

FIRST REGULAR SESSION

# HOUSE BILL NO. 549

## 100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SPENCER.

1274H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal section 71.015, RSMo, and to enact in lieu thereof one new section relating to municipal annexation.

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

Section A. Section 71.015, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 71.015, to read as follows:

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

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

(a) The land to be annexed is contiguous to the existing city, town, or village limits and that the length of the contiguous boundary common to the existing city, town, or village limit and the proposed area to be annexed is at least fifteen percent of the length of the perimeter of the area proposed for annexation; or

(b) The land to be annexed would be contiguous and compact to the existing city, town, or village limits but for an intervening state highway or interstate highway as defined in section 304.001, or railroad right-of-way, and the shared border of the land to be annexed and existing city, town, or village composes at least fifteen percent of the total perimeter of the land to be annexed. For purposes of calculating the length of such border under this paragraph, the border between the land to be annexed and the existing city, town, or village shall be deemed to be:

a. If an intervening state highway or interstate highway, the centerline; or

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           b. If a railroad right-of-way, the midpoint between the outermost rails if there are rails  
19 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  
109 of 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; **and**

129 **(3) In the case of a proposed annexation of an island of unincorporated area in**  
130 **which the unincorporated island is located within a city, town, or village; no larger than**  
131 **five acres; and inhabited by no more than thirty registered voters, the city, town, or village**  
132 **may annex the unincorporated island by an ordinance duly enacted by the governing body**  
133 **of the city, town, or village and without holding an election.**

134

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

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

✓