

SECOND REGULAR SESSION

# SENATE BILL NO. 1342

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHROER.

5519S.011

KRISTINA MARTIN, Secretary

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Section A. Sections 71.012 and 71.015, RSMo, are repealed  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

71.012. 1. Notwithstanding the provisions of sections  
2 71.015 and 71.860 to 71.920, the governing body of any city,  
3 town or village may annex unincorporated areas which are  
4 contiguous and compact to the existing corporate limits of  
5 the city, town or village pursuant to this section. The  
6 term "contiguous and compact" does not include a situation  
7 whereby the unincorporated area proposed to be annexed is  
8 contiguous to the annexing city, town or village only by a  
9 railroad line, trail, pipeline or other strip of real  
10 property less than one-quarter mile in width within the  
11 city, town or village so that the boundaries of the city,  
12 town or village after annexation would leave unincorporated  
13 areas between the annexed area and the prior boundaries of  
14 the city, town or village connected only by such railroad  
15 line, trail, pipeline or other such strip of real property.  
16 The term contiguous and compact shall include a situation  
17 whereby the unincorporated area proposed to be annexed would

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

18 be contiguous and compact to the existing corporate limits  
19 of the city, town, or village but for an intervening state  
20 highway or interstate highway as defined in section 304.001,  
21 or railroad right-of-way, regardless of whether any other  
22 city, town, or village has annexed such state or interstate  
23 highway or railroad right-of-way or otherwise has an  
24 easement in such state or interstate highway or railroad  
25 right-of-way. The term contiguous and compact does not  
26 prohibit voluntary annexations pursuant to this section  
27 merely because such voluntary annexation would create an  
28 island of unincorporated area within the city, town or  
29 village, so long as the owners of the unincorporated island  
30 were also given the opportunity to voluntarily annex into  
31 the city, town or village. **The term contiguous and compact**  
32 **shall include a situation whereby the unincorporated area**  
33 **proposed to be annexed is contiguous to the annexing city,**  
34 **town, or village by at least twenty-five percent of the**  
35 **length of the perimeter of the area proposed for**  
36 **annexation. No city, town, or village shall annex an**  
37 **unincorporated area contiguous to any unincorporated area**  
38 **annexed by the city, town, or village within the last twenty-**  
39 **four months.** Notwithstanding the provisions of this  
40 section, the governing body of any city, town or village in  
41 any county of the third classification which borders a  
42 county of the fourth classification, a county of the second  
43 classification and the Mississippi River may annex areas  
44 along a road or highway up to two miles from existing  
45 boundaries of the city, town or village or the governing  
46 body in any city, town or village in any county of the third  
47 classification without a township form of government with a  
48 population of at least twenty-four thousand inhabitants but  
49 not more than thirty thousand inhabitants and such county

50 contains a state correctional center may voluntarily annex  
51 such correctional center pursuant to the provisions of this  
52 section if the correctional center is along a road or  
53 highway within two miles from the existing boundaries of the  
54 city, town or village.

55       2. (1) When a notarized petition, requesting  
56 annexation and signed by the owners of all fee interests of  
57 record in all tracts of real property located within the  
58 area proposed to be annexed, or a request for annexation  
59 signed under the authority of the governing body of any  
60 common interest community and approved by a majority vote of  
61 unit owners located within the area proposed to be annexed  
62 is presented to the governing body of the city, town or  
63 village, the governing body shall hold a public hearing  
64 concerning the matter not less than fourteen nor more than  
65 sixty days after the petition is received, and the hearing  
66 shall be held not less than seven days after notice of the  
67 hearing is published in a newspaper of general circulation  
68 qualified to publish legal matters and located within the  
69 boundary of the petitioned city, town or village. If no  
70 such newspaper exists within the boundary of such city, town  
71 or village, then the notice shall be published in the  
72 qualified newspaper nearest the petitioned city, town or  
73 village. For the purposes of this subdivision, the term  
74 "common-interest community" shall mean a condominium as said  
75 term is used in chapter 448, or a common-interest community,  
76 a cooperative, or a planned community.

77       (a) A "common-interest community" shall be defined as  
78 real property with respect to which a person, by virtue of  
79 such person's ownership of a unit, is obliged to pay for  
80 real property taxes, insurance premiums, maintenance or  
81 improvement of other real property described in a

82 declaration. "Ownership of a unit" does not include a  
83 leasehold interest of less than twenty years in a unit,  
84 including renewal options;

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

90 (c) A "planned community" shall be defined as a common-  
91 interest community that is not a condominium or a  
92 cooperative. A condominium or cooperative may be part of a  
93 planned community.

94 (2) At the public hearing any interested person,  
95 corporation or political subdivision may present evidence  
96 regarding the proposed annexation. If, after holding the  
97 hearing, the governing body of the city, town or village  
98 determines that the annexation is reasonable and necessary  
99 to the proper development of the city, town or village, and  
100 the city, town or village has the ability to furnish normal  
101 municipal services to the area to be annexed within a  
102 reasonable time, it may, subject to the provisions of  
103 subdivision (3) of this subsection, annex the territory by  
104 ordinance without further action.

105 (3) If a written objection to the proposed annexation  
106 is filed with the governing body of the city, town or  
107 village not later than fourteen days after the public  
108 hearing by at least five percent of the qualified voters of  
109 the city, town or village, or two qualified voters of the  
110 area sought to be annexed if the same contains two qualified  
111 voters, the provisions of sections 71.015 and 71.860 to  
112 71.920, shall be followed.

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

127           4. That a petition requesting annexation is not or was  
128 not verified or notarized shall not affect the validity of  
129 an annexation heretofore or hereafter undertaken in  
130 accordance with this section.

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

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

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;



(6) Except as provided in subsection 3 of this section, if the court authorizes the city, town, or village to make an annexation, the legislative body of such city, town, or village shall not have the power to extend the limits of the city, town, or village by such annexation until an election is held at which the proposition for annexation is approved by a majority of the total votes cast in the city, town, or village and by a separate majority of the total votes cast in the unincorporated territory sought to be annexed. However, should less than a majority of the total votes cast in the area proposed to be annexed vote in favor of the proposal, but at least a majority of the total votes cast in the city, town, or village vote in favor of the proposal, then the proposal shall again be voted upon in not more than one hundred twenty days by both the registered voters of the city, town, or village and the registered voters of the area proposed to be annexed. If at least two-thirds of the qualified electors voting thereon are in favor of the annexation, then the city, town, or village may proceed to annex the territory. If the proposal fails to receive the necessary majority, no part of the area sought to be annexed may be the subject of another proposal to annex for a period of two years from the date of the election, except that, during the two-year period, the owners of all fee interests of record in the area or any portion of the area may petition the city, town, or village for the annexation of the land owned by them pursuant to the procedures in section 71.012. The elections shall if authorized be held, except as herein otherwise provided, in accordance with the general state law governing special elections, and the entire cost of the election or elections

shall be paid by the city, town, or village proposing to annex the territory;

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

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

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

2. Notwithstanding any provision of subsection 1 of this section, for any annexation by any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county that becomes effective after August 28, 1994, if such city has not provided water and sewer service to such annexed area within three years of the effective date of the annexation, a cause of action shall lie for deannexation, unless the failure to provide such water and sewer service to the annexed area is made unreasonable by an act of God. The

cause of action for deannexation may be filed in the circuit court by any resident of the annexed area who is presently residing in the area at the time of the filing of the suit and was a resident of the annexed area at the time the annexation became effective. If the suit for deannexation is successful, the city shall be liable for all court costs and attorney fees.

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

(1) In the case of a proposed annexation in any area which is contiguous to the existing city, town or village and which is within an area designated as flood plain by the Federal Emergency Management Agency and which is inhabited by no more than thirty registered voters and for which a final declaratory judgment has been granted prior to January 1, 1993, approving such annexation and where notarized

affidavits expressing approval of the proposed annexation are obtained from a majority of the registered voters residing in the area to be annexed, the area may be annexed by an ordinance duly enacted by the governing body and no elections shall be required; and

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

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

224 date of the annexation by any resident of the area who was  
225 residing in such area at the time the annexation became  
226 effective or by any nonresident owner of real property in  
227 such area.

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

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