

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 February 4, 2005 meeting. (Revised provisions are identified in comments following the provision.)

7       **SECTION 1.** 66.0225 (title) of the statutes is repealed and recreated to read: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  
18       the municipalities involved. A stipulation changing boundaries of municipalities shall be

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

COMMENT: Editorial revision is included on lines 1 and 2 of this page.

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

15 66.0225 (1) DEFINITIONS. In this section, “municipality” means a city, village, or town.

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

17 **66.0225 (3) CONTESTED BOUNDARY ACTIONS.** (a) In this subsection, “boundary action”  
18 means an action, proceeding, or appeal in court contesting the validity of an annexation,  
19 consolidation, detachment, or incorporation.

20 (b) If 2 municipalities whose boundaries are immediately adjacent at any point are  
21 parties to a boundary action, the municipalities may enter into an agreement under s. 66.0301  
22 (6) or s. 66.0307 as part of a stipulation to settle the boundary action. The court may approve

1 and make part of the final judgment a stipulation that includes an agreement under s. 66.0301  
2 (6) or s. 66.0307.

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

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

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

9 66.0301 (1) (a) ~~In~~ Except as provided in pars. (b) and (c), in this section “municipality”  
10 means the state or any department or agency thereof, or any city, village, town, county, school  
11 district, public library system, public inland lake protection and rehabilitation district, sanitary  
12 district, farm drainage district, metropolitan sewerage district, sewer utility district, solid  
13 waste management system created under s. 59.70 (2), local exposition district created under  
14 subch. II of ch. 229, local professional baseball park district created under subch. III of ch. 229,  
15 local professional football stadium district created under subch. IV of ch. 229, a local cultural  
16 arts district created under subch. V of ch. 229, family care district under s. 46.2895, water  
17 utility district, mosquito control district, municipal electric company, county or city transit  
18 commission, commission created by contract under this section, taxation district, regional  
19 planning commission, or city–county health department.

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

21 66.0301 (1) (c) For purposes of sub. (6), “municipality” means a city, village, or town.

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

23 66.0301 (6) (a) Any 2 municipalities whose boundaries are immediately adjacent at any  
24 point may enter into a written agreement determining all or a portion of the common boundary

1 line between the municipalities. An agreement under this subsection may not include any  
2 provision other than those authorized under pars. (b) and (e) and one or more of the following:

3 1. That specified boundary lines are effective upon the effective date of the agreement.

4 2. That specified boundary line changes shall occur during the term of the agreement  
5 and the approximate dates by which the changes shall occur.

6 3. That specified boundary line changes may occur during the term of the agreement  
7 and the approximate dates by which the changes may occur.

8 4. That a required boundary line change under subd. 2. or an optional boundary line  
9 change under subd. 3. is subject to the occurrence of conditions set forth in the agreement.

10 5. That specified boundary lines may not be changed during the term of the agreement.

**COMMENT:** The introductory clause preceding the semicolon is revised.

11 (b) In addition to provisions under par. (a), an agreement under this subsection may  
12 include provisions the municipalities are authorized to agree to under this section and s.  
13 66.0305.

14 (c) The maximum term of an agreement under this subsection is 10 years. When an  
15 agreement expires, all provisions of the agreement expire and any boundary determined under  
16 the agreement remains until subsequently changed.

**COMMENT:** The second sentence is new.

17 (d) 1. An agreement under this subsection shall be approved by the governing body of  
18 each municipality by adoption of a resolution. Before each municipality may adopt a  
19 resolution, each municipality shall hold a public hearing on the agreement or both  
20 municipalities shall hold a joint hearing on the agreement. Before the public hearing may be  
21 held, each municipality shall give notice of the pending agreement and public hearing by  
22 publishing a class 1 notice and by giving notice to each property owner whose property is

1 currently located in that municipality and in, or immediately adjacent to, the territory whose  
2 jurisdiction will change. Notice shall be given at least 20 days before the public hearing and  
3 notice to property owners shall be made by certified mail.

**COMMENT:** Revised to substitute “resolution” for “ordinance”. See,  
also, subd. 2., below, and par. (f), on page 6.

4 2. An agreement under this subsection is subject to a referendum of the electors residing  
5 within the territory whose jurisdiction is subject to change as a result of the agreement. After  
6 each municipality approves the agreement by adoption of a resolution, each shall publish the  
7 agreement in the territory whose jurisdiction is subject to change as a result of the agreement  
8 as a class 1 notice, under ch. 985. A referendum shall be held if, within 30 days after the  
9 publication of the agreement, a petition for a referendum conforming to the requirements of  
10 s. 8.40, signed by at least 20% of the electors residing within the territory whose jurisdiction  
11 is subject to change as a result of the agreement, is filed with the clerk of each municipality  
12 party to the agreement and is filed in accordance with s. 8.37. The referendum shall be  
13 conducted jointly by each municipality and shall otherwise be conducted as are annexation  
14 referenda. If the referendum approves the agreement, the agreement may take effect. If the  
15 referendum does not approve the agreement, the agreement may not take effect.

16 (e) An agreement under this subsection may provide that, during the term of the  
17 agreement, no other procedure for altering a municipality’s boundaries may be used to alter  
18 a boundary that is affected by the agreement, except an annexation conducted under s. 281.43  
19 (1m), regardless of whether the boundary is proposed to be maintained or changed or is  
20 allowed to be changed under the agreement. After the agreement has expired, the boundary  
21 may be altered.

**COMMENT:** Reference to par. (e) 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.)

1 (f) A boundary change included in an agreement under this subsection shall be  
2 accomplished by the enactment of an ordinance by the governing body designated to do so in  
3 the agreement. The filing and recording requirements under s. 66.0217 (9) (a), as they apply  
4 to cities and villages under s. 66.0217 (9) (a), apply to municipalities under this subsection.  
5 The requirements for the secretary of state are the same as those required in s. 66.0217 (9) (b).

**COMMENT:** The first sentence is new. Based on current s. 66.0307 (10), stats.

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

8 (h) This subsection is the exclusive authority under this section for entering into an  
9 agreement that determines all or a portion of the common boundary line between  
10 municipalities.

11 (i) An agreement under authority of this section before the treatment of this section by  
12 2005 Wisconsin act [this act] that affects the location of a boundary between municipalities  
13 is not invalid as lacking authority under this section to affect the location of the boundary.

**COMMENT:** A note to par. (i) 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.

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

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

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

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

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

11          **SECTION 12.** 66.0307 (3) (c) of the statutes is repealed and recreated to read:

12          66.0307 (3) (c) *Content of plan; consistency with comprehensive plan.* The cooperative  
13          plan shall describe how it is consistent with each participating municipality’s comprehensive  
14          plan.

15          **SECTION 13.** 66.0307 (3) (dm) of the statutes is repealed.

16          **SECTION 14.** 66.0307 (4) (b) of the statutes is amended to read:

17          66.0307 (4) (b) *Public hearing.* At least 120 ~~60~~ days after adoption under par. (a) of  
18          the last resolution by a participating municipality and at least 60 days before submitting a  
19          cooperative plan to the department for review and approval under sub. (5), the participating  
20          municipalities shall hold a joint hearing on the proposed plan. Notice of the hearing shall be  
21          given by each participating municipality by class 3 notice under ch. 985.

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

23          66.0307 (5) (c) 1. The content of the plan under sub. (3) (c) to (e) is sufficient to enable  
24          the department to make the determinations under subds. 2. to ~~5m~~ 5.

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

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

**COMMENT:** Revised to eliminate previous reference to “necessary amendments to the cooperative plan”.

5           **SECTION 17.** 66.0307 (5) (c) 4. of the statutes is repealed.

6           **SECTION 18.** 66.0307 (5) (c) 5m. of the statutes is repealed.

7 (END)