urban town in providing the water or sewer service to those benefited properties. A fee is unreasonable if it

does not directly arise out of the urban town's cost or if it is not proportionate to what a similarly situated parcel in the urban town would be charged for the same service.

6. The cost of construction and connection of the water or sewerage system of a governmental unit to an urban town's water or sewerage system pursuant to an approval under subd. 2. or 3. is the responsibility of the governmental unit.

(d) 1. Notwithstanding subs. (1) and (3) to (5), a landowner may request a lateral connection to the water or sewerage system of a governmental unit or urban town by filing a written request for connection with the clerk of the governmental unit or urban town or, if the governmental unit or urban town does not have a clerk, the governmental unit's secretary.

2. A governmental unit or urban town shall make a written determination approving or denying a request under subd. 1. within 45 days of receiving the request. The governmental unit or urban town may disapprove a request under subd. 1. only if its water or sewerage system does not have sufficient capacity to serve the landowner as of the date of the filing under subd. 1. The system shall be considered to have sufficient capacity if the landowner agrees to pay for the expansion of the system to accommodate the request.

3. A landowner may appeal a denial under subd. 2. to the commission. The commission may include in its decision conditions on the lateral connection to ensure that costs resulting from the lateral connection are borne by the landowner. The landowner or the governmental unit or urban town may appeal the decision of the commission to the circuit court for the county in which the proposed lateral connection would occur.

4. Upon connection pursuant to an approval under subd. 2. or 3., the governmental unit or urban town may charge the landowner a fee that bears a

reasonable relationship to the costs incurred by the governmental unit or urban town in providing the water or sewer service to the landowner's property. A fee is unreasonable if it does not directly arise out of the governmental unit's or urban town's cost or if it is not proportionate to what a similarly situated parcel in the governmental unit or urban town would be charged for the same service.

5. The cost of constructing and installing the lateral connection to the water or sewerage system of the governmental unit or urban town pursuant to an approval under subd. 2. or 3. is the responsibility of the landowner. The governmental unit or urban town may charge the landowner a lateral connection fee that is equivalent to the lateral connection fee that would be charged to a similarly situated parcel in the governmental unit or urban town.

6. A governmental unit or urban town may not prohibit a lateral connection under this paragraph except for prior nonpayment of water or sewer charges by the landowner.

(e) An intergovernmental cooperation agreement may not include a limitation on the ability of an urban town to seek or obtain extension or connection of water or sewer service under par. (b).

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

236.02 **(5)** "Extraterritorial plat approval jurisdiction" means the unincorporated area, other than qualified urban town territory, as defined in s. 66.0217 (14) (c) 1., within 3 miles of the corporate limits of a first, second or third class city, or 1 1/2 miles of a fourth class city or a village.

(END)