

DD:MO:wu:rv;ksm

02/10/2005

1 **AN ACT** *to amend* 66.0307 (2) (intro.); and *to create* 66.0307 (4m) of the statutes;
2 **relating to:**

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

COMMENT: Provisions that have been changed since the previous draft are identified in comments following the revised provisions.

3 **SECTION 1.** 66.0307 (2) (intro.) of the statutes is amended to read:

4 66.0307 (2) BOUNDARY CHANGE AUTHORITY. (intro.) Any Unless the mediated
5 agreement procedure under sub. (4m) is used to develop a cooperative plan, any combination
6 of municipalities may determine the boundary lines between themselves under a cooperative
7 plan that is approved by the department under this section. A single city or village and a single
8 town may use the mediated agreement procedure under sub. (4m) to determine a common
9 boundary line under a cooperative plan that is approved by the department under this section.

10 No boundary of a municipality may be changed or maintained under this section unless the
11 municipality is a party to the cooperative agreement. The cooperative plan shall provide one
12 or more of the following:

13 **SECTION 2.** 66.0307 (4m) of the statutes is created to read:

14 66.0307 (4m) MEDIATED AGREEMENT PROCEDURE. (a) As an alternative to the parties
15 mutually invoking the procedure under this section, a city, village, or town may petition the
16 department for mediation of a cooperative plan under this paragraph.

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

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

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

COMMENT: Assumes a definition of “comprehensive plan” like that in
SEC. 10 of WLC: 0063/P4.

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

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

9 b. The town has adopted a comprehensive plan.

COMMENT: Assumes a definition of “comprehensive plan” like that in
SEC. 10 of WLC: 0063/P4.

10 (b) [A municipality that is authorized under par. (a) to petition the department for
11 mediation and elects to do so shall submit the petition within 90 days after the municipality
12 has adopted the authorizing resolution described in par. (a) 1. a. or par. (a) 2. a.] Upon receipt
13 of a petition for mediation, the department shall notify the nonpetitioning adjacent
14 municipality identified in the petition that the petition has been submitted. Within 45 days
15 after receipt of notice from the department that a petition has been submitted, the
16 nonpetitioning municipality shall notify the department whether it agrees to engage in
17 mediation to develop a cooperative plan under this section. Failure of the nonpetitioning
18 municipality to timely notify the department is considered notice that the municipality does
19 not agree to engage in mediation. If the nonpetitioning municipality refuses to engage in
20 mediation, the petitioning municipality may not submit a petition under par. (a) involving the
21 same nonpetitioning municipality for a period of 3 years after notice of the refusal.

COMMENT: The bracketed language is for consideration by the subcommittee.

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

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

6 b. The period beginning after the town refuses under par. (b) to engage in mediation until
7 the town agrees to engage in mediation.

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

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

16 b. The period beginning after the city or village refuses under par. (b) to engage in
17 mediation until the city or village agrees to engage in mediation.

COMMENT: Revised. The bracketed alternative in subd. 2. assumes current law regarding DOA review of annexations and would be unnecessary if WLC: 0067/P1 were adopted.

18 (d) 1. If both the petitioning municipality and nonpetitioning municipality agree to
19 engage in mediation to develop a cooperative plan under this section, the municipalities shall
20 select a mediator. The department may assist the municipalities in selecting a mediator. If the
21 municipalities are unable to agree on the selection of a mediator, the department shall furnish

1 a list of 5 mediators to the municipalities. The municipalities shall alternatively strike a name
2 from the list until one name remains, who is the mediator.

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

COMMENT: Revised to specify the length of the mediation period.

8 (e) Before the participating municipalities engage in mediation under this subsection,
9 each shall adopt a resolution under sub. (4) (a) (intro.) and provide the required notice of the
10 resolution. If the participating municipalities agree on a cooperative plan under this
11 subsection, a public hearing on the plan shall be held under sub. (4) (b) no sooner than 45 days
12 after agreement is reached and at least 45 days before submitting the plan to the department
13 for review and approval under sub. (5). Otherwise, the provisions of this section apply to a
14 cooperative plan agreed to under this subsection.

15 (f) After a municipality has petitioned for mediation under par. (a), if any litigation is
16 commenced during the 3-year period after the department receives the petition contesting
17 annexation of territory of the participating town to the participating city or village, the judge
18 shall, unless the nonpetitioning municipality objects, order the parties to select a settlement
19 alternative under s. 802.12 (1) and (2) as a means to attempt settlement.

COMMENT: A note will be included to indicate that this provision is not
intended to affect the court's discretionary authority under s. 802.12,
notwithstanding the objection of the nonpetitioning (or petitioning)
municipality. (cf. WLC: 0066/P1.)