

SECOND REGULAR SESSION

HOUSE BILL NO. 2441

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WEST.

5179H.011

DANA RADEMAN MILLER, 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 by certain cities.

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Section A. Sections 71.012 and 71.015, RSMo, are repealed and two new sections
2 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,
2 the governing body of any city, town or village may annex unincorporated areas which are
3 contiguous and compact to the existing corporate limits of the city, town or village pursuant to
4 this section. The term "contiguous and compact" does not include a situation whereby the
5 unincorporated area proposed to be annexed is contiguous to the annexing city, town or
6 village only by a railroad line, trail, pipeline or other strip of real property less than one-
7 quarter mile in width within the city, town or village so that the boundaries of the city, town or
8 village after annexation would leave unincorporated areas between the annexed area and the
9 prior boundaries of the city, town or village connected only by such railroad line, trail,
10 pipeline or other such strip of real property. The term contiguous and compact shall include a
11 situation whereby the unincorporated area proposed to be annexed would be contiguous and
12 compact to the existing corporate limits of the city, town, or village but for an intervening
13 state highway or interstate highway as defined in section 304.001, or railroad right-of-way,
14 regardless of whether any other city, town, or village has annexed such state or interstate
15 highway or railroad right-of-way or otherwise has an easement in such state or interstate
16 highway or railroad right-of-way. The term contiguous and compact does not prohibit
17 voluntary annexations pursuant to this section merely because such voluntary annexation

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 would create an island of unincorporated area within the city, town or village, so long as the
19 owners of the unincorporated island were also given the opportunity to voluntarily annex into
20 the city, town or village. **The term "contiguous and compact" shall include a situation**
21 **whereby the unincorporated area proposed to be annexed is contiguous to the annexing**
22 **city, town, or village by at least twenty-five percent of the length of the perimeter of the**
23 **area proposed for annexation. No city, town, or village shall annex an unincorporated**
24 **area contiguous to any unincorporated area annexed by the city, town, or village within**
25 **the last twenty-four months.** Notwithstanding the provisions of this section, the governing
26 body of any city, town or village in any county of the third classification which borders a
27 county of the fourth classification, a county of the second classification and the Mississippi
28 River may annex areas along a road or highway up to two miles from existing boundaries of
29 the city, town or village or the governing body in any city, town or village in any county of the
30 third classification without a township form of government with a population of at least
31 twenty-four thousand inhabitants but not more than thirty thousand inhabitants and such
32 county contains a state correctional center may voluntarily annex such correctional center
33 pursuant to the provisions of this section if the correctional center is along a road or highway
34 within two miles from the existing boundaries of the city, town or village.

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

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

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

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

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

67 (3) If a written objection to the proposed annexation is filed with the governing body
68 of the city, town or village not later than fourteen days after the public hearing by at least five
69 percent of the qualified voters of the city, town or village, or two qualified voters of the area
70 sought to be annexed if the same contains two qualified voters, the provisions of sections
71 71.015 and 71.860 to 71.920, shall be followed.

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

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

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

89 **6. Notwithstanding any other provision of law to the contrary, any city, town, or**
90 **village which annexes an unincorporated area pursuant to this section shall provide all**
91 **municipal services to the annexed area.**

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
8 and that the length of the contiguous boundary common to the existing city, town, or village
9 limit and the proposed area to be annexed is at least fifteen percent of the length of the
10 perimeter of the 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 state highway or interstate highway as defined in
13 section 304.001, or railroad right-of-way, and the shared border of the land to be annexed and
14 existing city, town, or village composes at least fifteen percent of the total perimeter of the
15 land to be annexed. For purposes of calculating the length of such border under this
16 paragraph, the border between the land to be annexed and the existing city, town, or village
17 shall be deemed to be:

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

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

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

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

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

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

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

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

32 (3) The city, town, or village shall fix a date for a public hearing on the ordinance and
33 make a good faith effort to notify all fee owners of record within the area proposed to be
34 annexed by certified mail, not less than thirty nor more than sixty days before the hearing, and

35 notify all residents of the area by publication of notice in a newspaper of general circulation
36 qualified to publish legal matters in the county or counties where the proposed area is located,
37 at least once a week for three consecutive weeks prior to the hearing, with at least one such
38 notice being not more than twenty days and not less than ten days before the hearing;

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

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

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

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

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

50 (e) When the proposed annexation shall become effective;

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

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

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

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

65 (6) Except as provided in subsection 3 of this section, if the court authorizes the city,
66 town, or village to make an annexation, the legislative body of such city, town, or village shall
67 not have the power to extend the limits of the city, town, or village by such annexation until
68 an election is held at which the proposition for annexation is approved by a majority of the
69 total votes cast in the city, town, or village and by a separate majority of the total votes cast in
70 the unincorporated territory sought to be annexed. However, should less than a majority of
71 the total votes cast in the area proposed to be annexed vote in favor of the proposal, but at

72 least a majority of the total votes cast in the city, town, or village vote in favor of the proposal,
73 then the proposal shall again be voted upon in not more than one hundred twenty days by both
74 the registered voters of the city, town, or village and the registered voters of the area proposed
75 to be annexed. If at least two-thirds of the qualified electors voting thereon are in favor of the
76 annexation, then the city, town, or village may proceed to annex the territory. If the proposal
77 fails to receive the necessary majority, no part of the area sought to be annexed may be the
78 subject of another proposal to annex for a period of two years from the date of the election,
79 except that, during the two-year period, the owners of all fee interests of record in the area or
80 any portion of the area may petition the city, town, or village for the annexation of the land
81 owned by them pursuant to the procedures in section 71.012. The elections shall if authorized
82 be held, except as herein otherwise provided, in accordance with the general state law
83 governing special elections, and the entire cost of the election or elections shall be paid by the
84 city, town, or village proposing to annex the territory;

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

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

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

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

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

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

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

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

144 such area at the time the annexation became effective or by any nonresident owner of real
145 property in such area.

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

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