

# State of Wisconsin



2007 Assembly Bill 254

Date of enactment: **January 4, 2008**  
Date of publication\*: **January 18, 2008**

## 2007 WISCONSIN ACT 43

AN ACT *to repeal* 66.0307 (3) (dm), 66.0307 (5) (c) 4. and 66.0307 (5) (c) 5m.; *to renumber* 66.0307 (1) (a); *to renumber and amend* 66.0225; *to amend* 66.0217 (2) and (3) (intro.), 66.0217 (11) (b), 66.0219 (intro.), 66.0221 (1), 66.0221 (2), 66.0223 (1), 66.0227 (intro.), 66.0229, 66.0230 (1) (a), 66.0231, 66.0301 (1) (a), 66.0305 (4) (b), 66.0307 (2) (intro.), 66.0307 (3) (b), 66.0307 (3) (d) 4., 66.0307 (4) (b), 66.0307 (5) (c) 1., 66.0307 (5) (c) 2., 66.1105 (4) (gm) 1. and 117.132 (1m) (a); *to repeal and recreate* 66.0225 (title) and 66.0307 (3) (c); and *to create* 66.0217 (6) (b), 66.0225 (1), 66.0225 (3), 66.0225 (4), 66.0301 (1) (c), 66.0301 (6), 66.0307 (1) (af) and 66.0307 (4m) of the statutes; **relating to:** municipal boundary agreements and the use of alternative dispute resolution in municipal boundary disputes.

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

**SECTION 1.** 66.0217 (2) and (3) (intro.) of the statutes are amended to read:

66.0217 (2) **DIRECT ANNEXATION BY UNANIMOUS APPROVAL.** Except as provided in sub. (14), and subject to ~~s.~~ ss. 66.0301 (6) (d) and 66.0307 (7), if a petition for direct annexation signed by all of the electors residing in the territory and the owners of all of the real property in the territory is filed with the city or village clerk, and with the town clerk of the town or towns in which the territory is located, together with a scale map and a legal description of the property to be annexed, an annexation ordinance for the annexation of the territory may be enacted by a two-thirds vote of the elected members of the governing body of the city or village without compliance with the notice requirements of sub. (4). In an annexation under this subsection, subject to sub. (6), the person filing the petition with the city or village clerk and the town clerk shall, within 5 days of the filing, mail a copy of the scale map and a legal description of the territory to be

annexed to the department and the governing body shall review the advice of the department, if any, before enacting the annexation ordinance.

(3) **OTHER METHODS OF ANNEXATION.** (intro.) Subject to ~~s.~~ ss. 66.0301 (6) (d) and 66.0307 (7), and except as provided in sub. (14), territory contiguous to a city or village may be annexed to the city or village in the following ways:

**SECTION 2.** 66.0217 (6) (b) of the statutes is created to read:

66.0217 (6) (b) *Alternative dispute resolution.* The department shall make available on its public Web site a list of persons who identify themselves to the department as professionals qualified to facilitate alternative dispute resolution of annexation, boundary, and land use disputes. Persons identifying themselves to the department as qualified professionals shall submit to the department a brief description of their qualifications, including membership in relevant professional associations and certifications in areas such as planning and alternative dispute resolution. The department may edit the descriptions for inclusion on the list using any criteria that, in the depart-

\* Section 991.11, WISCONSIN STATUTES 2005-06 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

ment's determination, is appropriate. The department may include with the list a disclaimer that the department is not responsible for the accuracy of the descriptions, and that inclusion of a person on the list does not represent endorsement by the department. The department may include links from the list to other websites, such as those of relevant professional associations and county dispute resolution centers.

**SECTION 3.** 66.0217 (11) (b) of the statutes is amended to read:

66.0217 (11) (b) An action contesting an annexation shall be given preference in the circuit court. The court and the parties are encouraged to consider the application of s. 802.12 to an action contesting an annexation.

**SECTION 4.** 66.0219 (intro.) of the statutes is amended to read:

**66.0219 Annexation by referendum initiated by city or village.** (intro.) As a complete alternative to any other annexation procedure, and subject to sub. (10) and s. 66.0301 (6) (d) and 66.0307 (7), unincorporated territory which contains electors and is contiguous to a city or village may be annexed to the city or village under this section. The definitions in s. 66.0217 (1) apply to this section.

**SECTION 5.** 66.0221 (1) of the statutes is amended to read:

66.0221 (1) Upon its own motion and subject to sub. (3) and s. 66.0301 (6) (d) and 66.0307 (7), a city or village, by a two-thirds vote of the entire membership of its governing body, may enact an ordinance annexing territory which comprises a portion of a town or towns and which was completely surrounded by territory of the city or village on December 2, 1973. The ordinance shall include all surrounded town areas except those that are exempt by mutual agreement of all of the governing bodies involved. The annexation ordinance shall contain a legal description of the territory and the name of the town or towns from which the territory is detached. Upon enactment of the ordinance, the city or village clerk immediately shall file 6 certified copies of the ordinance in the office of the secretary of state, together with 6 copies of a scale map. The secretary of state shall forward 2 copies of the ordinance and scale map to the department of transportation, one copy to the department of natural resources, one copy to the department of revenue and one copy to the department of administration. This subsection does not apply if the town island was created only by the annexation of a railroad right-of-way or drainage ditch. This subsection does not apply to land owned by a town government which has existing town government buildings located on the land. No town island may be annexed under this subsection if the island consists of over 65 acres or contains over 100 residents. Section 66.0217 (11) applies to annexations under this subsection. Except as provided in sub. (2), after December 2, 1973, no city or village may, by annexation, create

a town area which is completely surrounded by the city or village.

**SECTION 6.** 66.0221 (2) of the statutes is amended to read:

66.0221 (2) A city or village may, by annexation, create a town area that is completely surrounded by the city or village if a cooperative plan for boundary change under s. 66.0301 (6) or 66.0307, to which the town and the annexing city or village are parties, applies to the territory that is annexed.

**SECTION 7.** 66.0223 (1) of the statutes is amended to read:

66.0223 (1) In addition to other methods provided by law and subject to sub. (2) and ss. 59.692 (7), 66.0301 (6) (d), and 66.0307 (7), territory owned by and lying near but not necessarily contiguous to a village or city may be annexed to a village or city by ordinance enacted by the board of trustees of the village or the common council of the city, provided that in the case of noncontiguous territory the use of the territory by the city or village is not contrary to any town or county zoning regulation. The ordinance shall contain the exact description of the territory annexed and the names of the towns from which detached, and attaches the territory to the village or city upon the filing of 7 certified copies of the ordinance in the office of the secretary of state, together with 7 copies of a plat showing the boundaries of the territory attached. Two copies of the ordinance and plat shall be forwarded by the secretary of state to the department of transportation, one copy to the department of administration, one copy to the department of natural resources, one copy to the department of revenue and one copy to the department of public instruction. Within 10 days of filing the certified copies, a copy of the ordinance and plat shall be mailed or delivered to the clerk of the county in which the annexed territory is located. Sections 66.0203 (8) (c) and 66.0217 (11) apply to annexations under this section.

**SECTION 8.** 66.0225 (title) of the statutes is repealed and recreated to read:

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

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

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

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

**SECTION 10.** 66.0225 (1) of the statutes is created to read:

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

**SECTION 11.** 66.0225 (3) of the statutes is created to read:

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

(b) If 2 municipalities whose boundaries are immediately adjacent at any point are 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 12.** 66.0225 (4) of the statutes is created to read:

66.0225 (4) AUTHORITY FOR CERTAIN STIPULATIONS. A stipulation that is court-approved under this section before the effective date of this subsection ... [revisor inserts date], that affects the location of a boundary between municipalities, is not invalid as lacking authority to affect the location of the boundary.

**SECTION 13.** 66.0227 (intro.) of the statutes is amended to read:

**66.0227 Detachment of territory.** (intro.) Subject to s. ss. 66.0301 (6) (d) and 66.0307 (7), territory may be detached from a city or village and attached to a city, village or town to which it is contiguous as follows:

**SECTION 14.** 66.0229 of the statutes is amended to read:

**66.0229 Consolidation.** Subject to s. ss. 66.0301 (6) (d) and 66.0307 (7), a town, village or city may be consolidated with a contiguous town, village or city, by ordinance, passed by a two-thirds vote of all the members of each board or council, fixing the terms of the consolidation and ratified by the electors at a referendum held in each municipality. The ballots shall bear the words, "for consolidation", and "against consolidation", and if a majority of the votes cast in each municipality are for consolidation, the ordinances shall take effect and have the force of a contract. The ordinance and the result of the referendum shall be certified as provided in s. 66.0211 (5); if a town the certification shall be preserved as provided in ss. 66.0211 (5) and 66.0235, respectively. Consolidation does not affect the preexisting rights or liabilities of any municipality and actions on those rights or liabilities may be commenced or completed as if there were no consolidation. A consolidation ordinance proposing the consolidation of a town and a city or village shall, within 10 days after its adoption and prior to its submission to the voters for ratification at a referendum, be submitted to the circuit court and the department of administration for a determination of whether the proposed consolidation is in the public interest. The circuit court shall determine whether the proposed ordinance meets the formal requirements of this section and shall then refer the matter to the department of administration, which shall find as prescribed in s. 66.0203 whether the proposed consolidation is in the public interest in accordance with the standards in s. 66.0207. The department's findings have the same status as incorporation findings under ss. 66.0203 to 66.0213.

**SECTION 15.** 66.0230 (1) (a) of the statutes is amended to read:

66.0230 (1) (a) In addition to the method described in s. 66.0229 and subject to subs. (2), (3), and (4) and to s. ss. 66.0301 (6) (d) and 66.0307 (7), all or part of a town may consolidate with a contiguous city or village by ordinance passed by a two-thirds vote of all of the members of each board or council and ratified by the electors at a referendum held in each municipality.

**SECTION 16.** 66.0231 of the statutes is amended to read:

**66.0231 Notice of certain litigation affecting municipal status or boundaries.** If a proceeding under ss. 61.187, 61.189, 61.74, 62.075, 66.0201 to 66.0213, 66.0215, 66.0216, 66.0217, 66.0221, 66.0223, 66.0227, 66.0301 (6), or 66.0307 or other sections relating to an incorporation, annexation, consolidation, dissolution or detachment of territory of a city or village is contested by instigation of legal proceedings, the clerk of the city or village involved in the proceedings shall file with the secretary of state 4 copies of a notice of the commencement of the action. The clerk shall file with the secretary of state 4 copies of any judgments rendered or appeals taken

in such cases. The notices or copies of judgments that are required under this section may also be filed by an officer or attorney of any party of interest. The secretary of state shall forward to the department of transportation 2 copies and to the department of revenue and the department of administration one copy each of any notice of action or judgment filed with the secretary of state under this section.

**SECTION 17.** 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 18.** 66.0301 (1) (c) of the statutes is created to read:

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

**SECTION 19.** 66.0301 (6) of the statutes is created to read:

66.0301 (6) (a) Any 2 municipalities whose boundaries are immediately adjacent at any point may enter into a written agreement determining all or a portion of the common boundary line between the municipalities. An agreement under this subsection may include only the provisions authorized under this section and s. 66.0305, and one or more of the following:

1. That specified boundary lines apply on the effective date of the agreement.

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

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

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

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

(b) The maximum term of an agreement under this subsection is 10 years. When an agreement expires, all provisions of the agreement expire, except that any boundary determined under the agreement remains in effect until subsequently changed.

(c) 1. Before an agreement under this subsection may take effect, and subject to par. (e), it must be approved by the governing body of each municipality by the adoption of a resolution. Before each municipality may adopt a resolution, each shall hold a public hearing on the agreement or both municipalities shall hold a joint public hearing on the agreement. Before the public hearing may be held, each municipality shall give notice of the pending agreement and public hearing by publishing a class 1 notice, under ch. 985, and by giving notice to each property owner whose property is currently located in that municipality and in, or immediately adjacent to, the territory whose jurisdiction will change. Notice shall be given at least 20 days before the public hearing and notice to property owners shall be made by certified mail.

2. An agreement under this subsection is subject to a referendum of the electors residing within the territory whose jurisdiction is subject to change as a result of the agreement. After each municipality approves the agreement by adoption of a resolution, each municipality shall publish the agreement in the territory whose jurisdiction is subject to change as a result of the agreement as a class 1 notice, under ch. 985. A referendum shall be held if, within 30 days after the publication of the agreement, a petition for a referendum conforming to the requirements of s. 8.40, signed by at least 20 percent of the electors residing within the territory whose jurisdiction is subject to change as a result of the agreement is filed, in accordance with s. 8.37, with the clerk of each municipality that is a party to the agreement. The referendum shall be conducted jointly by the municipalities and shall otherwise be conducted as are annexation referenda. If the agreement is approved in the referendum, it may take effect. If the agreement is not approved in the referendum, it may not take effect.

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

(e) A boundary change included in an agreement under this subsection shall be accomplished by the enactment of an ordinance by the governing body designated to do so in the agreement. The filing and recording requirements under s. 66.0217 (9) (a), as they apply to cities and villages under s. 66.0217 (9) (a), apply to municipi-

palties under this subsection. The requirements for the secretary of state under s. 66.0217 (9) (b), as they apply under that section, apply to the secretary of state when he or she receives an ordinance that is filed under this subsection.

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

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

(h) An agreement under this section that has been entered into before the effective date of this subsection ... [revisor inserts date], that affects the location of a boundary between municipalities, is not invalid as lacking authority under this section to affect the location of the boundary.

**SECTION 20.** 66.0305 (4) (b) of the statutes is amended to read:

66.0305 (4) (b) An agreement entered into under sub. (2) may address any other appropriate matters, including any agreements with respect to services or agreements with respect to municipal boundaries under s. 66.0225, 66.0301 (6), or 66.0307.

**SECTION 21.** 66.0307 (1) (a) of the statutes is renumbered 66.0307 (1) (am).

**SECTION 22.** 66.0307 (1) (af) of the statutes is created to read:

66.0307 (1) (af) "Comprehensive plan" means an adopted plan that contains the elements under s. 66.1001 (2) or, if a municipality has not adopted a plan that contains those elements, a master plan adopted under s. 62.23 (2) or (3).

**SECTION 23.** 66.0307 (2) (intro.) of the statutes is amended to read:

66.0307 (2) BOUNDARY CHANGE AUTHORITY. (intro.) Any combination of municipalities may determine the boundary lines between themselves under a cooperative plan that is approved by the department under this section. A single city or village and a single town may use the mediated agreement procedure under sub. (4m) to determine a common boundary line under a cooperative plan that is approved by the department under this section. No boundary of a municipality may be changed or maintained under this section unless the municipality is a party to the cooperative agreement. The cooperative plan shall provide one or more of the following:

**SECTION 24.** 66.0307 (3) (b) of the statutes is amended to read:

66.0307 (3) (b) *Purpose of plan.* The cooperative plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory covered by the plan ~~which will, in accordance with existing and future needs, best promote public health, safety, morals, order, conve-~~

~~nience, prosperity or the general welfare, as well as efficiency and economy in the process of development consistent with the comprehensive plan of each participating municipality.~~

**SECTION 25.** 66.0307 (3) (c) of the statutes is repealed and recreated to read:

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

**SECTION 26.** 66.0307 (3) (d) 4. of the statutes is amended to read:

66.0307 (3) (d) 4. Include a statement explaining how any part of the plan related to the location of boundary meets the approval criteria under sub. (5) (c) ~~4~~ and 5.

**SECTION 27.** 66.0307 (3) (dm) of the statutes is repealed.

**SECTION 28.** 66.0307 (4) (b) of the statutes is amended to read:

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

**SECTION 29.** 66.0307 (4m) of the statutes is created to read:

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

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

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

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

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

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

b. The town has adopted a comprehensive plan.

(b) A municipality that is authorized under par. (a) to petition the department for mediation and elects to do so shall submit the petition within 90 days after the municipi-

pality has adopted the authorizing resolution described in par. (a) 2. a. or 3. a. Upon receipt of a petition for mediation, the department shall notify the nonpetitioning adjacent municipality identified in the petition that the petition has been submitted. Within 45 days after receipt of notice from the department that a petition has been submitted, the nonpetitioning municipality shall notify the department whether it agrees to engage in mediation to develop a cooperative plan under this section. Failure of the nonpetitioning municipality to timely notify the department is considered notice that the municipality does not agree to engage in mediation. The department shall send written notice of the nonpetitioning municipality's decision, on whether it will participate, to the petitioning municipality. If the nonpetitioning municipality refuses to engage in mediation, the petitioning municipality may not submit a petition under this paragraph involving the same nonpetitioning municipality for a period of 3 years after the department sends notice of the refusal.

(c) 1. If a nonpetitioning town refuses under par. (b) to engage in mediation, the town may not contest any annexation of its territory to the petitioning city or village that is commenced during the shorter of the following periods:

a. The period of 270 days beginning after the town refuses under par. (b) to engage in mediation.

b. The period beginning on the date the town refuses under par. (b) to engage in mediation and ending on the date the town agrees to engage in mediation.

2. If a nonpetitioning city or village refuses under par. (b) to engage in mediation, an annexation of territory of the petitioning town to the nonpetitioning city or village that is commenced during the shorter of the following periods shall be reviewed by the department in the manner described under s. 66.0217 (6), regardless of the population of the county in which the annexation proceeding is commenced, and, notwithstanding s. 66.0217 (11) (c), may be contested by the town if the department determines that the annexation is not in the public interest:

a. The period of 270 days beginning after the city or village refuses under par. (b) to engage in mediation.

b. The period on the date the city or village refuses under par. (b) to engage in mediation and ending on the date the city or village agrees to engage in mediation.

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

2. The mediator shall assist the parties through recognized mediation techniques to develop and reach agreement on a cooperative plan under this section. Unless the participating municipalities agree to extend the mediation period, the mediation period expires after 270 days. Unless they agree otherwise, the participating municipalities are equally responsible for the costs of the mediation.

(e) Before the participating municipalities engage in mediation under this subsection, each shall adopt a resolution under sub. (4) (a) (intro.) and provide the required notice of the resolution. Notwithstanding sub. (4) (b), if the participating municipalities agree on a cooperative plan under this subsection, a public hearing on the plan shall be held under sub. (4) (b) no sooner than 45 days after agreement is reached and at least 45 days before submitting the plan to the department for review and approval under sub. (5).

(f) If any litigation contesting annexation of territory of the petitioning or nonpetitioning town to the city or village is commenced during the 3-year period after the department receives the petition for mediation under par. (b), the judge shall under s. 802.12 (2), unless the nonpetitioning municipality objects, order the parties to select a settlement alternative under s. 802.12 (1) (i) as a means to attempt settlement.

**SECTION 30.** 66.0307 (5) (c) 1. of the statutes is amended to read:

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

**SECTION 31.** 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.

**SECTION 32.** 66.0307 (5) (c) 4. of the statutes is repealed.

**SECTION 33.** 66.0307 (5) (c) 5m. of the statutes is repealed.

**SECTION 34.** 66.1105 (4) (gm) 1. of the statutes is amended to read:

66.1105 (4) (gm) 1. Describes the boundaries, which may, but need not, be the same as those recommended by the planning commission, of a tax incremental district with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the district. The boundaries of the tax incremental district may not include any annexed territory that was not within the boundaries of the city on January 1, 2004, unless at least 3 years have elapsed since the territory was annexed by the city, unless the city enters into a cooperative plan boundary agreement, under s. 66.0301 (6) or 66.0307,

with the town from which the territory was annexed, or unless the city and town enter into another kind of agreement relating to the annexation except that, notwithstanding these conditions, the city may include territory that was not within the boundaries of the city on January 1, 2004, if the city pledges to pay the town an amount equal to the property taxes levied on the territory by the town at the time of the annexation for each of the next 5 years. If, as the result of a pledge by the city to pay the town an amount equal to the property taxes levied on the territory by the town at the time of the annexation for each of the next 5 years, the city includes territory in a tax incremental district that was not within the boundaries of the city on January 1, 2004, the city's pledge is enforceable by the town from which the territory was annexed. The boundaries shall include only those whole units of property as are assessed for general property tax purposes. Property standing vacant for an entire 7-year period immediately preceding adoption of the resolution creating a tax incremental district may not comprise more than 25 percent of the area in the tax incremental district, unless the tax incremental district is suitable under subd.

4. a. for either industrial sites or mixed use development and the local legislative body implements an approved project plan to promote industrial development within the meaning of s. 66.1101 if the district has been designated as suitable for industrial sites, or ~~mixed-used~~ mixed-use development if the district has been designated as suitable for mixed-use development. In this subdivision, "vacant property" includes property where the fair market value or replacement cost value of structural improvements on the parcel is less than the fair market value of the land. In this subdivision, "vacant property" does not include property acquired by the local legislative body under ch. 32, property included within the abandoned Park East freeway corridor or the abandoned Park West freeway corridor in Milwaukee County, or property that is contaminated by environmental pollution, as defined in s. 66.1106 (1) (d).

**SECTION 35.** 117.132 (1m) (a) of the statutes is amended to read:

117.132 **(1m)** (a) "Annexed" means annexed or attached under s. 66.0217, 66.0219, 66.0221, 66.0223, 66.0225, 66.0227, 66.0301 (6), or 66.0307.