

SECOND REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 2818

103RD GENERAL ASSEMBLY

5978S.03C

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 71.012, 71.014, and 71.015, RSMo, and to enact in lieu thereof two 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
2 repealed and two new sections enacted in lieu thereof, to be
3 known as sections 71.012 and 71.015, to read as follows:

71.012. 1. **(1)** Notwithstanding the provisions of
2 sections 71.015 and 71.860 to 71.920, the governing body of
3 any city, town or village may annex unincorporated areas
4 which are contiguous and compact to the existing corporate
5 limits of the city, town or village pursuant to this
6 section.

7 **(2)** The term "contiguous and compact" does not include
8 a situation whereby the unincorporated area proposed to be
9 annexed is contiguous to the annexing city, town or village
10 only by a railroad line, trail, pipeline or other strip of
11 real property less than one-quarter mile in width within the
12 city, town or village so that the boundaries of the city,
13 town or village after annexation would leave unincorporated
14 areas between the annexed area and the prior boundaries of
15 the city, town or village connected only by such railroad
16 line, trail, pipeline or other such strip of real property.

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

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

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

34 **(5)** For a city, town, or village in a county with more
35 than four hundred thousand but fewer than five hundred
36 thousand inhabitants or with more than two hundred thousand
37 but fewer than two hundred thirty thousand inhabitants, the
38 term "contiguous and compact" shall include a situation
39 whereby the unincorporated area proposed to be annexed is
40 contiguous to the annexing city, town, or village by at
41 least twenty-five percent of the length of the perimeter of
42 the area proposed for annexation.

43 **(6)** No city, town, or village shall annex an
44 unincorporated area contiguous to any unincorporated area
45 annexed by the city, town, or village within the last twenty-
46 four months.

47 **(7)** Notwithstanding the provisions of this section,
48 the governing body of any city, town or village in any

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

63 **(8) Notwithstanding any other provision of this**
64 **section to the contrary, a city with more than seventy-one**
65 **thousand but fewer than seventy-nine thousand inhabitants**
66 **that owns and operates an airport that is outside the**
67 **boundaries of such city may annex such airport regardless of**
68 **whether the boundaries of such airport are contiguous and**
69 **compact to the existing corporate limits of such city.**

70 2. (1) When a notarized petition, requesting
71 annexation and signed by the owners of all fee interests of
72 record in all tracts of real property located within the
73 area proposed to be annexed, or a request for annexation
74 signed under the authority of the governing body of any
75 common interest community and approved by a majority vote of
76 unit owners located within the area proposed to be annexed
77 is presented to the governing body of the city, town or
78 village, the governing body shall hold a public hearing
79 concerning the matter not less than fourteen nor more than
80 sixty days after the petition is received, and the hearing

81 shall be held not less than seven days after notice of the
82 hearing is published in a newspaper of general circulation
83 qualified to publish legal matters and located within the
84 boundary of the petitioned city, town or village. If no
85 such newspaper exists within the boundary of such city, town
86 or village, then the notice shall be published in the
87 qualified newspaper nearest the petitioned city, town or
88 village. For the purposes of this subdivision, the term
89 "common-interest community" shall mean a condominium as said
90 term is used in chapter 448, or a common-interest community,
91 a cooperative, or a planned community.

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

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

105 (c) A "planned community" shall be defined as a common-
106 interest community that is not a condominium or a
107 cooperative. A condominium or cooperative may be part of a
108 planned community.

109 (2) At the public hearing any interested person,
110 corporation or political subdivision may present evidence
111 regarding the proposed annexation. If, after holding the
112 hearing, the governing body of the city, town or village

113 determines that the annexation is reasonable and necessary
114 to the proper development of the city, town or village, and
115 the city, town or village has the ability to furnish normal
116 municipal services to the area to be annexed within a
117 reasonable time, it may, subject to the provisions of
118 subdivision (3) of this subsection, annex the territory by
119 ordinance without further action.

120 (3) If a written objection to the proposed annexation
121 is filed with the governing body of the city, town or
122 village not later than fourteen days after the public
123 hearing by at least five percent of the qualified voters of
124 the city, town or village, or two qualified voters of the
125 area sought to be annexed if the same contains two qualified
126 voters, the provisions of sections 71.015 and 71.860 to
127 71.920, shall be followed.

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

142 4. That a petition requesting annexation is not or was
143 not verified or notarized shall not affect the validity of

144 an annexation heretofore or hereafter undertaken in
145 accordance with this section.

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

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

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

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

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

24 paragraph, the border between the land to be annexed and the
25 existing city, town, or village shall be deemed to be:

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

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

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

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

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

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

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

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

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

55 not more than twenty days and not less than ten days before
56 the hearing;

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

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

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

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

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

74 (e) When the proposed annexation shall become
75 effective;

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

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

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

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

98 (6) Except as provided in subsection 3 of this
99 section, if the court authorizes the city, town, or village
100 to make an annexation, the legislative body of such city,
101 town, or village shall not have the power to extend the
102 limits of the city, town, or village by such annexation
103 until an election is held at which the proposition for
104 annexation is approved by a majority of the total votes cast
105 in the city, town, or village and by a separate majority of
106 the total votes cast in the unincorporated territory sought
107 to be annexed. However, should less than a majority of the
108 total votes cast in the area proposed to be annexed vote in
109 favor of the proposal, but at least a majority of the total
110 votes cast in the city, town, or village vote in favor of
111 the proposal, then the proposal shall again be voted upon in
112 not more than one hundred twenty days by both the registered
113 voters of the city, town, or village and the registered
114 voters of the area proposed to be annexed. If at least two-
115 thirds of the qualified electors voting thereon are in favor
116 of the annexation, then the city, town, or village may
117 proceed to annex the territory. If the proposal fails to

118 receive the necessary majority, no part of the area sought
119 to be annexed may be the subject of another proposal to
120 annex for a period of two years from the date of the
121 election, except that, during the two-year period, the
122 owners of all fee interests of record in the area or any
123 portion of the area may petition the city, town, or village
124 for the annexation of the land owned by them pursuant to the
125 procedures in section 71.012. The elections shall if
126 authorized be held, except as herein otherwise provided, in
127 accordance with the general state law governing special
128 elections, and the entire cost of the election or elections
129 shall be paid by the city, town, or village proposing to
130 annex the territory;

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

139 (8) No city, town, or village which has filed an
140 action under this section as this section read prior to May
141 13, 1980, which action is part of an annexation proceeding
142 pending on May 13, 1980, shall be required to comply with
143 subdivision (5) of this subsection in regard to such
144 annexation proceeding;

145 (9) If the area proposed for annexation includes a
146 public road or highway but does not include all of the land
147 adjoining such road or highway, then such fee owners of
148 record, of the lands adjoining said highway shall be

149 permitted to intervene in the declaratory judgment action
150 described in subdivision (5) of this subsection.

151 2. Notwithstanding any provision of subsection 1 of
152 this section, for any annexation by any city with a
153 population of three hundred fifty thousand or more
154 inhabitants which is located in more than one county that
155 becomes effective after August 28, 1994, if such city has
156 not provided water and sewer service to such annexed area
157 within three years of the effective date of the annexation,
158 a cause of action shall lie for deannexation, unless the
159 failure to provide such water and sewer service to the
160 annexed area is made unreasonable by an act of God. The
161 cause of action for deannexation may be filed in the circuit
162 court by any resident of the annexed area who is presently
163 residing in the area at the time of the filing of the suit
164 and was a resident of the annexed area at the time the
165 annexation became effective. If the suit for deannexation
166 is successful, the city shall be liable for all court costs
167 and attorney fees.

168 3. Notwithstanding the provisions of subdivision (6)
169 of subsection 1 of this section, all cities, towns, and
170 villages located in any county [of the first classification]
171 with a charter form of government with [a population of] two
172 hundred thousand or more inhabitants [which] **that** adjoins a
173 county with a population of nine hundred thousand or more
174 inhabitants shall comply with the provisions of this
175 subsection. If the court authorizes any city, town, or
176 village subject to this subsection to make an annexation,
177 the legislative body of such city, town or village shall not
178 have the power to extend the limits of such city, town, or
179 village by such annexation until an election is held at
180 which the proposition for annexation is approved by a

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

185 (1) In the case of a proposed annexation in any area
186 which is contiguous to the existing city, town or village
187 and which is within an area designated as flood plain by the
188 Federal Emergency Management Agency and which is inhabited
189 by no more than thirty registered voters and for which a
190 final declaratory judgment has been granted prior to January
191 1, 1993, approving such annexation and where notarized
192 affidavits expressing approval of the proposed annexation
193 are obtained from a majority of the registered voters
194 residing in the area to be annexed, the area may be annexed
195 by an ordinance duly enacted by the governing body and no
196 elections shall be required; and

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

203 If the proposal fails to receive the necessary separate
204 majorities, no part of the area sought to be annexed may be
205 the subject of any other proposal to annex for a period of
206 two years from the date of such election, except that,
207 during the two-year period, the owners of all fee interests
208 of record in the area or any portion of the area may
209 petition the city, town, or village for the annexation of
210 the land owned by them pursuant to the procedures in section
211 71.012 [or 71.014]. The election shall, if authorized, be

212 held, except as otherwise provided in this section, in
213 accordance with the general state laws governing special
214 elections, and the entire cost of the election or elections
215 shall be paid by the city, town, or village proposing to
216 annex the territory. Failure of the city, town or village
217 to comply in providing services to the area or to zone in
218 compliance with the plan of intent within three years after
219 the effective date of the annexation, unless compliance is
220 made unreasonable by an act of God, shall give rise to a
221 cause of action for deannexation which may be filed in the
222 circuit court not later than four years after the effective
223 date of the annexation by any resident of the area who was
224 residing in such area at the time the annexation became
225 effective or by any nonresident owner of real property in
226 such area.

227 4. Except for a cause of action for deannexation under
228 subdivision (2) of subsection 3 of this section, any action
229 of any kind seeking to deannex from any city, town, or
230 village any area annexed under this section, or seeking in
231 any way to reverse, invalidate, set aside, or otherwise
232 challenge such annexation or oust such city, town, or
233 village from jurisdiction over such annexed area shall be
234 brought within five years of the date of the adoption of the
235 annexation ordinance.

2 [71.014. 1. Notwithstanding the
3 provisions of section 71.015, the governing body
4 of any city, town, or village which is located
5 within a county which borders a county of the
6 first classification with a charter form of
7 government with a population in excess of six
8 hundred fifty thousand, proceeding as otherwise
9 authorized by law or charter, may annex
10 unincorporated areas which are contiguous and
compact to the existing corporate limits upon

11 notarized petition requesting such annexation
12 signed by the owners of all fee interests of
13 record in all tracts located within the area to
14 be annexed. That a petition requesting
15 annexation is not or was not verified or
16 notarized shall not affect the validity of an
17 annexation heretofore or hereafter undertaken in
18 accordance with this section.

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

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