

1 **AN ACT** *to repeal* 66.0307 (3) (dm), 66.0307 (5) (c) 4. and 66.0307 (5) (c) 5m.; *to*
2 *renumber* 66.0307 (1) (a); *to amend* 66.0301 (1) (a), 66.0307 (3) (b), 66.0307 (4)
3 (b), 66.0307 (5) (c) 1. and 66.0307 (5) (c) 2.; *to repeal and recreate* 66.0307 (3) (c);
4 and *to create* 66.0301 (1) (c), 66.0301 (6) and 66.0307 (1) (af) of the statutes;
5 **relating to:**

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

COMMENT: This preliminary draft, prepared for the drafting subcommittee of the Special Committee on Municipal Annexation:

1. Creates a new subsection in current s. 66.0301 (intergovernmental agreements) to expressly allow 2 municipalities with a common boundary to fix all or a portion of that common boundary. The proposed alternatives in this regard reflect discussion by the special committee on expanding current s. 66.0225 to apply outside the litigation context.

2. Revises current s. 66.0307 (boundary agreements by cooperative plan) by substituting a general requirement for consistency with a comprehensive plan for the current detailed planning requirements and by reducing certain minimum time periods in the cooperative plan process.

6 **SECTION 1.** 66.0301 (1) (a) of the statutes is amended to read:
7 66.0301 (1) (a) ~~In~~ Except as provided in pars. (b) and (c), in this section “municipality”
8 means the state or any department or agency thereof, or any city, village, town, county, school
9 district, public library system, public inland lake protection and rehabilitation district, sanitary
10 district, farm drainage district, metropolitan sewerage district, sewer utility district, solid
11 waste management system created under s. 59.70 (2), local exposition district created under
12 subch. II of ch. 229, local professional baseball park district created under subch. III of ch. 229,
13 local professional football stadium district created under subch. IV of ch. 229, a local cultural

1 arts district created under subch. V of ch. 229, family care district under s. 46.2895, water
2 utility district, mosquito control district, municipal electric company, county or city transit
3 commission, commission created by contract under this section, taxation district, regional
4 planning commission, or city-county health department.

5 **SECTION 2.** 66.0301 (1) (c) of the statutes is created to read:

6 66.0301 (1) (c) For purposes of sub. (6), “municipality” means a city, village, or town.

COMMENT: Provides a new definition for use in new sub. (6), created by
SEC. 3 of the draft.

7 **SECTION 3.** 66.0301 (6) of the statutes is created to read:

8 66.0301 (6) (a) [Any 2 municipalities whose boundaries are immediately adjacent at
9 any point may enter into a written agreement determining the common boundary line between
10 the municipalities. An agreement under this paragraph changing boundaries of municipalities
11 shall be approved by the governing bodies of the detaching and annexing municipalities and
12 s. 66.0217 (9) and (11) applies. A change of municipal boundaries pursuant to an agreement
13 under this paragraph is subject to a referendum of the electors residing within the territory
14 annexed or detached if, within 30 days after the publication of the agreement to change
15 boundaries in a newspaper of general circulation in the area proposed to be annexed or
16 detached, a petition for a referendum conforming to the requirements of s. 8.40 signed by at
17 least 20% of the electors of the area to be annexed or detached is filed with the clerk of the
18 municipality from which the area is proposed to be detached and is filed as provided in s. 8.37.
19 The referendum shall be conducted as are annexation referenda. If the referendum election
20 is opposed to detachment from the municipality, all proceedings under this paragraph are
21 void.]

22 or

1 [1. Any 2 municipalities whose boundaries are immediately adjacent at any point may
2 enter into a written agreement establishing all or a portion of the common boundary line
3 between the municipalities. An agreement under this subdivision shall be approved by the
4 governing body of each municipality by adoption of an ordinance. A boundary agreement
5 under this subdivision may not take effect unless approved under subd. 2 and, if applicable,
6 approved by referendum under subd. 3.

7 2. A boundary agreement under this paragraph may not take effect until approved by
8 the department of administration. The department shall approve the agreement if the
9 agreement is consistent with the comprehensive plan, adopted under s. 66.1001, of each
10 municipality. The department may adopt rules for reviewing and approving boundary
11 agreements under this subdivision, including approval of criteria.

12 3. If approved by the department under subd. 2., each municipality shall publish the
13 ordinance approving the agreement as a class 1 notice. A boundary agreement under this
14 paragraph is subject to a referendum if, within 30 days after publication, a petition for a
15 referendum, conforming to the requirements of s. 8.40 and signed by at least 20% of the
16 electors of each municipality, is filed with the clerk of either municipality and filed as provided
17 in s. 8.37. Each municipality shall hold a referendum on the boundary agreement on the same
18 date. If approved in each municipality, the boundary agreement may take effect. If not
19 approved, the boundary agreement may not take effect.]

COMMENT: 1. The first alternative largely carries over language from current s. 66.0225, with the exception of language in that section that limits its application to disputes in litigation. This approach has the possible advantage of utilizing current language; a possible disadvantage is that current ambiguities and lack of detail are carried over.

2. The 2nd alternative provides for department of administration approval of such agreements and, while based on certain provisions of s.

66.0225, does not carry over in large measure the language of that section.

(b) [The validity of an agreement under this section that affects the location of boundaries between municipalities and is executed before the effective date of this paragraph...[revisor inserts date] is not affected by par. (a).]

or

[An agreement under this section that affects the location of boundaries between municipalities and is executed before the effective date of this subsection...[revisor inserts date] is valid.]

COMMENT: Provides alternative “savings” clauses for boundary agreements previously executed under s. 66.0301. The first alternative generally states that the new boundary agreement language under this section does not affect the validity of any prior agreements under this section. The 2nd alternative provides that boundary agreements previously reached under this section are valid. Other, and perhaps more sophisticated, approaches are possible.

SECTION 4. 66.0307 (1) (a) of the statutes is renumbered 66.0307 (1) (am).

SECTION 5. 66.0307 (1) (af) of the statutes is created to read:

66.0307 (1) (af) “Comprehensive plan” means a plan adopted under s. 66.1001.

COMMENT: Provides a new definition for the s. 66.0307 boundary agreement by cooperative plan procedure.

SECTION 6. 66.0307 (3) (b) of the statutes is amended to read:

66.0307 (3) (b) *Purpose of plan.* The cooperative plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory covered by the plan ~~which will, in accordance with existing and future needs, best promote public health, safety, morals, order, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development~~ consistent with the comprehensive plan of each participating municipality.

COMMENT: Links the purpose language for a cooperative plan under s. 66.0307 to each participating municipality's comprehensive plan.

1 **SECTION 7.** 66.0307 (3) (c) of the statutes is repealed and recreated to read:

2 66.0307 **(3)** (c) *Content of plan; consistency with comprehensive plan.* The cooperative
3 plan shall describe how it is consistent with each participating municipality's comprehensive
4 plan.

COMMENT: Repeals the current detailed provisions of current s. 66.0307 (3) (c) specifying the content of a plan for the physical development of the territory covered by the plan. Substitutes a general requirement that the cooperative plan describe how it is consistent with each participating municipality's comprehensive plan. The repealed language provides as follows:

66.0307 **(3)** (c) *Content of plan; physical development of territory.* The cooperative plan, and any accompanying maps, plats, charts and descriptive and explanatory materials, shall show the plan agreed upon for the physical development of the territory covered by the plan. The plan may include, without limitation because of enumeration, any of the following:

1. The general location, character and extent of streets, highways, freeways, street grades, roadways, walks, bridges, viaducts, parking areas, tunnels, public places and areas, parks, parkways and playgrounds.
2. Sites for public buildings and structures, airports, pierhead and bulkhead lines and waterways.
3. Routes for railroads and buses.
4. The general location and extent of sewers, water conduits and other public utilities, whether privately or publicly owned.
5. The acceptance, widening, narrowing, extension, relocation, removal, vacation, abandonment or change of use of any of the public ways, grounds, places, spaces, buildings, properties, utilities, routes or terminals described in subds. 1. to 4.
6. Historic districts.
7. The general location, character and extent of community centers and neighborhood units.
8. The general character, extent and layout of the replanning of blighted districts and slum areas.

9. A comprehensive zoning plan.

1 **SECTION 8.** 66.0307 (3) (dm) of the statutes is repealed.

COMMENT: Repeals the current provision describing the required content of a cooperative plan in connection with environmental consequences and housing needs. It is assumed that these issues are addressed by each municipality's comprehensive plan. The repealed language provides as follows:

66.0307 **(3)** (dm) *Content of plan; environmental consequences and housing needs.* The cooperative plan shall:

1. Identify any significant adverse consequences to the natural environment, including air and water pollution, energy use, development outside compact urban areas and contribution to urban sprawl, that may be caused by the proposed physical development of the territory covered by the plan.
2. Demonstrate that each participating municipality has considered alternatives to the proposed physical development of the territory covered by the plan, in order to minimize or avoid significant adverse environmental consequences, including those under subd. 1., and include in the plan a description of the alternatives considered.
3. If the physical development of the territory covered by the plan is subject to federal environmental laws or regulations, state laws or state environmental rules, describe how compliance with the laws, regulations or rules will be achieved.
4. Address the need for safe and affordable housing to meet the needs of diverse social and income groups in each municipality that is participating in the preparation of the plan.
5. Include a statement of why the cooperative plan meets the approval criterion under sub. (5) (c) 5m.

2 **SECTION 9.** 66.0307 (4) (b) of the statutes is amended to read:

3 66.0307 **(4)** (b) *Public hearing.* At least ~~120~~ 60 days after adoption under par. (a) of
4 the last resolution by a participating municipality and at least ~~60~~ 45 days before submitting
5 a cooperative plan to the department for review and approval under sub. (5), the participating

1 municipalities shall hold a joint hearing on the proposed plan. Notice of the hearing shall be
2 given by each participating municipality by class 3 notice under ch. 985.

COMMENT: Suggests possible reductions in 2 minimum time periods in the current cooperative plan process.

3 **SECTION 10.** 66.0307 (5) (c) 1. of the statutes is amended to read:

4 66.0307 (5) (c) 1. The content of the plan under sub. (3) (c) to (e) is sufficient to enable
5 the department to make the determinations under subds. 2. to ~~5m~~ 5.

6 **SECTION 11.** 66.0307 (5) (c) 2. of the statutes is amended to read:

7 66.0307 (5) (c) 2. The cooperative plan is consistent with each participating
8 municipality's comprehensive plan and with current state laws, municipal regulations, and
9 administrative rules that apply to the territory affected by the plan.

COMMENT: Revises one of the department of administration's approval criteria to reflect the new general requirement that the cooperative plan be consistent with each municipality's comprehensive plan (see SEC. 7 of the draft).

10 **SECTION 12.** 66.0307 (5) (c) 4. of the statutes is repealed.

COMMENT: Repeals the following department of administration approval criterion as unnecessary in light of the general requirement that the cooperative plan be consistent with each municipality's comprehensive plan:

66.0307 (5) (c) 4. Any boundary maintained or any boundary change under the cooperative plan is reasonably compatible with the characteristics of the surrounding community, taking into consideration present and potential transportation, sewer, water and storm drainage facilities and other infrastructure, fiscal capacity, previous political boundaries, boundaries of school districts and shopping and social customs.

11 **SECTION 13.** 66.0307 (5) (c) 5m. of the statutes is repealed.

COMMENT: Repeals the following approval provision, reflecting the repeal of s. 66.0307 (3) (dm) by SEC. 8 of the draft:

66.0307 (5) (c) 5m. The cooperative plan adequately identifies and addresses the significant adverse environmental consequences to the

natural environment that may be caused by the proposed physical development of the territory covered by the plan, the municipalities submitting the plan have adequately identified and considered alternatives to minimize or avoid the significant adverse environmental consequences, the proposals in the plan for compliance with federal environmental laws or regulations and state environmental laws or rules are adequate and the need for safe and affordable housing for a diversity of social and income groups in each community has been met.

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(END)