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Testimony in Support of Assembly Bill 885

Assembly Committee on Local Government

Wednesday, January 21, 2026

Chairman Novak and committee members, thank you for holding this hearing today and allowing me to speak in support of Assembly Bill (AB) 885. I appreciate Senator Testin's willingness to work with me on this important legislation.

History and Annexation Creep

In the late 1950s and early 1960s the concept of extraterritorial jurisdiction (ETJ) became widespread among the states in our country. In Wisconsin, the first ETJ law on the books appeared over 100 years prior to the 1950s—in 1839—even before our statehood. The purpose was primarily to manage growth of municipalities and protect the public welfare.

People in the 1950s began to move to the suburbs so that they could avoid the city centers of traffic, noise, crime, and other problems. They wanted homes with more square footage and more yard space. As noted it was also at this time that the ETJ statutes became widespread. As the decades passed, urban sprawl became a reality in many cities as they spread into the surrounding countryside.

Currently, Wisconsin statutes allow incorporated municipalities (cities and villages) to exercise subdivision regulation authority in certain areas outside the boundaries of the city or village. This extraterritorial jurisdiction extends for three miles for Class 1, 2, 3 cities and 1.5 miles for a 4th class city or village.

Unfortunately, these outdated ETJ laws have made it possible for cities and villages to encroach upon a town's territory. I say "outdated" because our towns are no longer hampered by communication inconveniences, lack of accessible resources, or lack of knowledge as the year is 2026 and no longer 1836. We are almost 200 years from our first ETJ law, and times have changed. The people that inhabit and govern our towns are just as intelligent and resourceful as those people that inhabit and govern our cities and villages—not that those in rural areas were ever "country bumpkins" although some may have considered them so. Our towns can develop and have developed comprehensive plans just as well as an incorporated municipality. Towns plan and coordinate for growth, housing, and economic development with its lands just as a city does.

One of the travesties of our current ETJ law is that a town can be completely consumed by a city. As the city exercises its ETJ powers into an adjacent town to groom it for eventual annexation into the city, that annexation then moves the ETJ border further into the town's territory—a process known as annexation creep. The following are Wisconsin towns that have been either fully or largely absorbed by neighboring cities:

Town	Has been Absorbed or Lost Significant Territory
Town of Madison (Dane County)	City of Madison and City of Fitchburg
Town of Granville (Milwaukee County)	City of Milwaukee
Town of Lake (Milwaukee County)	City of Milwaukee
Town of Blooming Grove (Dane County)	City of Madison
Town of Burke (Dane County)	City of Madison
Town of Wauwatosa (Milwaukee County) (remaining portion incorporated)	City of Milwaukee
Town of Grand Chute (Outagamie County)	City of Appleton
Town of Harrison (Calumet County)	Multiple neighboring cities
Town of Stettin (Marathon County)	City of Wausau

The above are the towns that have disappeared or have almost disappeared. Then there are a host of towns that have lost sizable chunks of their land or been forced to incorporate into a village or city when they would prefer to maintain the direct democracy of the town type of governance.

This loss of land cripples the towns from developing and growing economically in the manner in which those people of the town desire as they are forced to cede their property tax base to a neighboring city. AB 885 creates balance by codifying into law what the courts of Wisconsin have already established in case law and has been affirmed by both appellate courts as well in some cases, the Wisconsin Supreme Court.

AB 885 states:

A municipality may not deny approval of a plat or certified survey map on the basis of:

1. The proposed use of the land.
2. Specifications related to public improvements on the land.
3. Land division design standards.
4. An agreement or lack of agreement related to the annexation of the land.

AB 885 also provides the ability for towns to receive reasonable attorney fees for bringing action to enforce these provisions, **only** if they are the prevailing party.

Voting Rights

The loss of land that the towns suffer is grievous enough. But the archaic statutes that give ETJ authority to the cities and villages trespass upon one of the most foundational principles of our constitutional republic. **That is the right to vote for those who govern us**--the right to choose the representatives in our local government who we authorize to make decisions for us.

Those that live in towns cannot vote for the mayor, city council members, village president, or village trustees who make decisions about their towns' lands in the extraterritorial jurisdiction

area. Simply put, **we have regulation without representation.** This is the overarching, most compelling reason for us to consider the passage of AB 885.

Cities and villages, I say to you, grow up and not out. We need our towns. We need rural spaces as the towns are the producers of our crops, lumber, mining products, dairy industry and more. We need to allow a town the autonomy to develop housing, manufacturing, and economic growth as they plan wisely for the future. Certainly, if a neighboring town through its elected representatives has a mutually negotiated agreement with you to utilize their land, that is allowed and encouraged. However, to exert your will over a town's will is not democracy. It is autocracy.

Mr. Chairman and committee members, I ask for your support of AB 885 and thank you again for the opportunity to testify before you today.