

#427

Chapter WFSB 9

**PETITION FOR DEFAULT AND DETERMINATION BY
BOARD PURSUANT TO S. 144.445 (9) (e), STATS.**

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WFSB 9.01 Petition. (1) **WHO MAY FILE.** A petition for default may be filed by an applicant or a local committee.

(2) **FORM, NUMBER OF COPIES, SUBMISSION.** The petition shall be in writing and its caption shall be as follows:

STATE OF WISCONSIN
BEFORE THE WASTE FACILITY SITING BOARD

In the Matter of the Petition
Requesting a Determination of Default
Pursuant to Section 144.445 (9) (e),
Stats., Involving a Dispute Between
(Name of Petitioner)
and
(Name of Other Party)

The original of the petition shall be signed and the original and 9 copies of the petition shall be submitted to the board. The party submitting the petition shall, at the same time, submit a copy to the other party, or its designated representative, by certified mail or personal delivery.

(3) **CONTENTS.** The petition shall include the following:

(a) The name and address of the applicant involved and the name and address and telephone number of its principal representative.

(b) The names and addresses of the members of the local committee involved, and the name and address and telephone number of its principal representative.

(c) A clear and concise statement of the position of the petitioner as to the reason for petitioning for default.

(4) **A STATEMENT IN SUPPORT OF PETITION.** The petitioner shall attach to the original and each copy of the petition a clear and concise statement of the facts and arguments relied upon by the petitioner in support of the position taken by the petitioner.

History: Cr. Register, November, 1984, No. 347, eff. 12-1-84.

WFSB 9.02 Statement in response to petition. (1) **WHO SHALL SUBMIT.** The party other than the petitioner shall, within 14 days of the receipt of the petition, submit to the board a statement in response to the petition.

(2) **FORM, NUMBER OF COPIES, SUBMISSION.** The statement in response shall be in writing and shall include the caption of the case. The original

and 9 copies shall be submitted to the board. The party submitting the statement in response shall, at the same time, submit a copy to the petitioner by certified mail or personal delivery.

(3) **CONTENTS.** The statement in response shall include the following:

(a) A clear and concise statement of the position taken by the party as to whether or not it opposes default as set forth by the petitioner.

(b) A clear and concise statement of the facts and arguments relied upon by such party in support of its petition with respect to the matter involved.

(c) Corrections, as may be deemed necessary, to the names, addresses, telephone numbers and representatives set forth in the petition.

History: Cr. Register, November, 1984, No. 347, eff. 12-1-84.

WFSB 9.03 Withdrawal of petition. Any petition submitted under this chapter may be withdrawn at any time.

History: Cr. Register, November, 1984, No. 347, eff. 12-1-84.

WFSB 9.04 Notice of hearing. When issued; contents. Following the submission of a petition and statement in response to the petition, the board shall issue and serve upon each of the parties, a notice of hearing at a fixed place and, except in unusual circumstances, at a time not less than 10 days after the service of such notice.

History: Cr. Register, November, 1984, No. 347, eff. 12-1-84.

WFSB 9.05 Hearings. (1) **WHO SHALL CONDUCT.** Hearings may be conducted by any examiner and, at any time, an examiner may be substituted for the examiner previously presiding.

(2) **SCOPE OF HEARING.** The hearing shall be limited by the examiner to the litigation of and oral arguments on genuine issues of fact or law raised by the parties and remaining for disposition concerning the default enumerated in the petition.

History: Cr. Register, November, 1984, No. 347, eff. 12-1-84.

WFSB 9.06 Decision concerning default. Within 30 days after submission of the case, the board shall issue a decision concerning the petition and notify the applicant and local committee of that decision. The last date on which objections to the examiner's proposed decision are allowed shall be regarded as the date of the submission of the case.

History: Cr. Register, November, 1984, No. 347, eff. 12-1-84.

WFSB 9.07 Considerations by the board. (1) In making its decision concerning the petition, the board may consider:

(a) The length of time which has passed from appointment of local committee members.

(b) Whether the local committee has been meeting regularly as a body.

(c) The number of times the petitioner has requested a joint session.

(2) A decision finding default will be entered only if the board finds a deliberate, repeated and flagrant failure to participate in negotiating sessions.

Register, November, 1988, No. 395

(3) The board shall not find default on the part of a local committee if a feasibility report or its substantial equivalent has not been made available to the participating municipalities.

History: Cr. Register, November, 1984, No. 347, eff. 12-1-84.

WFSB 9.08 Cost of hearing. (1) If the board finds default, the party in default shall pay 90% of the cost of the hearing. The petitioner shall pay 10% of the cost.

(2) If the board does not find default, the petitioner shall pay 90% of the cost of the hearing. The respondent shall pay 10% of the cost.

History: Cr. Register, August, 1988, No. 392, eff. 9-1-88.