

No. 591, S.

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CHAPTER 395

AN ACT to repeal 66.014 (9) (c) and (e); to renumber 66.014 (9) (d) and (f); to renumber and amend 66.014 (9) (b) and (g) to (i); to amend 66.013 (2) (a), 66.014 (8) (b) and (9) (e) 3, 66.018 (3) and 66.027; to repeal and recreate 66.017; and to create 66.014 (9) (b) of the statutes, relating to the procedure for incorporation of villages and cities and the review of the action of the circuit court and the director.

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

SECTION 1. 66.013 (2) (a) of the statutes is amended to read:

66.013 (2) (a) "Director" means the director of the planning function in the department of resource development *or such agent as the director designates.*

SECTION 1m. 66.014 (8) (b) of the statutes is amended to read:

66.014 (8) (b) On the basis of the hearing the circuit * * * court shall find if the standards under s. 66.015 are met. If * * * the court finds that the standards are not met, * * * the court shall dismiss the petition. If * * * the court finds that the standards are met * * * the court shall refer the petition to the director and thereupon the latter shall determine whether or not the standards under s. 66.016 are met.

SECTION 2. 66.014 (9) (b) of the statutes is renumbered 66.014 (9) (d) and amended to read:

66.014 (9) (d) Unless the court sets a different time limit, the director shall prepare his * * * findings and determination citing the evidence

in support thereof within 90 days * * * after receipt of the reference from the court. *The findings and determination shall be forwarded by the director to the circuit court.* Copies of the * * * findings and determination shall be sent by certified or registered mail to the designated representative of the petitioners, and to all town and municipal clerks entitled to receive mailed notice of the petition under sub. (4).

SECTION 3. 66.014 (9) (b) of the statutes is created to read:

66.014 (9) (b) Within 20 days after the receipt by the director of the petition from the circuit court, any party in interest may request a hearing. Upon receipt of the request, the director shall schedule a hearing at a place in or convenient to the territory sought to be incorporated.

SECTION 4. 66.014 (9) (c) of the statutes is repealed.

SECTION 5. 66.014 (9) (d) of the statutes is renumbered 66.014 (9) (c).

SECTION 6. 66.014 (9) (e) of the statutes is repealed.

SECTION 7. 66.014 (9) (f) of the statutes is renumbered 66.014 (9) (e) and 66.014 (9) (e) 3, as renumbered, is amended to read:

66.014 (9) (e) 3. The petition as submitted shall be * * * *dismissed with a recommendation that a new petition be submitted to include more or less territory as specified in the director's findings and determination.*

SECTION 8. 66.014 (9) (g), (h) and (i) of the statutes are renumbered (f), (g) and (h), respectively and amended to read:

66.014 (9) (f) If the director determines that the petition * * * shall be dismissed, the circuit * * * court shall issue an order dismissing the petition. If the director grants the petition * * * the circuit * * * court shall order an incorporation referendum as provided in s. 66.018.

(g) The findings of both the * * * court and the director shall be based upon facts as they existed at the time of the filing of the petition.

(h) *Except for an incorporation petition which describes the territory recommended by the director under s. 66.014 (9) (e) 3, no petition for the incorporation of the same or substantially the same territory shall be entertained for one year following the date of the denial of the petition or the date of any election at which incorporation was rejected by the electors.*

SECTION 9. 66.017 of the statutes is repealed and recreated to read:

66.017 REVIEW OF THE ACTION OF THE CIRCUIT COURT AND THE DIRECTOR. (1) The order of the circuit court made pursuant to s. 66.014 (8) or (9) (f) may be appealed to the supreme court.

(2) The decision of the director made pursuant to s. 66.014 (9) shall be subject to judicial review by the circuit court of Dane county as provided in ch. 227.

(3) Where a proceeding for judicial review is commenced under sub. (2), appeal under sub. (1) shall not be taken, and the time in which such appeal may be taken and perfected shall not commence to run until judgment is entered in the said proceeding for judicial review.

(4) Where an incorporation referendum has been ordered by the circuit court under s. 66.014 (9) (f), such referendum shall not be stayed pending the outcome of further litigation, unless the supreme court, upon appeal or upon the filing of an original action in supreme court, concludes that a strong probability exists that the order of the circuit court or the decision of the director will be set aside.

SECTION 10. 66.018 (3) of the statutes is amended to read:

66.018 (3) An incorporation referendum shall be conducted in the same manner as an annexation referendum under s. 66.021 (5) insofar as applicable, and the form of the ballot shall be "for a city [village]" or "against a city [village]." The inspectors shall make a return to * * * the circuit court.

SECTION 11. 66.027 of the statutes is amended to read:

66.027 Any 2 municipalities whose boundaries are immediately adjacent at any point and who are parties to any action, proceeding or appeal * * * in court for the purpose of testing the validity or invalidity of any annexation, *incorporation*, consolidation or detachment, may enter into a written stipulation, compromising and settling any such litigation and determining the common boundary line between said municipalities; and the court having jurisdiction of said litigation, whether it is a circuit court or the supreme court, may enter a final judgment incorporating the provisions of said stipulation and fixing the common boundary line between the municipalities involved. *Any 2 municipalities whose boundaries are immediately adjacent at any point may enter into a written agreement setting the boundary lines between themselves. Any agreement changing boundaries of municipalities shall be approved by the governing bodies of the detaching and annexing municipalities and s. 66.021 (8) and (10) shall apply. Any change of civil municipal boundaries under this provision is subject to a referendum of the electors residing within the territory annexed or detached, if within 30 days after the publication of the stipulation or agreement to change boundaries in a newspaper of general circulation in the area proposed to be annexed or detached, a petition for a referendum signed by 20 per cent of the electors of the area to be annexed or detached, is filed with the clerk of the municipality from which the area is proposed to be detached. The referendum shall be conducted as are annexation referenda. If the referendum election is opposed to detachment from the municipality, all proceedings pursuant to this section are void. For the purposes of this section "municipalities" includes cities, villages and towns.*

Approved November 20, 1963.
