

A Proposal to the Joint Senate and House Study Commission on Municipal Annexation

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PROCEDURE

- **Concern:** Due to the growth of the state, the over and under 5,000 population threshold for the city-initiated annexation process is no longer appropriate.

Existing law: Cities of 5,000 or more (based on federal decennial census) have some differences in the process related to the standards for urban development and the delivery of water and sewer services.

Proposal 1: Increase the threshold to cities of 10,000 or more.

- **Concern:** Residents of the area to be annexed do not have sufficient information about the annexation process.

Existing law: City must mail and publish notice, make an annexation report available, hold a public informational meeting to explain the report and answer questions, and hold a public hearing to receive comments.

Proposal 2: Require the city to provide more written information to citizens in the annexation area, to be sent with the mailed notice and distributed at the informational meeting and public hearing. This would include a summary of the annexation process and timelines, a summary of available statutory remedies for contesting the annexation and the provision of services, and in cities of 10,000 or more the form for requesting the extension of water and sewer lines to individual properties.

- **Concern:** Cities may begin the process without having an official time period up front to study the area and to make residents aware that their area is under consideration.

Existing law: City has an option. It may start with a resolution of consideration, studying the area for at least one year, then adopting a resolution of intent (which triggers the timeline for public meetings and adoption of ordinance). Or it may begin with the resolution of intent and delay the effective date of the ordinance by one year.

Proposal 3: Remove the option to begin the process with the resolution of intent, to provide the community with more advance knowledge and time before the process begins.

- **Concern:** The prorating of property taxes is confusing and the billing cycle is burdensome.

Existing law: Unless the annexation is effective in June (last month of the fiscal year), taxes are prorated based on the number of full calendar months remaining in the fiscal year after the effective date. In addition, if the effective date is during the period of September 2 to May 31, the prorated taxes will not be billed until the following fiscal year, so that the first property tax bill residents receive is larger than anticipated.

Proposal 4: Require city-initiated annexations to become effective on June 30, eliminating the need to prorate taxes for a partial fiscal year. [In the event of litigation, allow cities the ability to defer the effective date to a later time than the first full month after a court opinion.]

- **Concern:** Residents do not have sufficient time to engage legal representation and prepare a challenge to an annexation.

Existing law: Currently residents have 60 days to file a challenge to the annexation itself in court. They have 90 days to petition the Local Government Commission if the city fails to provide within 60 days of the annexation any of the four major municipal services that are generally tax rather than rate-supported (police, fire, solid waste, street maintenance).

Proposal 5: Extend the time period to challenge an annexation in court to 75 days.

Proposal 6: Extend the time to seek tax abatement from the LGC if the city doesn't provide police, fire, solid waste or street maintenance services to 120 days.

- **Concern:** Property owners do not have a clear trigger for their right to challenge a failure to provide services.

Existing law: No report is required indicating whether deadlines were met for providing services.

Proposal 7: Require a report on the delivery of services to be made to LGC after the appropriate deadlines for providing the various services.

WATER AND SEWER

- **Concern:** The statutory requirements for requesting individual water and sewer extensions are confusing and do not allow sufficient time and information for residents to make a decision regarding the request. Residents that do not make the request may not be aware that a future request for extension falls under the city's general extension policies and is not subject to the same 2-year deadline for completion.

Existing law: In cities of 5,000 or more, property owners must make the request for extension of water and sewer lines to their individual properties within 5 days of the public hearing.

Proposal 8: Require cities of 10,000 or more to provide conspicuous advance information about the right to request individual water and sewer extensions and the consequences of failing to make the request. Information must clarify that signing up for extension does not waive the right to contest the annexation, state the municipality's policy for financial participation in the cost of the extension, and the statutory timeline for completion. It must further state the policy, with estimated timeline, for extension of water and sewer lines to properties that do not request an individual extension.

Proposal 9: Substantially increase the time for property owners to make requests for individual extensions of water and sewer in cities of 10,000 or more, to 30 days following public hearing.

- **Concern:** The financial impact statement is not detailed enough to be useful in making multi-year projections and in determining whether water and sewer infrastructure is financially feasible.

Existing law: Requires a statement in the report showing how the annexation will affect the city's finances and services, including revenue change estimates.

Proposal 10: Require the financial impact statement to include 5-year projections (beginning with the first year expenditures are to be made for provision of services), with accounting by revenue source and category of expenditure.

Proposal 11: Require financial estimates to be based on the assumption that the entire annexed area will request water and sewer extensions.

- **Concern:** Assessments for water and sewer infrastructure are financially burdensome for property owners.

Existing law: Property owners may pay special assessments in up to 10 annual installments.

Proposal 12: Require cities to allow property owners in the annexation area up to 20 years to pay any special assessments for water and sewer.

- **Concern:** Some property owners outside of city limits request extension of water and sewer service and sign an agreement with the city to be annexed in the future. When the property is sold the new owner may be unaware of the agreement.

Existing law: Not addressed in the statutes.

Proposal 13: Clarify that such agreements are to be recorded with the register of deeds and will run with the land.

QUALIFICATION OF THE ANNEXATION AREA/ ANNEXING MUNICIPALITY

- **Concern:** Towns that provide no municipal services are seeking to annex.

Existing law: Statutes do not set a minimum level of services; town must provide same services to annexed area that are provided to the rest of the municipality. Case law prohibits annexation by a town with “no meaningful services.”

Proposal 14: Provide that to be eligible to annex, towns must provide at least two of the four major municipal services listed in the statute that are generally tax rather than rate-supported (police, fire, solid waste, street maintenance). Clarify that towns providing a service by contracting for it must be contracting for a higher level of service, e.g. dedicated sheriff’s deputy or increased patrols.

- **Concern:** The use of long highway corridors or other relatively narrow spokes of land to connect the annexation area to the city violates the meaning of contiguity.

Existing law: For city-initiated annexations, at least one-eighth (12.5%) of the boundary of the annexation area must be contiguous to the city. Case law prohibits the use of “shoestrings” to create contiguity. For voluntary annexations, an area is contiguous if it is separated from the municipal boundary by a street, creek, river, railroad right of way, or city, county or state-owned land.

Proposal 15: Prohibit the use of a street or street right of way as a connecting corridor to establish contiguity to an outlying noncontiguous area.

Proposal 16: Define contiguity more precisely for purposes of voluntary annexations (e.g. it is acceptable to be separated by the width of a street but not by a shoestring-type length of street).

- **Concern:** The use + subdivision test is complex and difficult for smaller towns to apply, leading to frequent litigation.

Existing law: Cities under 5,000 have available one main test for determining whether the area is developed to urban standards – the use + subdivision test. Those of 5,000 or more have available 3 main tests – population density, use + subdivision, and population + subdivision.

Proposal 17: Allow towns under 10,000 to use the population density test.

DISTRESSED AREAS

- **Concern:** Some low-income/distressed areas that need city services are skipped over when extending city boundaries because of the expense of providing water and sewer infrastructure.

Existing law: Priority points are given for state infrastructure funds for a number of things, such as having a comprehensive land use plan, having a capital improvement plan, or having a floodplain ordinance.

Proposal 18: Create incentives to include low-income/distressed areas that need water and sewer in annexation areas by giving priority points for state grants/funds, e.g. CDBG, state water and sewer revolving funds.

- **Concern:** Some low-income/distressed areas that need city services are skipped over when extending city boundaries because they do not meet the standards for either voluntary or city-initiated annexation.

Existing law: In order to annex a contiguous area, it must either have a petition from 100% of the property owners or it must meet the contiguity and density standards under the city-initiated process.

Proposal 19: Create a category of voluntary annexation applicable to contiguous low-income areas, allowing a 75% petition to qualify for annexation.

Proposal 20: Create a simple process for city-initiated annexation of "doughnut holes," by allowing areas to qualify under the standards if every part of it is completely surrounded by the municipality's primary corporate limits.