

CHAPTER 418

AN ACT to create 66.024 of the statutes, relating to alternative annexation by referendum and court order.

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

66.024 of the statutes is created to read:

66.024 ANNEXATION BY REFERENDUM; COURT ORDER. As a complete alternative to any other annexation procedure, unincorporated territory which contains electors and is contiguous to a city or village may be annexed thereto in the manner hereafter provided. The definitions in s. 66.021 (1) shall apply to this section.

(1) PROCEDURE FOR ANNEXATION. (a) The governing body of the city or village to which it is proposed to annex territory shall, by resolution adopted by two-thirds of the members-elect, declare its intention to apply to the circuit court for an order for an annexation referendum, and shall publish the resolution once in a newspaper having general circulation in the area proposed to be annexed, and shall cause to be made a scale map of such territory showing it in relation to the annexing city or village. The resolution shall contain a description of the territory to be affected, sufficiently accurate to determine its location, the name of the municipalities directly affected and the name and post-office address of the municipal official causing the resolution to be published. The person who causes the resolution to be published shall serve a copy of the resolution together with the scale map upon the clerk of the town or towns from which the territory is to be detached within 5 days of the date of publication of the resolution. Such service may be either by personal service or by registered mail and if by registered mail an affidavit must be on file with the annexing body indicating the date said resolution was mailed. The annexation shall be deemed commenced upon publication of the resolution.

(b) Application to the circuit court shall be by petition subscribed by the officers designated by the governing body, and shall have attached as a part thereof: the scale map, a certified copy of the resolution of the governing body and an affidavit of the publication and filing required under par. (a). Such petition shall be filed in the circuit court not less than 30 days but no more than 45 days after the publication of the notice of intention.

(2) PROTEST TO COURT BY ELECTORS; HEARING. (a) If prior to the date set for a hearing upon such application, there is filed with the court a petition signed by a majority of the electors residing in the territory or the owners of more than one-half of the real property in assessed value in such territory, protesting against the annexation of such territory, the court shall deny the application for an annexation referendum.

(b) If a petition protesting the annexation is found insufficient the court shall proceed to hear all parties interested for or against the application. The court may in its discretion adjourn such hearing from time to time, direct a survey to be made and refer any question for examination and report thereon. Any town whose territory is involved in the proposed annexation shall, upon application, be a party and entitled to be heard on any matter pertaining thereto.

(3) **DISMISSAL.** If for any reason the proceedings are dismissed, the court may, in its discretion, order entry of judgment against the city or village for such disbursements or any part thereof as have been incurred by the parties opposing the annexation.

(4) **REFERENDUM ELECTION; WHEN ORDERED AND HELD.** (a) If the court, after such hearing, is satisfied as to the correctness of the description of the territory or any survey and that the provisions of this section have been complied with, it shall make an order so declaring and shall direct a referendum election within the territory which shall be described in the order, on the question, whether such area should be annexed. Such order shall direct 3 electors named therein residing in the town in which the territory proposed to be annexed lies, to perform the duties of inspectors of election.

(b) The referendum election shall be held within 30 days after the entry of the order, in the territory proposed for annexation, by the electors of such territory as provided in s. 66.021 (5), so far as applicable. The ballots shall contain the words "For Annexation" and "Against Annexation". The certification of the election inspectors shall be filed with the clerk of the court, and the clerk of any municipality involved, but need not be filed with the register of deeds.

(c) All costs of the referendum election shall be borne by the petitioning city or village.

(5) **DETERMINATION BY VOTE.** (a) If a majority of the votes cast at such referendum election is against annexation, no other proceeding under this section affecting the same territory or part thereof, shall be commenced by the same municipality, until 6 months after the date of the referendum election.

(b) If a majority of the votes cast at such referendum election is for annexation, the territory shall be annexed to the petitioning city or village upon compliance with s. 66.021 (8).

(6) **APPEAL.** Any appeal from the order of the circuit court shall be limited to contested issues determined by such court. Such appeal shall not stay the conduct of the referendum election provided herein, if one is ordered, but the statement of the election results and the copies of the certificate and plat shall not be filed with the secretary of state until the appeal has been determined.

(7) **LAW APPLICABLE.** Section 66.021 (10) shall apply to annexations under this section.

(8) The provisions of this act shall not apply to any territory located in an area for which a certificate of incorporation was issued prior to February 24, 1959 by the secretary of state, even if the incorporation of such territory is later held to be invalid by a court.

Approved September 8, 1959.
