

HOUSE BILL NO. 575

INTRODUCED BY K. HANSEN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ANNEXATION LAWS; ~~CLARIFYING THAT~~
5 ~~A DESCRIPTION OF THE AREA TO BE ANNEXED BY PETITION MUST INCLUDE A DESCRIPTION IN METES~~
6 ~~AND BOUNDS~~ ALLOWING ANNEXATION OF CERTAIN PARCELS IF ALL OWNERS OF PROPERTY TO BE
7 ANNEXED AGREE; PROVIDING FOR COORDINATION AND CONSULTATION WITH THE COUNTY OR
8 COUNTIES IN WHICH THE MUNICIPALITY RESIDES FOR PURPOSES OF TRANSFERRING SERVICES;
9 PROVIDING A PROCESS FOR THE TRANSFER OF FIRE PROTECTION SERVICES FROM A RURAL FIRE
10 DISTRICT; ELIMINATING THE RESTRICTION ON ANNEXATION OF LANDS WITHIN RURAL FIRE DISTRICTS
11 THAT HAVE BEEN ESTABLISHED FOR MORE THAN 10 YEARS; PROVIDING THAT A COUNTY MAY
12 PETITION A COURT TO REVIEW THE ANNEXATION PROCEDURES OF A MUNICIPALITY; AMENDING
13 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
14 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

15

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

17

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

19 **"7-2-4601. Annexation by petition.** (1) The boundaries of any incorporated city or town may be altered
20 and new areas annexed as provided in this part.

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

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

29 (i) more than 50% of the resident electors owning real property in the area to be annexed; or

30 (ii) the owner or owners of ~~50% of the real property in the~~ representing 50% or more of the total area to

1 be annexed.

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

5 ~~(4) For purposes of 7-2-4606 and this section, the description of the area to be annexed must include~~
6 ~~a description in metes and bounds of the external boundaries of the area to be annexed.~~

7 ~~(5) A waiver of a right to protest may not be used for the purpose of determining the number or~~
8 ~~percentage of signatures pursuant to this part."~~

9

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

11 **"7-2-4606. Resolution of annexation.** (1) (a) If it is found that a majority of votes were cast in favor of
12 the annexation, the city or town council or other legislative body shall, at a regular or special meeting held within
13 30 days of the election, pass and adopt a resolution providing for the annexation.

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

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

28

29 **SECTION 3. SECTION 7-2-4608, MCA, IS AMENDED TO READ:**

30 **"7-2-4608. Restrictions on annexation power.** (1) ~~No territory which,~~ Territory that is part of an

1 ~~incorporated city or town~~ at the time ~~such a~~ petition for ~~such~~ proposed annexation is presented to ~~such council~~
 2 ~~or legislative body~~, ~~forms any part of any incorporated city or town shall~~ as provided in 7-2-4601 may not be
 3 annexed under the provisions of this part.

4 (2) ~~No~~ Except as provided in subsection (3), a parcel of land which that, at the time ~~such a~~ petition for
 5 ~~such~~ proposed annexation is presented to ~~such council or legislative~~ the governing body of a city or town, is used
 6 in whole or in part for agricultural, mining, smelting, refining, transportation, or any industrial or manufacturing
 7 purpose or for any purpose incident thereto shall to those uses may not be annexed under the provisions of this
 8 part.

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

12

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

14 "**7-2-4705. Annexation by municipalities providing services.** (1) The governing body of any
 15 municipality may extend the corporate limits of the municipality under the procedure set forth in this part upon the
 16 initiation of the procedure by the governing body itself.

17 (2) Whenever the owners of real property situated outside the corporate boundaries of any municipality,
 18 but contiguous to the municipality, desire to have real estate annexed to the municipality, they shall file with the
 19 governing body of the municipality a petition bearing the signatures of 51% of the real property owners of the area
 20 sought to be annexed and requesting a resolution stating that the municipality intends to consider annexation.
 21 Upon passage of the resolution, the governing body shall follow the procedure in 7-2-4707 through 7-2-4713 and
 22 7-2-4731~~(2)~~(3)."

23

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

25 "**7-2-4731. Plans and report on extension of services required -- consultation with county.** (1) A
 26 municipality exercising authority under this part shall make plans for the extension of services to the area
 27 proposed to be annexed and shall, prior to the public hearing provided for in 7-2-4707 through 7-2-4709, prepare
 28 a report setting forth its plans to provide services to ~~such~~ the area proposed to be annexed. ~~This~~ The report shall
 29 must include:

30 (a) a map or maps of the municipality and adjacent territory to show the following information:

- 1 (i) the present and proposed boundaries of the municipality;
- 2 (ii) the present streets, major trunk water mains, sewer interceptors and outfalls, and other utility lines
3 and the proposed extension of ~~such the~~ streets and utility lines as required in subsection (1)(c); and
- 4 (iii) the general land use pattern in the areas to be annexed;
- 5 (b) a statement showing that the area to be annexed meets the requirements of 7-2-4734 and 7-2-4735;
- 6 (c) a statement setting forth the plans of the municipality for extending to the area to be annexed each
7 major municipal service performed within the municipality at the time of annexation.

8 (2) Prior to making plans for the extension of services pursuant to subsection (1), the municipality shall
9 provide notice of its decision to exercise its authority under this part to the county, from which the lands will be
10 annexed and shall consult with the county governing body and any other county departments, special districts,
11 or improvement districts in order IF REQUESTED BY THE COUNTY, THE MUNICIPALITY SHALL CONSULT WITH THE COUNTY
12 GOVERNING BODY OR ITS REPRESENTATIVES to coordinate the orderly transfer of services.

13 ~~(2)(3)~~ At least 14 days before the date of the public hearing provided for in 7-2-4707 through 7-2-4709,
14 the governing body of the municipality shall approve the report and ~~shall~~ make it the report available to the public
15 at the office of the municipal official designated by the governing body. In addition, the municipality may prepare
16 a summary of the full report for public distribution."
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18 **Section 6.** Section 7-2-4732, MCA, is amended to read:

19 **"7-2-4732. Contents of plan for extension of services.** (1) ~~Specifically, the~~ The plans for the extension
20 of services ~~shall~~ must provide a long-range plan for extension of services and the acquisition of properties outside
21 the corporate limits. This plan must show anticipated development a minimum of 5 years into the future, showing
22 on a yearly basis how the municipality plans to extend services; and develop and add sections to the city.

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

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

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

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

3 (3) A method must be set forth by which the municipality plans to finance extension of services into the
4 area to be annexed. If the area is serviced currently by adequate water and sewage services, streets, curbs, and
5 gutters and ~~no~~ capital improvements are not needed to provide adequate services stipulated by this section and
6 7-2-4731, the municipality ~~must~~ shall provide the area to be annexed with a plan of how they plan to finance other
7 services to be included within the district--mainly, police protection, fire protection, garbage collection, street, and
8 street maintenance services, as well as continued utility service.

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

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

18 ~~———— (6) (a) If fire protection services in the area to be annexed have been provided by a fire district organized~~
19 ~~under Title 7, chapter 33, part 21, the plan must include provisions for coordinating the transfer of fire protection~~
20 ~~services to the municipality and compensating the district, if necessary, for equipment and district expenses.~~

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

23 ~~———— (c) Transfer of fire protection services from a fire district that has been in existence for more than 10~~
24 ~~years at the time of the proposed annexation may not occur until 5 years after the annexation is finalized."~~

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26 **Section 7.** Section 7-2-4734, MCA, is amended to read:
27 **"7-2-4734. Standards to be met before annexation can occur.** A municipal governing body may
28 extend the municipal corporate limits to include any area that meets the following standards:

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

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

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

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

8 (4) (A) IF FIRE PROTECTION SERVICES IN THE AREA TO BE ANNEXED HAVE BEEN PROVIDED BY A FIRE DISTRICT
9 ORGANIZED UNDER TITLE 7, CHAPTER 33, PART 21, THE PLAN MUST INCLUDE PROVISIONS FOR COORDINATING THE
10 TRANSFER OF FIRE PROTECTION SERVICES TO THE MUNICIPALITY AND COMPENSATING THE DISTRICT, IF NECESSARY, FOR
11 EQUIPMENT AND DISTRICT EXPENSES.

12 (B) UPON TRANSFER OF FIRE PROTECTION SERVICES, THE EXISTING BOUNDARIES OF A RURAL FIRE DISTRICT MAY
13 BE ALTERED OR THE FIRE DISTRICT MAY BE DISSOLVED AS PROVIDED IN 7-33-2401.

14 (C) TRANSFER OF FIRE PROTECTION SERVICES FROM A FIRE DISTRICT THAT HAS BEEN IN EXISTENCE FOR MORE
15 THAN 10 YEARS AT THE TIME OF THE PROPOSED ANNEXATION MAY NOT OCCUR UNTIL 5 YEARS AFTER THE ANNEXATION
16 IS FINALIZED."

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

19 **"7-2-4741. Right to court review when area annexed.** (1) Within 30 days following the passage of an
20 annexation ordinance under authority of this part, a petition seeking review of the annexation procedures of the
21 governing body of the municipality may be filed in the district court in which the municipality is located by:

22 (a) either a majority of the real property owners of the area to be annexed or the owners of more than
23 75% in assessed valuation of the real estate in the area who believe that they will suffer material injury by reason
24 of the failure of the municipal governing body to comply with the procedures set forth in this part or to meet the
25 requirements set forth in 7-2-4734 and 7-2-4735, as applied to their property, may file a petition in the district
26 court of the district in which the municipality is located seeking review of the action of the governing body; and

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

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