



AN ACT GENERALLY REVISING ANNEXATION LAWS; ALLOWING ANNEXATION OF CERTAIN PARCELS IF ALL OWNERS OF PROPERTY TO BE ANNEXED AGREE; PROVIDING FOR COORDINATION AND CONSULTATION WITH THE COUNTY OR COUNTIES IN WHICH THE MUNICIPALITY RESIDES FOR PURPOSES OF TRANSFERRING SERVICES; PROVIDING A PROCESS FOR THE TRANSFER OF FIRE PROTECTION SERVICES FROM A RURAL FIRE DISTRICT; ELIMINATING THE RESTRICTION ON ANNEXATION OF LANDS WITHIN RURAL FIRE DISTRICTS THAT HAVE BEEN ESTABLISHED FOR MORE THAN 10 YEARS; PROVIDING THAT A COUNTY MAY PETITION A COURT TO REVIEW THE ANNEXATION PROCEDURES OF A MUNICIPALITY; AMENDING SECTIONS 7-2-4601, 7-2-4606, 7-2-4608, 7-2-4705, 7-2-4731, 7-2-4732, 7-2-4734, AND 7-2-4741, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 7-2-4601, MCA, is amended to read:

**"7-2-4601. Annexation by petition.** (1) The boundaries of any incorporated city or town may be altered and new areas annexed as provided in this part.

(2) The council or other legislative body of a municipal corporation, upon receiving a written petition for annexation containing a description of the area to be annexed and signed by not less than 33 1/3% of the registered electors of the area proposed to be annexed, shall without delay submit to the electors of the municipal corporation and to the registered electors residing in the area proposed by the petition to be annexed the question of whether the area should be made a part of the municipal corporation.

(3) (a) The governing body of a municipality need not submit the question of annexation to the qualified electors as provided in subsection (2) if it has received a written petition containing a description of the area requested to be annexed and signed by:

- (i) more than 50% of the resident electors owning real property in the area to be annexed; or
- (ii) the owner or owners of ~~50% of the real property in the~~ representing 50% or more of the total area to be annexed.

(b) The governing body may approve or disapprove a petition submitted under the provisions of subsection (3)(a) ~~upon~~ on its merits. When the governing body approves the petition, it shall pass a resolution providing for the annexation."

**Section 2.** Section 7-2-4606, MCA, is amended to read:

**"7-2-4606. Resolution of annexation.** (1) (a) If it is found that a majority of votes were cast in favor of the annexation, the city or town council or other legislative body shall, at a regular or special meeting held within 30 days of the election, pass and adopt a resolution providing for the annexation.

(b) The resolution must state that a petition has been filed with the council or other legislative body with the signatures of 33 1/3% of the resident electors owning real property in the area proposed to be annexed; a description of the boundaries of the area to be annexed; a copy of the resolution ordering a general or special election; a copy of the notice of the election; the time and result of the canvass of the votes received in favor of annexation and the number of votes cast against annexation; and that the boundaries of the city or town will be extended to include the area described in the petition for annexation. The resolution must be incorporated in the minutes of the council or legislative body.

(2) A resolution adopted pursuant to 7-2-4601(3) must include a statement that a petition has been filed with the governing body containing the signatures of more than 50% of the resident electors owning real property or the owners of real property representing 50% or more of the total area to be annexed; a description of the boundaries of the area to be annexed; and a statement that the boundaries of the municipality are to be extended to include the area described in the petition for annexation. The resolution must be incorporated in the minutes of the governing body. Upon incorporation in the minutes, the resolution must be filed and becomes effective as provided in 7-2-4607."

**Section 3.** Section 7-2-4608, MCA, is amended to read:

**"7-2-4608. Restrictions on annexation power.** (1) ~~No territory which, Territory that is part of an incorporated city or town at the time such a petition for such proposed annexation is presented to such council or legislative body, forms any part of any incorporated city or town shall~~ as provided in 7-2-4601 may not be annexed under the provisions of this part.

(2) ~~No~~ Except as provided in subsection (3), a parcel of land which that, at the time ~~such a~~ petition for

such proposed annexation is presented to ~~such council or legislative~~ the governing body of a city or town, is used in whole or in part for agricultural, mining, smelting, refining, transportation, or any industrial or manufacturing purpose or for any purpose incident thereto shall to those uses may not be annexed under the provisions of this part.

(3) The provisions of subsection (2) do not apply if the petition submitted to the governing body of the city or town is signed by 100% of the owners of the land proposed to be annexed and the annexation is in accordance with the city's or town's adopted growth policy."

**Section 4.** Section 7-2-4705, MCA, is amended to read:

**"7-2-4705. Annexation by municipalities providing services.** (1) The governing body of any municipality may extend the corporate limits of the municipality under the procedure set forth in this part upon the initiation of the procedure by the governing body itself.

(2) Whenever the owners of real property situated outside the corporate boundaries of any municipality, but contiguous to the municipality, desire to have real estate annexed to the municipality, they shall file with the governing body of the municipality a petition bearing the signatures of 51% of the real property owners of the area sought to be annexed and requesting a resolution stating that the municipality intends to consider annexation. Upon passage of the resolution, the governing body shall follow the procedure in 7-2-4707 through 7-2-4713 and 7-2-4731~~(2)~~(3)."

**Section 5.** Section 7-2-4731, MCA, is amended to read:

**"7-2-4731. Plans and report on extension of services required -- consultation with county.** (1) A municipality exercising authority under this part shall make plans for the extension of services to the area proposed to be annexed and shall, prior to the public hearing provided for in 7-2-4707 through 7-2-4709, prepare a report setting forth its plans to provide services to ~~such~~ the area proposed to be annexed. ~~This~~ The report shall must include:

- (a) a map or maps of the municipality and adjacent territory to show the following information:
  - (i) the present and proposed boundaries of the municipality;
  - (ii) the present streets, major trunk water mains, sewer interceptors and outfalls, and other utility lines and the proposed extension of ~~such~~ the streets and utility lines as required in subsection (1)(c); and

- (iii) the general land use pattern in the areas to be annexed;
- (b) a statement showing that the area to be annexed meets the requirements of 7-2-4734 and 7-2-4735;
- (c) a statement setting forth the plans of the municipality for extending to the area to be annexed each major municipal service performed within the municipality at the time of annexation.

(2) Prior to making plans for the extension of services pursuant to subsection (1), the municipality shall provide notice of its decision to exercise its authority under this part to the county. If requested by the county, the municipality shall consult with the county governing body or its representatives to coordinate the orderly transfer of services.

~~(2)~~(3) At least 14 days before the date of the public hearing provided for in 7-2-4707 through 7-2-4709, the governing body of the municipality shall approve the report and ~~shall~~ make it the report available to the public at the office of the municipal official designated by the governing body. In addition, the municipality may prepare a summary of the full report for public distribution."

**Section 6.** Section 7-2-4732, MCA, is amended to read:

**"7-2-4732. Contents of plan for extension of services.** (1) ~~Specifically, the~~ The plans for the extension of services ~~shall~~ must provide a long-range plan for extension of services and the acquisition of properties outside the corporate limits. This plan must show anticipated development a minimum of 5 years into the future, showing on a yearly basis how the municipality plans to extend services; and develop and add sections to the city.

(2) The plans ~~shall~~ must:

(a) provide for extending police protection, fire protection, garbage collection, and streets and street maintenance services to the area to be annexed on substantially the same basis and in the same manner as ~~such~~ those services are provided within the rest of the municipality prior to annexation;

(b) provide for future extension of streets and ~~of~~ major trunk water mains, sewer outfall lines, and other utility services into the area to be annexed, so that when ~~such~~ the streets and utility lines become necessary and are constructed, property owners in the area to be annexed will be able to secure ~~such~~ the services, according to the policies in effect in ~~such~~ the municipality for extending ~~such~~ the services to individual lots or subdivisions;

(c) if extension of streets and water, sewer, or other utility lines into the area to be annexed is necessary, set forth a proposed timetable for construction of ~~such~~ the streets and utility lines.

(3) A method must be set forth by which the municipality plans to finance extension of services into the

area to be annexed. If the area is serviced currently by adequate water and sewage services, streets, curbs, and gutters and no capital improvements are not needed to provide adequate services stipulated by this section and 7-2-4731, the municipality ~~must~~ shall provide the area to be annexed with a plan of how they plan to finance other services to be included within the district--mainly, police protection, fire protection, garbage collection, street, and street maintenance services, as well as continued utility service.

(4) In this annexation plan, it must be clearly stated that the entire municipality tends to share the tax burden for these services, and if so, the area may be annexed without a bond issue under the provisions of this part.

(5) If a county, special district, or improvement district currently provides services to the area to be annexed, the plan must provide specific steps for the orderly transfer of those services, including police protection, fire protection, garbage collection, street and street maintenance services, and utility services. The plan for the transfer of services must be developed in consultation with the governing body of the county and with any other departments of the county, special districts, or improvement districts that have been providing services to the area proposed to be annexed."

**Section 7.** Section 7-2-4734, MCA, is amended to read:

**"7-2-4734. Standards to be met before annexation can occur.** A municipal governing body may extend the municipal corporate limits to include any area that meets the following standards:

(1) The area must be contiguous to the municipality's boundaries at the time the annexation proceeding is begun.

(2) No part of the area may be included within the boundary of another incorporated municipality.

(3) The area must be included within and the proposed annexation must conform to a growth policy adopted pursuant to Title 76, chapter 1.

~~———— (4) No part of the area may be included within the boundary, as existing at the inception of the attempted annexation, of any fire district organized under any of the provisions of part 21, chapter 33, if the fire district was originally organized at least 10 years prior to the inception of attempted annexation. However, a single-ownership piece of land may be transferred from a fire district to a municipality by annexation as provided in 7-33-2127.~~

(4) (a) If fire protection services in the area to be annexed have been provided by a fire district organized under Title 7, chapter 33, part 21, the plan must include provisions for coordinating the transfer of fire protection

services to the municipality and compensating the district, if necessary, for equipment and district expenses.

(b) Upon transfer of fire protection services, the existing boundaries of a rural fire district may be altered or the fire district may be dissolved as provided in 7-33-2401."

**Section 8.** Section 7-2-4741, MCA, is amended to read:

**"7-2-4741. Right to court review when area annexed.** (1) Within 30 days following the passage of an annexation ordinance under authority of this part, a petition seeking review of the annexation procedures of the governing body of the municipality may be filed in the district court in which the municipality is located by:

(a) either a majority of the real property owners of the area to be annexed or the owners of more than 75% in assessed valuation of the real estate in the area who believe that they will suffer material injury by reason of the failure of the municipal governing body to comply with the procedures set forth in this part or to meet the requirements set forth in 7-2-4734 and 7-2-4735, as applied to their property, may file a petition in the district court of the district in which the municipality is located seeking review of the action of the governing body; and

(b) the county from which the land is being annexed.

(2) If two or more petitions for review are submitted to the court, the court may consolidate the petitions for review at a single hearing."

**Section 9. Effective date.** [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,  
HB 0575, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

HOUSE BILL NO. 575

INTRODUCED BY K. HANSEN

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