

SECOND REGULAR SESSION

HOUSE BILL NO. 2724

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KORMAN.

6395H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 71.012 and 71.015, RSMo, and to enact in lieu thereof two new sections relating to annexation procedures.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 71.012 and 71.015, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 71.012 and 71.015, to read as follows:

71.012. 1. Notwithstanding the provisions of sections 71.015 and 71.860 to 71.920, the governing body of any city, town or village may annex unincorporated areas which are contiguous and compact to the existing corporate limits of the city, town or village pursuant to this section. The term "contiguous and compact" does not include a situation whereby the unincorporated area proposed to be annexed is contiguous to the annexing city, town or village only by a railroad line, trail, pipeline or other strip of real property less than one-quarter mile in width within the city, town or village so that the boundaries of the city, town or village after annexation would leave unincorporated areas between the annexed area and the prior boundaries of the city, town or village connected only by such railroad line, trail, pipeline or other such strip of real property. **The term "contiguous and compact" shall include a situation whereby the unincorporated area proposed to be annexed would be contiguous and compact to the existing corporate limits of the city, town, or village but for an intervening roadway or railroad right-of-way, regardless of whether any other city, town, or village has annexed such roadway or railroad right-of-way or otherwise has an easement in such roadway or railroad right-of-way.** The term contiguous and compact does not prohibit voluntary annexations pursuant to this section merely because such voluntary annexation would create an island of unincorporated area within the city, town or village, so long as the owners of the

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 unincorporated island were also given the opportunity to voluntarily annex into the city, town
19 or village. Notwithstanding the provisions of this section, the governing body of any city, town
20 or village in any county of the third classification which borders a county of the fourth
21 classification, a county of the second classification and the Mississippi River may annex areas
22 along a road or highway up to two miles from existing boundaries of the city, town or village or
23 the governing body in any city, town or village in any county of the third classification without
24 a township form of government with a population of at least twenty-four thousand inhabitants
25 but not more than thirty thousand inhabitants and such county contains a state correctional center
26 may voluntarily annex such correctional center pursuant to the provisions of this section if the
27 correctional center is along a road or highway within two miles from the existing boundaries of
28 the city, town or village.

29 2. (1) When a notarized petition, requesting annexation and signed by the owners of all
30 fee interests of record in all tracts of real property located within the area proposed to be
31 annexed, or a request for annexation signed under the authority of the governing body of any
32 common interest community and approved by a majority vote of unit owners located within the
33 area proposed to be annexed is presented to the governing body of the city, town or village, the
34 governing body shall hold a public hearing concerning the matter not less than fourteen nor more
35 than sixty days after the petition is received, and the hearing shall be held not less than seven
36 days after notice of the hearing is published in a newspaper of general circulation qualified to
37 publish legal matters and located within the boundary of the petitioned city, town or village. If
38 no such newspaper exists within the boundary of such city, town or village, then the notice shall
39 be published in the qualified newspaper nearest the petitioned city, town or village. For the
40 purposes of this subdivision, the term "common-interest community" shall mean a condominium
41 as said term is used in chapter 448, or a common-interest community, a cooperative, or a planned
42 community.

43 (a) A "common-interest community" shall be defined as real property with respect to
44 which a person, by virtue of such person's ownership of a unit, is obliged to pay for real property
45 taxes, insurance premiums, maintenance or improvement of other real property described in a
46 declaration. "Ownership of a unit" does not include a leasehold interest of less than twenty years
47 in a unit, including renewal options;

48 (b) A "cooperative" shall be defined as a common-interest community in which the real
49 property is owned by an association, each of whose members is entitled by virtue of such
50 member's ownership interest in the association to exclusive possession of a unit;

51 (c) A "planned community" shall be defined as a common-interest community that is not
52 a condominium or a cooperative. A condominium or cooperative may be part of a planned
53 community.

54 (2) At the public hearing any interested person, corporation or political subdivision may
55 present evidence regarding the proposed annexation. If, after holding the hearing, the governing
56 body of the city, town or village determines that the annexation is reasonable and necessary to
57 the proper development of the city, town or village, and the city, town or village has the ability
58 to furnish normal municipal services to the area to be annexed within a reasonable time, it may,
59 subject to the provisions of subdivision (3) of this subsection, annex the territory by ordinance
60 without further action.

61 (3) If a written objection to the proposed annexation is filed with the governing body of
62 the city, town or village not later than fourteen days after the public hearing by at least five
63 percent of the qualified voters of the city, town or village, or two qualified voters of the area
64 sought to be annexed if the same contains two qualified voters, the provisions of sections 71.015
65 and 71.860 to 71.920, shall be followed.

66 3. If no objection is filed, the city, town or village shall extend its limits by ordinance
67 to include such territory, specifying with accuracy the new boundary lines to which the city's,
68 town's or village's limits are extended. Upon duly enacting such annexation ordinance, the city,
69 town or village shall cause three certified copies of the same to be filed with the county assessor
70 and the clerk of the county wherein the city, town or village is located, and one certified copy to
71 be filed with the election authority, if different from the clerk of the county which has
72 jurisdiction over the area being annexed, whereupon the annexation shall be complete and final
73 and thereafter all courts of this state shall take judicial notice of the limits of that city, town or
74 village as so extended.

75 4. That a petition requesting annexation is not or was not verified or notarized shall not
76 affect the validity of an annexation heretofore or hereafter undertaken in accordance with this
77 section.

78 5. Any action of any kind seeking to deannex from any city, town, or village any area
79 annexed under this section, or seeking in any way to reverse, invalidate, set aside, or otherwise
80 challenge such annexation or oust such city, town, or village from jurisdiction over such annexed
81 area shall be brought within five years of the date of adoption of the annexation ordinance.

71.015. 1. Should any city, town, or village, not located in any county of the first
2 classification which has adopted a constitutional charter for its own local government, seek to
3 annex an area to which objection is made, the following shall be satisfied:

4 (1) Before the governing body of any city, town, or village has adopted a resolution to
5 annex any unincorporated area of land, such city, town, or village shall first as a condition
6 precedent determine that:

7 **(a)** The land to be annexed is contiguous to the existing city, town, or village limits and
8 that the length of the contiguous boundary common to the existing city, town, or village limit and

9 the proposed area to be annexed is at least fifteen percent of the length of the perimeter of the
10 area proposed for annexation; or

11 **(b) The land to be annexed would be contiguous and compact to the existing city,**
12 **town, or village limits but for an intervening roadway or railroad right-of-way, and the**
13 **shared border of the land to be annexed and existing city, town, or village composes at least**
14 **fifteen percent of the total perimeter of the land to be annexed. For purposes of calculating**
15 **the length of such border under this paragraph, the border between the land to be annexed**
16 **and the existing city, town, or village shall be deemed to be:**

17 **a. If an intervening roadway, the centerline; or**

18 **b. If a railroad right-of-way, the midpoint between the outermost rails if there are**
19 **rails or the best estimate of the middle of the right-of-way if there are no rails.**

20 (2) The governing body of any city, town, or village shall propose an ordinance setting
21 forth the following:

22 (a) The area to be annexed and affirmatively stating that the boundaries comply with the
23 condition precedent referred to in subdivision (1) above;

24 (b) That such annexation is reasonable and necessary to the proper development of the
25 city, town, or village;

26 (c) That the city has developed a plan of intent to provide services to the area proposed
27 for annexation;

28 (d) That a public hearing shall be held prior to the adoption of the ordinance;

29 (e) When the annexation is proposed to be effective, the effective date being up to
30 thirty-six months from the date of any election held in conjunction thereto.

31 (3) The city, town, or village shall fix a date for a public hearing on the ordinance and
32 make a good faith effort to notify all fee owners of record within the area proposed to be annexed
33 by certified mail, not less than thirty nor more than sixty days before the hearing, and notify all
34 residents of the area by publication of notice in a newspaper of general circulation qualified to
35 publish legal matters in the county or counties where the proposed area is located, at least once
36 a week for three consecutive weeks prior to the hearing, with at least one such notice being not
37 more than twenty days and not less than ten days before the hearing.

38 (4) At the hearing referred to in subdivision (3), the city, town, or village shall present
39 the plan of intent and evidence in support thereof to include:

40 (a) A list of major services presently provided by the city, town, or village including, but
41 not limited to, police and fire protection, water and sewer systems, street maintenance, parks and
42 recreation, and refuse collection;

43 (b) A proposed time schedule whereby the city, town, or village plans to provide such
44 services to the residents of the proposed area to be annexed within three years from the date the
45 annexation is to become effective;

46 (c) The level at which the city, town, or village assesses property and the rate at which
47 it taxes that property;

48 (d) How the city, town, or village proposes to zone the area to be annexed;

49 (e) When the proposed annexation shall become effective.

50 (5) Following the hearing, and either before or after the election held in subdivision (6)
51 of this subsection, should the governing body of the city, town, or village vote favorably by
52 ordinance to annex the area, the governing body of the city, town or village shall file an action
53 in the circuit court of the county in which such unincorporated area is situated, under the
54 provisions of chapter 527, praying for a declaratory judgment authorizing such annexation. The
55 petition in such action shall state facts showing:

56 (a) The area to be annexed and its conformity with the condition precedent referred to
57 in subdivision (1) of this subsection;

58 (b) That such annexation is reasonable and necessary to the proper development of the
59 city, town, or village; and

60 (c) The ability of the city, town, or village to furnish normal municipal services of the
61 city, town, or village to the unincorporated area within a reasonable time not to exceed three
62 years after the annexation is to become effective. Such action shall be a class action against the
63 inhabitants of such unincorporated area under the provisions of section 507.070.

64 (6) Except as provided in subsection 3 of this section, if the court authorizes the city,
65 town, or village to make an annexation, the legislative body of such city, town, or village shall
66 not have the power to extend the limits of the city, town, or village by such annexation until an
67 election is held at which the proposition for annexation is approved by a majority of the total
68 votes cast in the city, town, or village and by a separate majority of the total votes cast in the
69 unincorporated territory sought to be annexed. However, should less than a majority of the total
70 votes cast in the area proposed to be annexed vote in favor of the proposal, but at least a majority
71 of the total votes cast in the city, town, or village vote in favor of the proposal, then the proposal
72 shall again be voted upon in not more than one hundred twenty days by both the registered voters
73 of the city, town, or village and the registered voters of the area proposed to be annexed. If at
74 least two-thirds of the qualified electors voting thereon are in favor of the annexation, then the
75 city, town, or village may proceed to annex the territory. If the proposal fails to receive the
76 necessary majority, no part of the area sought to be annexed may be the subject of another
77 proposal to annex for a period of two years from the date of the election, except that, during the
78 two-year period, the owners of all fee interests of record in the area or any portion of the area

79 may petition the city, town, or village for the annexation of the land owned by them pursuant to
80 the procedures in section 71.012. The elections shall if authorized be held, except as herein
81 otherwise provided, in accordance with the general state law governing special elections, and the
82 entire cost of the election or elections shall be paid by the city, town, or village proposing to
83 annex the territory.

84 (7) Failure to comply in providing services to the said area or to zone in compliance with
85 the plan of intent within three years after the effective date of the annexation, unless compliance
86 is made unreasonable by an act of God, shall give rise to a cause of action for deannexation
87 which may be filed in the circuit court by any resident of the area who was residing in the area
88 at the time the annexation became effective.

89 (8) No city, town, or village which has filed an action under this section as this section
90 read prior to May 13, 1980, which action is part of an annexation proceeding pending on May
91 13, 1980, shall be required to comply with subdivision (5) of this subsection in regard to such
92 annexation proceeding.

93 (9) If the area proposed for annexation includes a public road or highway but does not
94 include all of the land adjoining such road or highway, then such fee owners of record, of the
95 lands adjoining said highway shall be permitted to intervene in the declaratory judgment action
96 described in subdivision (5) of this subsection.

97 2. Notwithstanding any provision of subsection 1 of this section, for any annexation by
98 any city with a population of three hundred fifty thousand or more inhabitants which is located
99 in more than one county that becomes effective after August 28, 1994, if such city has not
100 provided water and sewer service to such annexed area within three years of the effective date
101 of the annexation, a cause of action shall lie for deannexation, unless the failure to provide such
102 water and sewer service to the annexed area is made unreasonable by an act of God. The cause
103 of action for deannexation may be filed in the circuit court by any resident of the annexed area
104 who is presently residing in the area at the time of the filing of the suit and was a resident of the
105 annexed area at the time the annexation became effective. If the suit for deannexation is
106 successful, the city shall be liable for all court costs and attorney fees.

107 3. Notwithstanding the provisions of subdivision (6) of subsection 1 of this section, all
108 cities, towns, and villages located in any county of the first classification with a charter form of
109 government with a population of two hundred thousand or more inhabitants which adjoins a
110 county with a population of nine hundred thousand or more inhabitants shall comply with the
111 provisions of this subsection. If the court authorizes any city, town, or village subject to this
112 subsection to make an annexation, the legislative body of such city, town or village shall not
113 have the power to extend the limits of such city, town, or village by such annexation until an
114 election is held at which the proposition for annexation is approved by a majority of the total

115 votes cast in such city, town, or village and by a separate majority of the total votes cast in the
116 unincorporated territory sought to be annexed; except that:

117 (1) In the case of a proposed annexation in any area which is contiguous to the existing
118 city, town or village and which is within an area designated as flood plain by the Federal
119 Emergency Management Agency and which is inhabited by no more than thirty registered voters
120 and for which a final declaratory judgment has been granted prior to January 1, 1993, approving
121 such annexation and where notarized affidavits expressing approval of the proposed annexation
122 are obtained from a majority of the registered voters residing in the area to be annexed, the area
123 may be annexed by an ordinance duly enacted by the governing body and no elections shall be
124 required; and

125 (2) In the case of a proposed annexation of unincorporated territory in which no qualified
126 electors reside, if at least a majority of the qualified electors voting on the proposition are in
127 favor of the annexation, the city, town or village may proceed to annex the territory and no
128 subsequent election shall be required.

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130 If the proposal fails to receive the necessary separate majorities, no part of the area sought to be
131 annexed may be the subject of any other proposal to annex for a period of two years from the
132 date of such election, except that, during the two-year period, the owners of all fee interests of
133 record in the area or any portion of the area may petition the city, town, or village for the
134 annexation of the land owned by them pursuant to the procedures in section 71.012 or 71.014.
135 The election shall, if authorized, be held, except as otherwise provided in this section, in
136 accordance with the general state laws governing special elections, and the entire cost of the
137 election or elections shall be paid by the city, town, or village proposing to annex the territory.
138 Failure of the city, town or village to comply in providing services to the area or to zone in
139 compliance with the plan of intent within three years after the effective date of the annexation,
140 unless compliance is made unreasonable by an act of God, shall give rise to a cause of action for
141 deannexation which may be filed in the circuit court not later than four years after the effective
142 date of the annexation by any resident of the area who was residing in such area at the time the
143 annexation became effective or by any nonresident owner of real property in such area.

144 4. Except for a cause of action for deannexation under subdivision (2) of subsection 3
145 of this section, any action of any kind seeking to deannex from any city, town, or village any area
146 annexed under this section, or seeking in any way to reverse, invalidate, set aside, or otherwise
147 challenge such annexation or oust such city, town, or village from jurisdiction over such annexed
148 area shall be brought within five years of the date of the adoption of the annexation ordinance.

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