

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE SUBSTITUTE

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FOR

HOUSE BILL NO. 2818

AN ACT

To repeal sections 71.012, 71.014, and 71.015, RSMo, and to enact in lieu thereof three new sections relating to annexation procedures for cities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 71.012, 71.014, and 71.015, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 71.012, 71.015, and 1, to read as follows:

71.012. 1. (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.

(2) 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

12 would leave unincorporated areas between the annexed area and the
13 prior boundaries of the city, town or village connected only by
14 such railroad line, trail, pipeline or other such strip of real
15 property.

16 (3) The term contiguous and compact shall include a situation
17 whereby the unincorporated area proposed to be annexed would be
18 contiguous and compact to the existing corporate limits of the
19 city, town, or village but for an intervening state highway or
20 interstate highway as defined in section 304.001, or railroad
21 right-of-way, regardless of whether any other city, town, or
22 village has annexed such state or interstate highway or railroad
23 right-of-way or otherwise has an easement in such state or
24 interstate highway or railroad right-of-way.

25 (4) The term contiguous and compact does not prohibit
26 voluntary annexations pursuant to this section merely because such
27 voluntary annexation would create an island of unincorporated area
28 within the city, town or village, so long as the owners of the
29 unincorporated island were also given the opportunity to
30 voluntarily annex into the city, town or village.

31 (5) For a city, town, or village in a county with more than
32 four hundred thousand but fewer than five hundred thousand
33 inhabitants, the term "contiguous and compact" shall include a
34 situation whereby the unincorporated area proposed to be annexed
35 is contiguous to the annexing city, town, or village by at least
36 eighteen percent of the length of the perimeter of the area
37 proposed for annexation.

38 (6) For a city, town, or village in a county with more than

39 two hundred thousand but fewer than two hundred thirty thousand
40 inhabitants, the term "contiguous and compact" shall include a
41 situation whereby the unincorporated area proposed to be annexed
42 is contiguous to the annexing city, town, or village by at least
43 twenty-five percent of the length of the perimeter of the area
44 proposed for annexation. No such city, town, or village shall
45 annex an unincorporated area contiguous to any unincorporated area
46 annexed by the city, town, or village within the last twenty-four
47 months.

48 (7) Notwithstanding the provisions of this section, the
49 governing body of any city, town or village in any county of the
50 third classification which borders a county of the fourth
51 classification, a county of the second classification and the
52 Mississippi River may annex areas along a road or highway up to two
53 miles from existing boundaries of the city, town or village or the
54 governing body in any city, town or village in any county of the
55 third classification without a township form of government with a
56 population of at least twenty-four thousand inhabitants but not
57 more than thirty thousand inhabitants and such county contains a
58 state correctional center may voluntarily annex such correctional
59 center pursuant to the provisions of this section if the
60 correctional center is along a road or highway within two miles
61 from the existing boundaries of the city, town or village.

62 (8) Notwithstanding any other provision of this section to
63 the contrary, a city with more than seventy-one thousand but fewer
64 than seventy-nine thousand inhabitants that owns and operates an
65 airport that is outside the boundaries of such city may annex such

66 airport regardless of whether the boundaries of such airport are
67 contiguous and compact to the existing corporate limits of such
68 city.

69 2. (1) When a notarized petition, requesting annexation and
70 signed by the owners of all fee interests of record in all tracts
71 of real property located within the area proposed to be annexed, or
72 a request for annexation signed under the authority of the
73 governing body of any common interest community and approved by a
74 majority vote of unit owners located within the area proposed to be
75 annexed is presented to the governing body of the city, town or
76 village, the governing body shall hold a public hearing concerning
77 the matter not less than fourteen nor more than sixty days after
78 the petition is received, and the hearing shall be held not less
79 than seven days after notice of the hearing is published in a
80 newspaper of general circulation qualified to publish legal
81 matters and located within the boundary of the petitioned city,
82 town or village. If no such newspaper exists within the boundary
83 of such city, town or village, then the notice shall be published
84 in the qualified newspaper nearest the petitioned city, town or
85 village. For the purposes of this subdivision, the term "common-
86 interest community" shall mean a condominium as said term is used
87 in chapter 448, or a common-interest community, a cooperative, or a
88 planned community.

89 (a) A "common-interest community" shall be defined as real
90 property with respect to which a person, by virtue of such person's
91 ownership of a unit, is obliged to pay for real property taxes,
92 insurance premiums, maintenance or improvement of other real

93 property described in a declaration. "Ownership of a unit" does
94 not include a leasehold interest of less than twenty years in a
95 unit, including renewal options;

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

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

104 (2) At the public hearing any interested person, corporation
105 or political subdivision may present evidence regarding the
106 proposed annexation. If, after holding the hearing, the governing
107 body of the city, town or village determines that the annexation is
108 reasonable and necessary to the proper development of the city,
109 town or village, and the city, town or village has the ability to
110 furnish normal municipal services to the area to be annexed within
111 a reasonable time, it may, subject to the provisions of subdivision
112 (3) of this subsection, annex the territory by ordinance without
113 further action.

114 (3) If a written objection to the proposed annexation is
115 filed with the governing body of the city, town or village not
116 later than fourteen days after the public hearing by at least five
117 percent of the qualified voters of the city, town or village, or
118 two qualified voters of the area sought to be annexed if the same
119 contains two qualified voters, the provisions of sections 71.015

120 and 71.860 to 71.920, shall be followed.

121 3. If no objection is filed, the city, town or village shall
122 extend its limits by ordinance to include such territory,
123 specifying with accuracy the new boundary lines to which the
124 city's, town's or village's limits are extended. Upon duly
125 enacting such annexation ordinance, the city, town or village
126 shall cause three certified copies of the same to be filed with the
127 county assessor and the clerk of the county wherein the city, town
128 or village is located, and one certified copy to be filed with the
129 election authority, if different from the clerk of the county which
130 has jurisdiction over the area being annexed, whereupon the
131 annexation shall be complete and final and thereafter all courts of
132 this state shall take judicial notice of the limits of that city,
133 town or village as so extended.

134 4. That a petition requesting annexation is not or was not
135 verified or notarized shall not affect the validity of an
136 annexation heretofore or hereafter undertaken in accordance with
137 this section.

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

71.015. 1. Should any city, town, or village, not located in
2 any county of the first classification which has adopted a
3 constitutional charter for its own local government, seek to annex

4 an area to which objection is made, the following shall be
5 satisfied:

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

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

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

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

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

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

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

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

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

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

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

43 (3) The city, town, or village shall fix a date for a public
44 hearing on the ordinance and make a good faith effort to notify all
45 fee owners of record within the area proposed to be annexed by
46 certified mail, not less than thirty nor more than sixty days
47 before the hearing, and notify all residents of the area by
48 publication of notice in a newspaper of general circulation
49 qualified to publish legal matters in the county or counties where
50 the proposed area is located, at least once a week for three
51 consecutive weeks prior to the hearing, with at least one such
52 notice being not more than twenty days and not less than ten days
53 before the hearing;

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

57 (a) A list of major services presently provided by the city,

58 town, or village including, but not limited to, police and fire
59 protection, water and sewer systems, street maintenance, parks and
60 recreation, and refuse collection;

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

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

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

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

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

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

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

84 (c) The ability of the city, town, or village to furnish

85 normal municipal services of the city, town, or village to the
86 unincorporated area within a reasonable time not to exceed three
87 years after the annexation is to become effective. Such action
88 shall be a class action against the inhabitants of such
89 unincorporated area under the provisions of section 507.070;

90 (6) Except as provided in subsection 3 of this section, if
91 the court authorizes the city, town, or village to make an
92 annexation, the legislative body of such city, town, or village
93 shall not have the power to extend the limits of the city, town, or
94 village by such annexation until an election is held at which the
95 proposition for annexation is approved by a majority of the total
96 votes cast in the city, town, or village and by a separate majority
97 of the total votes cast in the unincorporated territory sought to
98 be annexed. However, should less than a majority of the total
99 votes cast in the area proposed to be annexed vote in favor of the
100 proposal, but at least a majority of the total votes cast in the
101 city, town, or village vote in favor of the proposal, then the
102 proposal shall again be voted upon in not more than one hundred
103 twenty days by both the registered voters of the city, town, or
104 village and the registered voters of the area proposed to be
105 annexed. If at least two-thirds of the qualified electors voting
106 thereon are in favor of the annexation, then the city, town, or
107 village may proceed to annex the territory. If the proposal fails
108 to receive the necessary majority, no part of the area sought to be
109 annexed may be the subject of another proposal to annex for a
110 period of two years from the date of the election, except that,
111 during the two-year period, the owners of all fee interests of

112 record in the area or any portion of the area may petition the
113 city, town, or village for the annexation of the land owned by them
114 pursuant to the procedures in section 71.012. The elections shall
115 if authorized be held, except as herein otherwise provided, in
116 accordance with the general state law governing special elections,
117 and the entire cost of the election or elections shall be paid by
118 the city, town, or village proposing to annex the territory;

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

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

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

137 2. Notwithstanding any provision of subsection 1 of this
138 section, for any annexation by any city with a population of three

139 hundred fifty thousand or more inhabitants which is located in more
140 than one county that becomes effective after August 28, 1994, if
141 such city has not provided water and sewer service to such annexed
142 area within three years of the effective date of the annexation, a
143 cause of action shall lie for deannexation, unless the failure to
144 provide such water and sewer service to the annexed area is made
145 unreasonable by an act of God. The cause of action for
146 deannexation may be filed in the circuit court by any resident of
147 the annexed area who is presently residing in the area at the time
148 of the filing of the suit and was a resident of the annexed area at
149 the time the annexation became effective. If the suit for
150 deannexation is successful, the city shall be liable for all court
151 costs and attorney fees.

152 3. Notwithstanding the provisions of subdivision (6) of
153 subsection 1 of this section, all cities, towns, and villages
154 located in any county [~~of the first classification~~] with a charter
155 form of government with [~~a population of~~] two hundred thousand or
156 more inhabitants [~~which~~] that adjoins a county with a population of
157 nine hundred thousand or more inhabitants shall comply with the
158 provisions of this subsection. If the court authorizes any city,
159 town, or village subject to this subsection to make an annexation,
160 the legislative body of such city, town or village shall not have
161 the power to extend the limits of such city, town, or village by
162 such annexation until an election is held at which the proposition
163 for annexation is approved by a majority of the total votes cast in
164 such city, town, or village and by a separate majority of the total
165 votes cast in the unincorporated territory sought to be annexed;

166 except that:

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

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

183
184 If the proposal fails to receive the necessary separate
185 majorities, no part of the area sought to be annexed may be the
186 subject of any other proposal to annex for a period of two years
187 from the date of such election, except that, during the two-year
188 period, the owners of all fee interests of record in the area or
189 any portion of the area may petition the city, town, or village for
190 the annexation of the land owned by them pursuant to the procedures
191 in section 71.012 [~~or 71.014~~]. The election shall, if authorized,
192 be held, except as otherwise provided in this section, in

193 accordance with the general state laws governing special
194 elections, and the entire cost of the election or elections shall
195 be paid by the city, town, or village proposing to annex the
196 territory. Failure of the city, town or village to comply in
197 providing services to the area or to zone in compliance with the
198 plan of intent within three years after the effective date of the
199 annexation, unless compliance is made unreasonable by an act of
200 God, shall give rise to a cause of action for deannexation which
201 may be filed in the circuit court not later than four years after
202 the effective date of the annexation by any resident of the area
203 who was residing in such area at the time the annexation became
204 effective or by any nonresident owner of real property in such
205 area.

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

Section 1. In the event that any section, provision, clause,
2 phrase, or word of this act or the application thereof is declared
3 invalid under the Constitution of the United States or the
4 Constitution of the State of Missouri, whether on procedural or
5 substantive grounds, it is the intent of the general assembly that
6 the remaining sections of this act remain in force and effect as

7 far as they are capable of being carried into execution as intended
8 by the general assembly. The general assembly hereby declares that
9 it would have passed each section, provision, clause, phrase, or
10 word thereof, irrespective of the fact that any one or more
11 sections, provisions, clauses, phrases, or words of this act or the
12 application of this act would be declared unenforceable,
13 unconstitutional, or invalid.

2 ~~[71.014. 1. Notwithstanding the provisions of~~
3 ~~section 71.015, the governing body of any city, town, or~~
4 ~~village which is located within a county which borders a~~
5 ~~county of the first classification with a charter form~~
6 ~~of government with a population in excess of six hundred~~
7 ~~fifty thousand, proceeding as otherwise authorized by~~
8 ~~law or charter, may annex unincorporated areas which are~~
9 ~~contiguous and compact to the existing corporate limits~~
10 ~~upon notarized petition requesting such annexation~~
11 ~~signed by the owners of all fee interests of record in~~
12 ~~all tracts located within the area to be annexed. That a~~
13 ~~petition requesting annexation is not or was not~~
14 ~~verified or notarized shall not affect the validity of~~
15 ~~an annexation heretofore or hereafter undertaken in~~
16 ~~accordance with this section.~~

17 ~~2. Any action of any kind seeking to deannex from~~
18 ~~any city, town, or village any area annexed under this~~
19 ~~section, or seeking in any way to reverse, invalidate,~~
20 ~~set aside, or otherwise challenge such annexation or~~
21 ~~oust such city, town, or village from jurisdiction over~~
22 ~~such annexed area shall be brought within five years of~~
~~the date of adoption of the annexation ordinance.]~~

Representative Brenda Shields

Senator Rusty Black