

1       **AN ACT** *to amend* 66.0307 (2) (intro.); and *to create* 66.0203 (8) (c) (intro.), 66.0203  
2       (8) (d) and 66.0307 (4m) of the statutes; **relating to:**

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

**COMMENT:** Revised to reflect discussion of the previous draft at the subcommittee's December 9, 2004 meeting.

3       **SECTION 1.** 66.0203 (8) (c) (intro.) of the statutes is created to read:  
4       66.0203 (8) (c) (intro.) If, before the notice under sub. (1) is published, a planner  
5       certified by the American institute of certified planners has rendered a written opinion that a  
6       reasonable argument can be made that the proposed incorporation meets the requirements  
7       under s. 66.0207 (1) and the public interest determination under s. 66.0207 (2), the following  
8       apply:

**COMMENT:** 1. Better integrates current par. (c) of s. 66.0203 (8) to new par. (d), created by SEC. 2 of the draft. (Not included in previous draft.)

      2. Current s. 66.0203 (8) (c) provides as follows:

66.0203 (8) (c) 1. The court shall determine whether an annexation proceeding that affects any territory included in the incorporation petition has been initiated under s. 66.0217, 66.0219, or 66.0223. A court shall consider an annexation proceeding under s. 66.0223 to have been initiated upon the posting of a meeting notice by a city or village that states that the city or village is considering enacting an ordinance under s. 66.0223.

2. If the court determines that an annexation proceeding described under subd. 1. was initiated before the publication of the notice under sub. (1), the court shall refer the petition to the board when the annexation proceeding is final. If the annexation is determined to be valid, the court shall exclude the annexed territory from the territory proposed to be incorporated when it refers the petition to the board.

3. If the court determines that an annexation proceeding described under subd. 1. was initiated after, and within 30 days after, the publication of

the notice under sub. (1), the annexation may not proceed until the validity of the incorporation has been determined. If the incorporation is determined to be valid and complete, the annexation is void. If the incorporation is determined to be invalid, the annexation may proceed.

4. If the court determines that an annexation proceeding described under subd. 1. was initiated on the same date as the publication of the notice under sub. (1), the court shall determine which procedure was begun first on that date and that action may proceed and the other action may not proceed unless the first action fails.

5. If the court determines that an annexation proceeding described under subd. 1. was initiated more than 30 days after the publication of the notice under sub. (1), the annexation is void.

1       **SECTION 2.** 66.0203 (8) (d) of the statutes is created to read:

2       66.0203 (8) (d) If no written opinion has been rendered by a planner certified by the  
3       American institute of certified planners before the notice under sub. (1) is published that a  
4       reasonable argument can be made that the proposed incorporation meets the requirements  
5       under s. 66.0207 (1) and the public interest determination under s. 66.0207 (2), any annexation  
6       action affecting territory proposed for incorporation may proceed during the pendency of the  
7       incorporation.

**COMMENT:** Adds reference to the American Institute of Certified Planners. (Not included in previous draft.)

8       **SECTION 3.** 66.0307 (2) (intro.) of the statutes is amended to read:

9       66.0307 (2) BOUNDARY CHANGE AUTHORITY. (intro.) Any Unless the mediated  
10      agreement procedure under sub. (4m) is used to develop a cooperative plan, any combination  
11      of municipalities may determine the boundary lines between themselves under a cooperative  
12      plan that is approved by the department under this section. A single city or village and a single  
13      town may use the mediated agreement procedure under sub. (4m) to determine a common  
14      boundary line under a cooperative plan that is approved by the department under this section.  
15      No boundary of a municipality may be changed or maintained under this section unless the

1 municipality is a party to the cooperative agreement. The cooperative plan shall provide one  
2 or more of the following:

**COMMENT:** References the new mediated agreement procedure, created by SEC. 4 of the draft, below. Revised from the previous draft to clarify that the mediated agreement procedure does not apply to “any combination of municipalities” but, rather, applies to any single city or village and any single town.

3 **SECTION 4.** 66.0307 (4m) of the statutes is created to read:

4 66.0307 (4m) MEDIATED AGREEMENT PROCEDURE. (a) As an alternative to the parties  
5 mutually invoking the procedure under this section, a city, village, or town may petition the  
6 department for mediation of a cooperative plan under this paragraph.

7 1. A city or village may petition for mediation if all of the following apply:

8 a. The city or village adopts an authorizing resolution under sub. (4) (a) (intro.) and  
9 requests in writing an adjacent town to adopt an authorizing resolution under sub. (4) (a)  
10 (intro.) and the town fails to adopt the resolution within 60 days after the request.

11 b. The city or village has adopted a comprehensive plan.

**COMMENT:** Assumes a definition of “comprehensive plan” like that in SEC. 6 of WLC: 0063/P2.

12 2. A town may petition for mediation if all of the following apply:

13 a. The town adopts an authorizing resolution under sub. (4) (a) (intro.) and requests in  
14 writing an adjacent city or village to adopt an authorizing resolution under sub. (4) (a) (intro.)  
15 and the city or village fails to adopt the resolution within 60 days after the request.

16 b. The town has adopted a comprehensive plan.

**COMMENT:** Assumes a definition of “comprehensive plan” like that in SEC. 6 of WLC: 0063/P2.

17 (b) Upon receipt of a petition for mediation, the department shall notify the  
18 nonpetitioning adjacent municipality identified in the petition that the petition has been

1 submitted. Within 45 days after receipt of notice from the department that a petition has been  
2 submitted, the nonpetitioning municipality shall notify the department whether it agrees to  
3 engage in mediation to develop a cooperative plan under this section. Failure of the  
4 nonpetitioning municipality to timely notify the department is considered notice that the  
5 municipality does not agree to engage in mediation. If the nonpetitioning municipality refuses  
6 to engage in mediation, the petitioning municipality may not submit a petition under par. (a)  
7 involving the same nonpetitioning municipality for a period of 3 years after notice of the  
8 refusal.

**COMMENT:** The last sentence is new. Is the 3-year period satisfactory?

9 (c) If a town is the nonpetitioning municipality and refuses to engage in mediation, the  
10 town may not contest any annexation of town territory to the petitioning city or village if the  
11 annexation is commenced within 3 years after notice of the town's refusal to engage in  
12 mediation. If a city or village is the nonpetitioning municipality and refuses to engage in  
13 mediation, annexation proceedings to annex territory of the petitioning town to the  
14 nonpetitioning city or village may be commenced only under s. 66.0217 (2) for 3 years after  
15 notice of the city's or village's refusal to engage in mediation.

**COMMENT:** Reference to s. 66.0217 (2) is to annexations under the direct  
annexation by unanimous approval procedure.

16 (d) 1. If both the petitioning municipality and nonpetitioning municipality agree to  
17 engage in mediation to develop a cooperative plan under this section, the municipalities shall  
18 select a mediator. The department may assist the municipalities in selecting a mediator. If the  
19 municipalities are unable to agree on the selection of a mediator, the department shall furnish  
20 a list of 5 mediators to the municipalities. The municipalities shall alternatively strike a name  
21 from the list until one name remains, who is the mediator.

1           2. The mediator shall assist the parties through recognized mediation techniques to  
2 develop and reach agreement on a cooperative plan under this section. Unless the participating  
3 municipalities agree to extend the mediation period, the mediation period expires after 270  
4 days. Unless they agree otherwise, the participating municipalities are equally responsible for  
5 the costs of the mediation. During the mediation period, no proceeding to annex territory of  
6 the participating town to the participating city or village may commence except under s.  
7 66.0217 (2).

**COMMENT:** 1. Paragraph (d) is revised per subcommittee discussion.

2. Reference to s. 66.0217 (2) is to annexations under the direct  
annexation by unanimous approval procedure.

8           (e) Before the participating municipalities engage in mediation under this subsection,  
9 each shall adopt a resolution under sub. (4) (a) (intro.) and provide the required notice of the  
10 resolution. If the participating municipalities agree on a cooperative plan under this  
11 subsection, a public hearing on the plan shall be held under sub. (4) (b) no sooner than 45 days  
12 after agreement is reached and at least 45 days before submitting the plan to the department  
13 for review and approval under sub. (5). Otherwise, the provisions of this section apply to a  
14 cooperative plan agreed to under this subsection.

**COMMENT:** Links the new mediated agreement procedure to other  
provisions in current s. 66.0307. Thus, subject to the specified  
differences, a cooperative plan developed under the new procedure is  
subject to the content, procedure, approval, and other requirements under  
s. 66.0307.

15           (f) After notice by the nonpetitioning municipality under par. (b) that it agrees to engage  
16 in mediation, if any litigation is commenced by the participating town during the 5-year  
17 period after that notice contesting annexation of territory of the participating town to the  
18 participating city or village, the judge shall, unless the nonpetitioning municipality objects,

1 order the parties to select a settlement alternative under s. 802.12 (1) and (2) as a means to  
2 attempt settlement.

**COMMENT:** Revised per subcommittee discussion.

3 (g) If a cooperative plan developed under this subsection becomes effective before  
4 December 31, 2009, each participating municipality is eligible for [financial incentive].

**COMMENT:** Contemplates possible financial incentives for developing a  
cooperative plan under the provision before the consistency requirement  
comprehensive plans takes effect.

5 (END)