

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* 66.0225 and
4 66.0307 (3) (c); and *to create* 66.0301 (1) (c), 66.0301 (6) and 66.0307 (1) (af) of the
5 statutes; **relating to:**

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

COMMENT: This preliminary draft, revised to reflect discussion of the previous draft at the subcommittee's December 9, 2004 meeting:

1. Repeals and recreates s. 66.0225 (municipal boundaries fixed by court judgment) to eliminate the boundary agreement procedure currently included in that section and to cross-reference the new boundary agreement procedure under s. 66.0301 (see SEC. 4 of the draft) and the current boundary agreement procedure under s. 66.0307, as revised by the draft.

2. Creates a new subsection in current s. 66.0301 (intergovernmental agreements) to expressly allow 2 municipalities with a common boundary to change all or a portion of that common boundary.

3. 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 the minimum time period in the cooperative plan process.

6 **SECTION 1.** 66.0225 of the statutes is repealed and recreated to read:

7 **66.0225 Stipulated boundary agreements in contested boundary actions.** (1) In
8 this section, "boundary action" means an action, proceeding, or appeal in court contesting the
9 validity of an annexation, consolidation, detachment, or incorporation.

10 (2) If 2 municipalities whose boundaries are immediately adjacent at any point are
11 parties to a boundary action, the municipalities may enter into an agreement under s. 66.0301

(6) or s. 66.0307 as part of a stipulation to settle the boundary action. The court may approve and make part of the final judgment a stipulation that includes an agreement under s. 66.0301 (6) or s. 66.0307.

SECTION 2. 66.0301 (1) (a) of the statutes is amended to read:

66.0301 (1) (a) ~~In~~ Except as provided in pars. (b) and (c), in this section “municipality” means the state or any department or agency thereof, or any city, village, town, county, school district, public library system, public inland lake protection and rehabilitation district, sanitary district, farm drainage district, metropolitan sewerage district, sewer utility district, solid waste management system created under s. 59.70 (2), local exposition district created under subch. II of ch. 229, local professional baseball park district created under subch. III of ch. 229, local professional football stadium district created under subch. IV of ch. 229, a local cultural arts district created under subch. V of ch. 229, family care district under s. 46.2895, water utility district, mosquito control district, municipal electric company, county or city transit commission, commission created by contract under this section, taxation district, regional planning commission, or city–county health department.

SECTION 3. 66.0301 (1) (c) of the statutes is created to read:

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. 4 of the draft.

SECTION 4. 66.0301 (6) of the statutes is created to read:

66.0301 (6) (a) 1. Any 2 municipalities whose boundaries are immediately adjacent at any point may enter into a written agreement changing all or a portion of the common boundary line between the municipalities. After the agreement becomes effective, the

1 boundary changed by the agreement may not be changed again by an agreement under this
2 subsection.

COMMENT: Note that the authority extended by the provision is now worded as an agreement “changing” all or a portion of the common boundary line. (Compare current s. 66.0225 which, as it pertains to a stipulation that must be approved by the municipalities and one that is subject to referendum, refers to a stipulation “changing” boundaries and a “change” of municipal boundaries.) Should this procedure be available to “freeze” a common boundary (recognizing that the boundary would not be protected from future boundary adjustment procedures and future s. 66.0307 agreements)?

3 2. An agreement under this subsection shall be approved by the governing body of each
4 municipality by adoption of an ordinance. Before each municipality may adopt an ordinance,
5 each municipality shall hold a public hearing on the agreement or both municipalities shall
6 hold a joint hearing on the agreement. Before the public hearing may be held, each
7 municipality shall give notice of the pending agreement and public hearing to each property
8 owner whose property is currently located in that municipality and in, or immediately adjacent
9 to, the territory whose jurisdiction will change. Notice shall be given at least 20 days before
10 the public hearing and shall be made by certified mail.

11 3. An agreement under this subsection is subject to a referendum of the electors residing
12 within the territory whose jurisdiction will change as a result of the agreement. After each
13 municipality approves the agreement by adoption of an ordinance, each shall publish the
14 agreement in the area affected by the agreement as a class 1 notice, under ch. 985. If, within
15 30 days after the publication of the agreement, a petition for a referendum conforming to the
16 requirements of s. 8.40, signed by at least 20% of the electors of the area affected by the
17 agreement, is filed with the clerk of each municipality party to the agreement and is filed in
18 accordance with s. 8.37. The referendum shall be conducted jointly by each municipality and
19 shall otherwise be conducted as are annexation referenda. If the referendum approves the

1 agreement, the agreement may take effect. If the referendum does not approve the agreement,
2 the agreement may not take effect.

COMMENT: Note that the persons eligible to participate in a referendum under this subdivision are not necessarily all of the persons who receive notice of the public hearing and pending agreement under subd. 2.

3 (b) The filing and recording requirements under s. 66.0217 (9) (a), as they apply to cities
4 and villages under s. 66.0217 (9) (a), apply to municipalities under this subsection. The
5 requirements for the secretary of state are the same as those required in s. 66.0217 (9) (b).

COMMENT: 1. Paragraph (b) was not included in the previous draft. It is based on current s. 66.0307 (10), stats.

2. Section 66.0217 (9) (a) and (b), which are referenced in the above provision, provide as follows:

66.0217 (9) (a) The clerk of a city or village which has annexed territory shall file immediately with the secretary of state a certified copy of the ordinance, certificate and plat, and shall send one copy to each company that provides any utility service in the area that is annexed. The clerk shall record the ordinance with the register of deeds and file a signed copy of the ordinance with the clerk of any affected school district. Failure to file, record or send does not invalidate the annexation and the duty to file, record or send is a continuing one. The ordinance that is filed, recorded or sent shall describe the annexed territory and the associated population. The information filed with the secretary of state shall be utilized in making recommendations for adjustments to entitlements under the federal revenue sharing program and distribution of funds under ch. 79. The clerk shall certify annually to the secretary of state and record with the register of deeds a legal description of the total boundaries of the municipality as those boundaries existed on December 1, unless there has been no change in the 12 months preceding.

(b) Within 10 days of receipt of the ordinance, certificate and plat, the secretary of state shall forward 2 copies of the ordinance, certificate and plat to the department of transportation, one copy to the department of administration, one copy to the department of revenue, one copy to the department of public instruction, one copy to the department, one copy to the department of natural resources, one copy to the department of agriculture, trade and consumer protection and 2 copies to the clerk of the municipality from which the territory was annexed.

1 5. No action to contest the validity of an agreement under this subsection may be
2 commenced after 60 days from the date the agreement becomes effective.

COMMENT: Not included in previous draft. Based on language in
current s. 66.0307 (11), stats.

3 (c) This subsection is the exclusive authority under this section for entering into an
4 agreement that changes all or a portion of the common boundary line between municipalities.

COMMENT: Expressly states that the new subsection is the only means of
utilizing s. 66.0301, stats., for boundary agreements. (Not included in
previous draft.)

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

8 or

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

COMMENT: Paragraph (d) 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.

12 **SECTION 5.** 66.0307 (1) (a) of the statutes is renumbered 66.0307 (1) (am).

13 **SECTION 6.** 66.0307 (1) (af) of the statutes is created to read:

14 66.0307 (1) (af) “Comprehensive plan” means a plan adopted under s. 66.1001 or, if
15 a municipality has not adopted a plan under s. 66.1001, a master plan adopted under s. 62.23
16 (2) or (3).

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

1 **SECTION 7.** 66.0307 (3) (b) of the statutes is amended to read:

2 66.0307 **(3) (b)** *Purpose of plan.* The cooperative plan shall be made with the general
3 purpose of guiding and accomplishing a coordinated, adjusted and harmonious development
4 of the territory covered by the plan ~~which will, in accordance with existing and future needs,~~
5 ~~best promote public health, safety, morals, order, convenience, prosperity or the general~~
6 ~~welfare, as well as efficiency and economy in the process of development~~ consistent with the
7 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.

8 **SECTION 8.** 66.0307 (3) (c) of the statutes is repealed and recreated to read:

9 66.0307 **(3) (c)** *Content of plan; consistency with comprehensive plan.* The cooperative
10 plan shall describe how it is consistent with each participating municipality's comprehensive
11 plan.

COMMENT: Repeals the 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 9.** 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. 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.

1 **SECTION 10.** 66.0307 (4) (b) of the statutes is amended to read:

2 66.0307 **(4)** (b) *Public hearing.* At least ~~120~~ 60 days after adoption under par. (a) of
3 the last resolution by a participating municipality and at least 60 days before submitting a
4 cooperative plan to the department for review and approval under sub. (5), the participating
5 municipalities shall hold a joint hearing on the proposed plan. Notice of the hearing shall be
6 given by each participating municipality by class 3 notice under ch. 985.

COMMENT: Reduces the required minimum period between adoption of the last authorizing resolution and the public hearing on the proposed cooperative plan from 120 days to 60 days.

7 **SECTION 11.** 66.0307 (5) (c) 1. of the statutes is amended to read:

8 66.0307 **(5)** (c) 1. The content of the plan under sub. (3) (c) to (e) is sufficient to enable
9 the department to make the determinations under subds. 2. to ~~5m~~ 5.

10 **SECTION 12.** 66.0307 (5) (c) 2. of the statutes is amended to read:

11 66.0307 **(5)** (c) 2. The cooperative plan is consistent with each participating
12 municipality's comprehensive plan and with current state laws, municipal regulations, and
13 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. 8 of the draft).

14 **SECTION 13.** 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.

1 **SECTION 14.** 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. 9 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)