

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 renumber and amend* 66.0225; *to amend* 66.0301 (1)
3 (a), 66.0307 (3) (b), 66.0307 (4) (b), 66.0307 (5) (c) 1. and 66.0307 (5) (c) 2.; *to*
4 *repeal and recreate* 66.0225 (title) and 66.0307 (3) (c); and *to create* 66.0225 (1),
5 66.0225 (3), 66.0225 (4), 66.0301 (1) (c), 66.0301 (6) and 66.0307 (1) (af) of the
6 statutes; **relating to:**

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

COMMENT: This draft is revised per drafting subcommittee review and discussion of the previous draft at the subcommittee's January 19, 2005 meeting. (Revised provisions are identified in comments following the provision. Note that the only change in SECTIONS 9 to 18 of the draft is in SEC. 16.)

7 **SECTION 1.** 66.0225 (title) of the statutes is repealed and recreated to read:

8 **66.0225 (title) Stipulated boundary agreements in contested boundary actions.**

9 **SECTION 2.** 66.0225 of the statutes is renumbered 66.0225 (2) and amended to read:

10 66.0225 (2) (title) **CONTESTED ANNEXATIONS.** Any 2 municipalities whose boundaries are
11 immediately adjacent at any point and who are parties to an action, proceeding or appeal in
12 court for the purpose of testing the validity ~~or invalidity~~ of an annexation, ~~incorporation,~~
13 ~~consolidation or detachment~~ may enter into a written stipulation, compromising and settling
14 the litigation and determining the common boundary line between the municipalities that is
15 the subject of the annexation. The court having jurisdiction of the litigation, whether the
16 circuit court, the court of appeals or the supreme court, may enter a final judgment
17 incorporating the provisions of the stipulation and fixing the common boundary line between

1 mthe municipalities involved. A stipulation changing boundaries of municipalities shall be
2 approved by the governing bodies of the detaching and annexing municipalities and s. 66.0217
3 (9) and (11) shall apply. A change of municipal boundaries under this section is subject to a
4 referendum of the electors residing within the territory ~~annexed or detached~~ whose
5 jurisdiction is subject to change under the stipulation, if within 30 days after the publication
6 of the stipulation to change boundaries in a newspaper of general circulation in ~~the area~~
7 ~~proposed to be annexed or detached~~ that territory, a petition for a referendum conforming to
8 the requirements of s. 8.40 signed by at least 20% of the electors ~~of the area to be annexed or~~
9 ~~detached~~ residing within the territory whose jurisdiction is subject to change under the
10 stipulation is filed with the clerk of the municipality from which the greater area is proposed
11 to be ~~detached~~ removed and is filed as provided in s. 8.37. The referendum shall be conducted
12 as are annexation referenda. If the referendum election is ~~opposed to detachment from the~~
13 ~~municipality fails~~, all proceedings under this section are void. ~~In this section, "municipalities"~~
14 ~~means cities, villages and towns.~~

COMMENT: Not included in previous draft. Narrows current s. 66.0225, stats., in 2 respects: (1) limits the scope of the provision to contested annexation proceedings; and (2) expressly limits the boundary that may be subject to a stipulation under the provision to the boundary "that is the subject of the annexation".

15 **SECTION 3.** 66.0225 (1) of the statutes is created to read:

16 66.0225 (1) DEFINITIONS. In this section, "municipality" means a city, village, or town.

COMMENT: Changes the placement of the definition currently found in the last sentence of s. 66.0225.

17 **SECTION 4.** 66.0225 (3) of the statutes is created to read:

1 **66.0225 (3) CONTESTED BOUNDARY ACTIONS.** (a) In this subsection, “boundary action”
2 means an action, proceeding, or appeal in court contesting the validity of an annexation,
3 consolidation, detachment, or incorporation.

4 (b) If 2 municipalities whose boundaries are immediately adjacent at any point are
5 parties to a boundary action, the municipalities may enter into an agreement under s. 66.0301
6 (6) or s. 66.0307 as part of a stipulation to settle the boundary action. The court may approve
7 and make part of the final judgment a stipulation that includes an agreement under s. 66.0301
8 (6) or s. 66.0307.

COMMENT: Carried over from previous draft but renumbered to reflect
this draft’s continuation, with revisions, of current s. 66.0225.

9 **SECTION 5.** 66.0225 (4) of the statutes is created to read:

10 **66.0225 (4) AUTHORITY FOR CERTAIN STIPULATIONS.** A court–approved stipulation under
11 authority of this section before the treatment of this section by 2005 Wisconsin act [this act]
12 that affects the location of a boundary between municipalities is not invalid as lacking
13 authority to affect the location of the boundary.

COMMENT: Not included in previous draft. Provides a “savings” clause
in acknowledgement that some stipulations under current s. 66.0225
have apparently involved municipal boundaries outside the scope of the
boundary that was the subject of the contested boundary action. Similar
to the savings clause included in new s. 66.0301 (6) (h), created by this
draft.

14 **SECTION 6.** 66.0301 (1) (a) of the statutes is amended to read:

15 **66.0301 (1) (a)** ~~In~~ Except as provided in pars. (b) and (c), in this section “municipality”
16 means the state or any department or agency thereof, or any city, village, town, county, school
17 district, public library system, public inland lake protection and rehabilitation district, sanitary
18 district, farm drainage district, metropolitan sewerage district, sewer utility district, solid
19 waste management system created under s. 59.70 (2), local exposition district created under

1 subch. II of ch. 229, local professional baseball park district created under subch. III of ch. 229,
2 local professional football stadium district created under subch. IV of ch. 229, a local cultural
3 arts district created under subch. V of ch. 229, family care district under s. 46.2895, water
4 utility district, mosquito control district, municipal electric company, county or city transit
5 commission, commission created by contract under this section, taxation district, regional
6 planning commission, or city-county health department.

7 **SECTION 7.** 66.0301 (1) (c) of the statutes is created to read:

8 66.0301 (1) (c) For purposes of sub. (6), “municipality” means a city, village, or town.

COMMENT: Provides a definition for use in sub. (6), created by SEC. 8 of
the draft.

9 **SECTION 8.** 66.0301 (6) of the statutes is created to read:

10 66.0301 (6) (a) Any 2 municipalities whose boundaries are immediately adjacent at any
11 point may enter into a written agreement determining all or a portion of the common boundary
12 line between the municipalities. An agreement under this subsection may provide one or more
13 of the following:

- 14 1. That specified boundary lines are effective upon the effective date of the agreement.
- 15 2. That specified boundary line changes shall occur during the term of the agreement
16 and the approximate dates by which the changes shall occur.
- 17 3. That specified boundary line changes may occur during the term of the agreement
18 and the approximate dates by which the changes may occur.
- 19 4. That a required boundary line change under par. (a) or an optional boundary line
20 change under par. (b) is subject to the occurrence of conditions set forth in the agreement.
- 21 5. That specified boundary lines may not be changed during the term of the agreement.

COMMENT: Revised and expanded per drafting subcommittee
discussion.

1 (b) In addition to provisions under par. (a), an agreement under this subsection may
2 include provisions the municipalities are authorized to agree to under this section and s.
3 66.0305.

COMMENT: Not included in previous draft. Reference to “this section”
is to s. 66.0301, stats. Reference to s. 66.0305 is to the statutory
provision authorizing revenue sharing agreements.

4 (c) The maximum term of an agreement under this subsection is [10 years].

COMMENT: Not included in previous draft. The time period is bracketed
to reflect the apparent lack of final resolution on the maximum term.

5 (d) 1. An agreement under this subsection shall be approved by the governing body of
6 each municipality by adoption of an ordinance. Before each municipality may adopt an
7 ordinance, each municipality shall hold a public hearing on the agreement or both
8 municipalities shall hold a joint hearing on the agreement. Before the public hearing may be
9 held, each municipality shall give notice of the pending agreement and public hearing by
10 publishing a class 1 notice and by giving notice to each property owner whose property is
11 currently located in that municipality and in, or immediately adjacent to, the territory whose
12 jurisdiction will change. Notice shall be given at least 20 days before the public hearing and
13 notice to property owners shall be made by certified mail.

COMMENT: Revised from previous draft to require publication of a Class
1 notice, in addition to requiring individual notice to certain property
owners.

14 2. An agreement under this subsection is subject to a referendum of the electors residing
15 within the territory whose jurisdiction is subject to change as a result of the agreement. After
16 each municipality approves the agreement by adoption of an ordinance, each shall publish the
17 agreement in the territory whose jurisdiction is subject to change as a result of the agreement
18 as a class 1 notice, under ch. 985. A referendum shall be held if, within 30 days after the
19 publication of the agreement, a petition for a referendum conforming to the requirements of

1 s. 8.40, signed by at least 20% of the electors residing within the territory whose jurisdiction
2 is subject to change as a result of the agreement, is filed with the clerk of each municipality
3 party to the agreement and is filed in accordance with s. 8.37. The referendum shall be
4 conducted jointly by each municipality and shall otherwise be conducted as are annexation
5 referenda. If the referendum approves the agreement, the agreement may take effect. If the
6 referendum does not approve the agreement, the agreement may not take effect.

7 (d) An agreement under this subsection may provide that, during the term of the
8 agreement, no other procedure for altering a municipality's boundaries may be used to alter
9 a boundary that is affected by the agreement, except an annexation conducted under s. 281.43
10 (1m), regardless of whether the boundary is proposed to be maintained or changed or is
11 allowed to be changed under the agreement. After the agreement has expired, the boundary
12 may be altered.

COMMENT: Paragraph (d) was not included in previous draft. If this provision is included in the final recommendation of the drafting subcommittee, reference to the provision will be included in various boundary procedures to give express notice that those boundary procedures are subject to the provision. See ss. 66.0217 (2), 66.0219 (intro.), 66.0221 (1), 66.0223 (1), 66.0227 (intro.), 66.0229, and 66.0230 (1) (a), stats. (These provisions already indicate that the respective boundary procedures are subject to the boundary procedure protections contained in s. 66.0307 (7), stats.)

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

16 (f) No action to contest the validity of an agreement under this subsection may be
17 commenced after 60 days from the date the agreement becomes effective.

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

4 (h) An agreement under authority of this section before the treatment of this section by
5 2005 Wisconsin act [this act] that affects the location of a boundary between municipalities
6 is not invalid as lacking authority under this section to affect the location of the boundary.

COMMENT: Paragraph (h) is revised per drafting subcommittee discussion. A note to this provision will be included in a future draft indicating that it is intended to eliminate uncertainty regarding the authority under current s. 66.0301 to determine municipal boundaries, including a holding by at least one circuit court that boundary agreements are not authorized under s. 66.0301.

7 **SECTION 9.** 66.0307 (1) (a) of the statutes is renumbered 66.0307 (1) (am).

8 **SECTION 10.** 66.0307 (1) (af) of the statutes is created to read:

9 66.0307 (1) (af) “Comprehensive plan” means a plan adopted under s. 66.1001 or, if
10 a municipality has not adopted a plan under s. 66.1001, a master plan adopted under s. 62.23
11 (2) or (3).

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

12 **SECTION 11.** 66.0307 (3) (b) of the statutes is amended to read:

13 66.0307 (3) (b) *Purpose of plan.* The cooperative plan shall be made with the general
14 purpose of guiding and accomplishing a coordinated, adjusted and harmonious development
15 of the territory covered by the plan ~~which will, in accordance with existing and future needs,~~
16 ~~best promote public health, safety, morals, order, convenience, prosperity or the general~~
17 ~~welfare, as well as efficiency and economy in the process of development~~ consistent with the
18 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 12.** 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 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 13.** 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.

2 **SECTION 14.** 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 days before submitting a
5 cooperative plan to the department for review and approval under sub. (5), the participating
6 municipalities shall hold a joint hearing on the proposed plan. Notice of the hearing shall be
7 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.

1 **SECTION 15.** 66.0307 (5) (c) 1. of the statutes is amended to read:

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

4 **SECTION 16.** 66.0307 (5) (c) 2. of the statutes is amended to read:

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

COMMENT: 1. 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. 12 of the draft).

2. Revised per drafting subcommittee discussion.

9 **SECTION 17.** 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.

10 **SECTION 18.** 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. 13 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.

1

(END)