



WISCONSIN LEGISLATIVE COUNCIL

MUNICIPAL ANNEXATION

Room 330 Southwest, State Capitol
Madison, Wisconsin

May 24, 2005
10:00 a.m. - 11:50 a.m.

[The following is a summary of the May 24, 2005 meeting of the Special Committee on Municipal Annexation. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc/2004studies.htm>.]

Call to Order and Roll Call

Chair Lasee called the meeting to order. Chair Lasee thanked members for serving on the committee and addressing the difficult issues relating to annexation. In particular, Chair Lasee recognized, and expressed his appreciation for, the work of members of the drafting subcommittee. The roll was called and a quorum was present.

COMMITTEE MEMBERS PRESENT: Sen. Alan Lasee, Chair; Sen. Ronald Brown; Reps. Mark Gottlieb, Samantha Kerkman, and Josh Zepnick; and Public Members Roger Clark, Gerald Derr, Warren Kraft, J. Michael Mooney, and Michael Parmentier.

COMMITTEE MEMBERS ABSENT: Rep. Dean Kaufert; and Public Members Christine Jones and Pat Kaster.

COUNCIL STAFF PRESENT: Don Dyke, Chief of Legal Services; Mary Offerdahl, Staff Attorney; and Rachel Veum, Support Staff.

<p>*ATTENTION: This was the final meeting of the Special Committee on Municipal Annexation. Committee members are requested to send any corrections regarding these Minutes to the Legislative Council staff. After the incorporation of any corrections, these Minutes will be considered approved by the committee.</p>
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Approval of the Minutes of the November 18, 2004 Meeting

Senator Brown moved, seconded by Mr. Kraft, to approve the minutes of the committee's November 18, 2004 meeting. The motion carried on a voice vote.

Discussion of Committee Assignment and Action on Draft Proposals

Mr. Dyke noted the items at committee members' places. In addition to the two drafts on the agenda, the following materials had been distributed:

- An amendment to WLC: 0067/1 from Chair Lasee, WLC: 0217/1.
- Draft fiscal estimates from the Department of Administration for the two drafts.
- A handout entitled "Key Annexation Factors" distributed by Mr. Mooney.
- Memo, "Comments on Legislative Proposals Recommended by the Drafting Subcommittee," dated May 24, 2005, from Curt Witynski, Assistant Director, League of Wisconsin Municipalities.

WLC: 0132/1, Relating to Municipal Boundary Agreements and the Use of Alternative Dispute Resolution in Municipal Boundary Disputes

Mr. Dyke reminded the committee that its last full meeting was held in November; since then the drafting subcommittee had based its work on the discussion at that meeting. Mr. Dyke noted that there are currently three ways for municipalities to reach agreement on boundaries--the procedure for boundary agreements by cooperative plan under s. 66.0307, the procedure for boundary agreements under the general intergovernmental cooperation authority provided by s. 66.0301, and the procedure for stipulated boundary agreements in contested actions under s. 66.0225.

Regarding the first procedure under s. 66.0307, Mr. Dyke explained that the draft would simplify the procedure for boundary agreements by cooperative plan, and also provide a mediated agreement procedure with incentives for municipalities to come to the table. The details of Mr. Dyke's explanation are summarized in Section I. A. of the prefatory note at the beginning of the draft. Likewise, Mr. Dyke's explanation of how the draft would add a new, specific procedure for common municipal boundaries to be determined by agreement under the general intergovernmental cooperation authority provided by s. 66.0301 is summarized in Section I. B. of the prefatory note. Mr. Dyke explained that the subcommittee anticipated that the new procedure for agreeing on boundaries under s. 66.0301 would be used for minor boundary changes, or agreements of shorter duration (the maximum term of an agreement under this procedure is 10 years), rather than the more detailed, longer-term agreements under s. 66.0307.

Ms. Offerdahl's explanation of how the draft would affect the procedure for stipulated boundary agreements in contested boundary actions under s. 66.0225 is summarized in Section I. C. of the prefatory note in the draft. In response to a question regarding the note after line 8 on page 9, Ms. Offerdahl explained that if parties entered into a boundary agreement as part of the settlement of a

contested action, they would be required to use the new s. 66.0301 (6) or revised s. 66.0307 procedures if the contested action was not an annexation proceeding (i.e., if it were a consolidation, detachment, or incorporation proceeding). Only if the contested action were an annexation proceeding would the parties also have the option of using the s. 66.0225 procedure to enter into a written stipulation to determine the common boundary line that is the subject of the annexation proceeding.

Ms. Offerdahl concluded her summary by describing the parts of the draft relating to alternative dispute resolution, as summarized in Section II. of the draft's prefatory note.

WLC: 0067/1, Relating to Department of Administration Advisory Review of Certain Annexations

Ms. Offerdahl briefly described WLC: 0067/1, and also Chair Lasee's amendment (WLC: 0217/1) to the draft. Chair Lasee explained that, in his view, if a municipality is eager to annex property, they should provide information on the impact of having the new land annexed. He noted that industrial or commercial property does not generally require the services that residential property requires.

Committee members discussed whether a city or village can adequately estimate future tax impact. Chair Lasee stated that a mayor probably has some idea what the city wants to do with the land it intends to annex. Representative Gottlieb asked whether the real question is what is going to happen to the tax levy in relation to what is going to happen to the tax base--i.e., whether the tax base would go up enough to cover additional expenses associated with servicing the annexed land. He recommended changing line 5 of WLC: 0067/1 so that the estimate includes the impact on the tax base, as well as on the taxes levied. Chair Lasee agreed to that change.

Senator Brown noted that annexations often take place a few residences at a time, and suggested only annexations of land in excess of five acres, or with real property value over a certain amount, should be subject to the estimate requirement.

Mr. Mooney speculated whether a TIF plan would need to be completed before a city or village could project the impact on property taxes. Committee members generally agreed that a TIF plan would complicate an estimate, but noted the requirement is for an "estimate."

Representative Gottlieb suggested deleting the words "over the next 10 years" and replacing the language between the word "effect" in the first sentence and the start of the second sentence with the following: "ultimate impact of the proposed annexation on the tax base of the annexing city or village and the territory proposed to be annexed, and on taxes levied by all taxing jurisdictions, including school districts, on real property in the annexing city or village and the territory proposed to be annexed. For purposes of the estimate, the annexing city or village shall assume that undeveloped land in the territory proposed to be annexed will be developed in accordance with the master plan or comprehensive plan of the city or village in effect at the time of the annexation."

Mr. Kraft expressed concern that the average person might consider the estimate to be some kind of commitment that could be used against the local governing body. He noted that a city or village does not influence a school board in deciding whether a new school is needed or where it will be located, so a municipality cannot say with any authority that an annexation of, say, 150 homes will require a new school at a certain location.

Chair Lasee emphasized that just an estimate is required, and that it would just inform the taxpayer as to what the annexing governing body was anticipating. Representative Kerkman agreed that the estimate would be useful information, and that her school districts would appreciate such information.

Representative Gottlieb stated that estimates would be valuable for large annexations and that he agreed with Senator Brown's suggestion for limiting the estimate requirement to larger annexations. He suggested 40 acres might be more appropriate than five acres as the threshold. He stated that the amendment was adding another factor into the consideration as to whether the annexation is in the public interest. He noted the option of hiring a consultant for preparing an estimate and having those who desire the annexation pay the bill.

Committee Action

Mr. Dyke explained that, if the Special Committee voted to recommend introduction of the drafts, the Joint Legislative Council would then consider whether to approve the Special Committee's recommendations for introduction in the 2005-06 Legislature. If approved, the bills would then go through the normal legislative process, during which they would be subject to additional consideration and possible amendments.

The committee's first vote was on a motion to amend WLC: 0217/1 (Chair Lasee's amendment to WLC: 0067/1) so that annexations of 20 acres or less would be exempt from the amendment's requirement for an estimate by an annexing city or village.

Mr. Mooney moved, seconded by Representative Kerkman, to so amend WLC: 0217/1. The motion carried on a vote of Ayes, 8 (Lasee, Brown, Gottlieb, Kerkman, Zepnick, Clark, Mooney, and Parmentier); Noes, 2 (Derr and Kraft); and Absent, 3 (Kaufert, Jones, and Kaster).

The committee then voted on further amending the beginning of WLC: 0217/1 (Chair Lasee's amendment to WLC: 0067/1), in line with Representative Gottlieb's suggestion (see above discussion), by deleting the words "over the next 10 years" and replacing the language between the word "effect" in the first sentence and the start of the second sentence with the following: "ultimate impact of the proposed annexation on the tax base of the annexing city or village and the territory proposed to be annexed, and on taxes levied by all taxing jurisdictions, including school districts, on real property in the annexing city or village and the territory proposed to be annexed. For purposes of the estimate, the annexing city or village shall assume that undeveloped land in the territory proposed to be annexed will be developed in accordance with the master plan or comprehensive plan of the city or village in effect at the time of the annexation."

Representative Kerkman moved, seconded by Representative Gottlieb, to so amend WLC: 0217/1. The motion carried on a vote of Ayes, 10 (Lasee, Brown, Gottlieb, Kerkman, Zepnick, Clark, Derr, Kraft, Mooney, and Parmentier); Noes, 0; and Absent, 3 (Kaufert, Jones, and Kaster).

Representative Kerkman moved, seconded by Mr. Derr, to approve WLC: 0217/1, as amended. The motion carried on a vote of Ayes, 8 (Lasee,

Brown, Gottlieb, Kerkman, Zepnick, Clark, Derr, and Mooney); Noes, 2 (Kraft and Parmentier); and Absent, 3 (Kaufert, Jones, and Kaster).

The committee's final two votes were to recommend introduction of WLC: 0132/1 and WLC: 0067/1, as amended.

Mr. Kraft moved, seconded by Representative Gottlieb, to approve WLC: 0132/1. The motion carried on a vote of Ayes, 9 (Lasee, Brown, Gottlieb, Kerkman, Clark, Derr, Kraft, Mooney, and Parmentier); Noes, 1 (Zepnick); and Absent, 3 (Kaufert, Jones, and Kaster).

Representative Kerkman moved, seconded by Mr. Mooney, to approve WLC: 0067/1, as amended, on a vote of Ayes, 9 (Lasee, Brown, Gottlieb, Kerkman, Zepnick, Clark, Derr, Mooney, and Parmentier); Noes, 1 (Kraft); and Absent, 3 (Kaufert, Jones, and Kaster).

Representative Kaufert would have voted in the affirmative had he been able to attend.

Final Comments

Mr. Clark noted that the committee did not reach the issue of contesting unanimous consent annexations, an issue he had hoped the committee would focus on and one which in his view that needs to be addressed at some point. Mr. Derr agreed and stated that, in his view, the committee's work was a good start, but more work needs to be done.

Other Business

There was no other business brought before the committee.

Adjournment

The meeting was adjourned at 11:50 a.m.

MO:DD:rv