



## WISCONSIN LEGISLATIVE COUNCIL STAFF MEMORANDUM

Memo No. 3

TO: MEMBERS OF THE SPECIAL COMMITTEE ON MUNICIPAL ANNEXATION

FROM: Don Dyke, Chief of Legal Services

RE: Outline of Proposal by Representative Mark Gottlieb

DATE: November 9, 2004

This Memo outlines a proposal developed by Representative Mark Gottlieb for consideration by the Special Committee.

Representative Gottlieb cites the following as positive aspects of the proposal:

1. It meets an objective of towns of being able to bring a city or village to the table without the necessity of a lawsuit or threatening incorporation.
2. It provides incentive for developing boundary agreements and disincentive for failing to do so.
3. It simplifies the process of developing a boundary agreement.
4. It allows stipulated, one-time changes to current boundaries outside the context of a lawsuit.
5. It reduces opportunities for litigation, including requiring in some circumstances that a nonjudicial dispute resolution process be used to settle future disputes even when the parties are unsuccessful at negotiating a boundary agreement.

Representative Gottlieb concedes that a potential negative aspect of the proposal is that it may have a fiscal note, depending on the funding source for monetary incentives for boundary agreements.

The outline of Representative Gottlieb's proposal follows.

**REVISIONS TO SECTION 66.0307, STATS. (BOUNDARY CHANGE PURSUANT TO APPROVED COOPERATIVE PLAN)**

**Generally**

Simplify and streamline the cooperative plan procedure under s. 66.0307 (for example, by linking planning provisions to current comprehensive planning requirements and reducing certain procedural minimum time requirements).

**Facilitated Negotiation Process**

Create a facilitated negotiation process under the current s. 66.0307 cooperative plan procedure that includes the following elements:

1. Authorize a town to petition the Department of Administration (DOA) for boundary negotiations with an adjacent city or village; authorize a city or village to petition DOA for boundary negotiations with an adjacent town. Provide that the petition authority is triggered when previous attempts by the petitioning municipality to have the adjacent municipality begin the cooperative plan process have failed. Provide standards for the exercise of this authority. Upon receipt of a petition, require DOA to notify the nonpetitioning adjacent municipality that boundary negotiations have been requested.

2. If a town is the petitioner and the city or village refuses to negotiate, permit annexation of territory of the town to the city or village during a specified period only by direct annexation by unanimous approval (does not apply to annexations pending on the date of refusal). If a city or village is the petitioner and the town refuses to negotiate, prohibit the town from contesting any annexation of town territory to the city or village for a specified period (does not apply to annexations pending on the date of refusal).

3. If both parties agree to negotiate, DOA appoints a facilitator for the negotiations. The facilitator is a neutral third party whose role is to assist the parties to appropriately apply the process of negotiation to the development of a boundary agreement. The parties have 270 days to negotiate a boundary agreement. Regardless of whether a boundary agreement is reached, if both parties agree to negotiation they also agree that, for a time period to be specified, future annexation disputes will be resolved by a nonjudicial dispute resolution process (to be developed), rather than the courts.

4. During the period of negotiation, limit annexation of the negotiating town's territory to the negotiating city (for example, allow only direct annexation by unanimous petition).

5. Require a negotiated boundary agreement to meet the plan content and procedure requirements of current s. 66.0307 (as modified).

6. If the boundary agreement is completed before December 31, 2009, both parties receive an incentive payment from the state. The funding source for these incentive payments is to be determined. (According to Representative Gottlieb, the purpose of this provision is to create an incentive for municipalities around the state to get together and to negotiate boundary agreements during the next five years, so that as many agreements are in place as possible when the comprehensive planning law takes final effect (January 1, 2010).)

**REVISIONS TO SECTION 66.0225, STATS. (MUNICIPAL BOUNDARIES FIXED BY JUDGMENT)**

Currently, the application of s. 66.0225 is limited to boundary stipulations arising out of litigation. Expand the statute by authorizing a city or village and a town, outside the context of litigation, to petition DOA to establish the common boundary between them. Authorize DOA to approve an agreed-upon common boundary line between the municipalities. Retain current requirements for governing body approval and referendum. Authorize DOA to develop rules for reviewing and approving agreements.

**REVISIONS TO SECTION 66.0301, STATS. (GENERAL INTERGOVERNMENTAL COOPERATION)**

Expressly provide that future boundary agreements may be adopted only under ss. 66.0225 and 66.0307, but that boundary agreements entered into under s. 66.0301 before a specified date are valid.

**REVISION OF SECTION 66.0203, STATS. (ANNEXATION OF TOWN TERRITORY)**

Allow annexations to proceed during the time an incorporation petition is pending. (According to Representative Gottlieb, the purpose of this recommendation is to encourage towns to petition for boundary negotiation under the negotiation process outlined above, rather than using incorporation proceedings to block annexation.)

DD:rv