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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 4108

03/07/2022

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The bill was read for the first time and referred to the Committee on State Government Finance and Elections

1.1 A bill for an act

1.2 relating to local government; modifying orderly annexation and detachment

1.3 provisions; amending Minnesota Statutes 2020, sections 414.031, by adding a

1.4 subdivision; 414.0325, subdivisions 1, 1b, 6; 414.033, by adding a subdivision;

1.5 414.036; 414.038; 414.06, subdivisions 1, 2, 3, 7; proposing coding for new law

1.6 in Minnesota Statutes, chapter 414.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2020, section 414.031, is amended by adding a subdivision

1.9 to read:

1.10 Subd. 1b. **Annexation election.** If the annexation is denied or if it is defeated in the

1.11 referendum under section 414.0322, no proceeding for the annexation of substantially the

1.12 same area may be initiated within two years from the date of the chief administrative law

1.13 judge's order, unless the new proceeding is initiated by a majority of the area's property

1.14 owners and the petition is supported by any abutting townships and municipalities.

1.15 Sec. 2. [414.0322] ANNEXATION ELECTION.

1.16 Subdivision 1. **Proceedings triggering an election.** Where proceedings for annexation

1.17 are initiated under section 414.031 or 414.033, subdivision 2, clause (2) or (4), 3, or 5, the

1.18 chief administrative law judge shall order an election on the question of annexation. The

1.19 chief administrative law judge shall:

1.20 (1) fix a day not less than 30 days nor more than 90 days after the entry of the order

1.21 when an election shall be held;

2.1 (2) designate a place within the area to be primarily and substantially interested in the  
 2.2 proposed annexation, giving preference to the polling place or places usually used in the  
 2.3 area;

2.4 (3) cause a copy of the order affirming the petition, including the notice of election, to  
 2.5 be posted at least 20 days before the election in three public places in the area;

2.6 (4) cause notice of the election to be published for at least two successive weeks in a  
 2.7 newspaper qualified under chapter 331A as a legal publication in general circulation in the  
 2.8 area; and

2.9 (5) appoint necessary election judges from voters in the area and supervise them in their  
 2.10 duties.

2.11 Subd. 2. **Eligible voters.** Only voters residing within the area of the proposed annexation  
 2.12 are entitled to vote.

2.13 Subd. 3. **Election.** The election judges shall conduct the election so far as practicable  
 2.14 in accordance with the laws regulating special elections. The ballot shall bear the words  
 2.15 "For Annexation" and "Against Annexation." The petitioners or annexing municipality shall  
 2.16 pay for the ballots and election supplies and the wages of election judges. Immediately upon  
 2.17 completion of the counting of the ballots, the election judges shall make a signed and verified  
 2.18 certificate declaring the time and place of holding the election, that they have canvassed  
 2.19 the ballots cast and the number cast both for and against the proposition, and they shall then  
 2.20 file the certificate with the chief administrative law judge. If the certificate shows the majority  
 2.21 of the votes cast were "For Annexation," the chief administrative law judge may issue an  
 2.22 order for annexation. If a majority of votes were cast against the annexation, or if there are  
 2.23 an equal number of votes for and against annexation, the chief administrative law judge  
 2.24 shall not issue an order for annexation. If the annexation is denied, or if it is defeated in the  
 2.25 referendum, no proceeding for the annexation of substantially the same area may be initiated  
 2.26 within two years from the date of the chief administrative law judge's order, unless the new  
 2.27 proceeding is initiated by a majority of the area's property owners and the petition is  
 2.28 supported by any abutting townships and municipalities. The chief administrative law judge  
 2.29 shall notify all parties of record of the election results.

2.30 Sec. 3. Minnesota Statutes 2020, section 414.0325, subdivision 1, is amended to read:

2.31 Subdivision 1. **Initiating the proceeding.** (a) One or more townships and one or more  
 2.32 municipalities, by joint resolution, may designate an unincorporated area as in need of  
 2.33 orderly annexation. One or more municipalities, by joint resolution with the county, may

3.1 designate an unincorporated area in which there is no organized township government as  
 3.2 in need of orderly annexation.

3.3 (b) A designated area is any area which the signatories to a joint resolution for orderly  
 3.4 annexation have identified as being appropriate for annexation, either currently or at some  
 3.5 point in the future, pursuant to the negotiated terms and conditions set forth in the joint  
 3.6 resolution. Land described as a designated area is not, by virtue of being so described,  
 3.7 considered also to be annexed for purposes of this chapter.

3.8 (c) The joint resolution will confer jurisdiction on the chief administrative law judge  
 3.9 over annexations in the designated area and over the various provisions in said agreement  
 3.10 by submission of said joint resolution to the chief administrative law judge.

3.11 (d) The resolution shall include a description of the designated area and the reasons for  
 3.12 designation.

3.13 (e) Thereafter, an annexation of any part of the designated area ~~may~~ shall only be initiated  
 3.14 by:

3.15 (1) submitting to the chief administrative law judge a resolution of any signatory to the  
 3.16 joint resolution; or

3.17 (2) the chief administrative law judge.

3.18 (f) Whenever a state agency, other than the Pollution Control Agency, orders a  
 3.19 municipality to extend a municipal service to an area, the order confers jurisdiction on the  
 3.20 chief administrative law judge to consider designation of the area for orderly annexation.

3.21 (g) If a joint resolution designates an area as in need of orderly annexation and states  
 3.22 that no alteration of its stated boundaries is appropriate, the chief administrative law judge  
 3.23 may review and comment, but may not alter the boundaries.

3.24 (h) If a joint resolution designates an area as in need of orderly annexation, provides for  
 3.25 the conditions for its annexation, and states that no consideration by the chief administrative  
 3.26 law judge is necessary, the chief administrative law judge may review and comment, but  
 3.27 shall, within 30 days, order the annexation in accordance with the terms of the resolution.

3.28 Sec. 4. Minnesota Statutes 2020, section 414.0325, subdivision 1b, is amended to read:

3.29 Subd. 1b. **Notice of intent to designate an area.** (a) At least 30 days before the  
 3.30 municipality or township adopts an orderly annexation agreement, a notice of the intent to  
 3.31 include property in an orderly annexation area must be provided to municipalities adjacent  
 3.32 to the designated area.

4.1 (b) At least ten days before the municipality or township adopts an orderly annexation  
4.2 agreement, a notice of the intent to include property in an orderly annexation area must be  
4.3 published in a newspaper of general circulation in both the township and municipality.

4.4 (c) The ~~notice~~ notices under paragraphs (a) and (b) must clearly identify the boundaries  
4.5 of the area proposed to be included in the orderly annexation agreement. The cost of  
4.6 providing notice must be equally divided between the municipality and the township, unless  
4.7 otherwise agreed upon by the municipality and the township. This subdivision applies only  
4.8 to the initial designation to include property in an orderly annexation area subject to the  
4.9 orderly annexation agreement, or any expansion of the orderly annexation area subject to  
4.10 the agreement, and not to any subsequent annexation of any property from within the  
4.11 designated area. This subdivision also does not apply when the orderly annexation agreement  
4.12 only designates for immediate annexation property for which all of the property owners  
4.13 have petitioned to be annexed.

4.14 Sec. 5. Minnesota Statutes 2020, section 414.0325, subdivision 6, is amended to read:

4.15 Subd. 6. **Validity, effect of orderly annexation agreement.** An orderly annexation  
4.16 agreement is a binding contract upon all parties to the agreement and is enforceable in the  
4.17 district court in the county in which the unincorporated property in question is located. For  
4.18 agreements entered into on or after August 1, 2022, the parties shall mutually agree to the  
4.19 terms of the orderly annexation agreement, but the agreement must not run for more than  
4.20 ten years. The provisions of an orderly annexation agreement are not preempted by any  
4.21 provision of this chapter unless the agreement specifically provides so. If an orderly  
4.22 annexation agreement provides the exclusive procedures by which the unincorporated  
4.23 property identified in the agreement may be annexed to the municipality, the municipality  
4.24 shall not annex that property by any other procedure. Annexation of the designated area by  
4.25 means other than those identified in the orderly annexation agreement or by a nonparty to  
4.26 the orderly annexation agreement is prohibited. A petition or other filing by a nonparty to  
4.27 the orderly annexation agreement shall be denied as soon as the parcel to be annexed is  
4.28 identified as being subject to an orderly annexation agreement. An ordinance adopted by a  
4.29 nonparty municipality seeking to annex property subject to an orderly annexation agreement  
4.30 is void and unenforceable.

5.1 Sec. 6. Minnesota Statutes 2020, section 414.033, is amended by adding a subdivision to  
5.2 read:

5.3 Subd. 2c. **Annexation election.** If the annexation is denied or if it is defeated in the  
5.4 referendum under section 414.0322, no proceeding for the annexation of substantially the  
5.5 same area may be initiated within two years from the date of the chief administrative law  
5.6 judge's order unless the new proceeding is initiated by a majority of the area's property  
5.7 owners and the petition is supported by any abutting townships and municipalities.

5.8 Sec. 7. Minnesota Statutes 2020, section 414.036, is amended to read:

5.9 **414.036 CITY REIMBURSEMENT TO TOWN TO ANNEX TAXABLE**  
5.10 **PROPERTY; CEASING REIMBURSEMENT IF PROPERTY DETACHED.**

5.11 (a) Unless otherwise agreed to by the annexing municipality and the affected town, when  
5.12 an order or other approval under this chapter annexes part of a town to a municipality, the  
5.13 order or other approval must provide a reimbursement from the municipality to the town  
5.14 for all or part of the taxable property annexed as part of the order. The reimbursement shall  
5.15 be completed in substantially equal payments over not less than two nor more than eight  
5.16 years from the time of annexation. The municipality must reimburse the township for all  
5.17 special assessments assigned by the township to the annexed property, and any portion of  
5.18 debt incurred by the town prior to the annexation and attributable to the property to be  
5.19 annexed but for which no special assessments are outstanding, in substantially equal payments  
5.20 over a period of not less than two or no more than eight years.

5.21 (b) Unless otherwise agreed to by the annexing town and affected city, when an order  
5.22 or other approval under this chapter detaches property that is subject to reimbursement  
5.23 under paragraph (a), the reimbursement from the municipality to the town ceases on the  
5.24 date of the order or approval of the detachment.

5.25 Sec. 8. Minnesota Statutes 2020, section 414.038, is amended to read:

5.26 **414.038 EFFECT OF ANNEXATION AND DETACHMENT ON TOWNSHIP**  
5.27 **ROADS.**

5.28 (a) Whenever a municipality annexes property abutting one side of a township road, the  
5.29 segment of road abutting the annexed property must be treated as a line road and is subject  
5.30 to section 164.14. Whenever a municipality annexes the property on both sides of a township  
5.31 road, that portion of road abutting the annexed property ceases to be a town road and becomes  
5.32 the obligation of the annexing municipality. This section does not prohibit the annexing  
5.33 municipality from contracting with the township for continued maintenance of the road.

6.1 Any portion of a township road that ceases to be a township road pursuant to this section  
 6.2 may still be counted as a township road for the road-and-bridge account revenues for the  
 6.3 year in which the annexation occurs.

6.4 (b) Whenever a town detaches property abutting one side of a township road, the segment  
 6.5 of road abutting the detached property must be treated as a line road and is subject to section  
 6.6 164.14. Whenever a town detaches the property on both sides of a township road, that  
 6.7 portion of road abutting the detached property ceases to be the obligation of the municipality  
 6.8 and becomes the obligation of the detaching town. This section does not prohibit the  
 6.9 detaching town from contracting with the municipality for continued maintenance of the  
 6.10 road.

6.11 Sec. 9. Minnesota Statutes 2020, section 414.06, subdivision 1, is amended to read:

6.12 Subdivision 1. **Initiating the proceeding.** (a) Property which is situated within a  
 6.13 municipality and abutting the municipal boundary, rural in character and not developed for  
 6.14 urban residential, commercial, or industrial purposes may be detached from the municipality  
 6.15 according to the following procedure.

6.16 (b) The proceeding may be initiated: (1) by submitting to the chief administrative law  
 6.17 judge a resolution of the municipality to which the land is attached or; (2) by submitting to  
 6.18 the chief administrative law judge a petition of all of the property owners of the land to be  
 6.19 detached if the area is less than 40 acres or of 75 percent of the property owners if over 40  
 6.20 acres; or (3) by submitting to the chief administrative law judge a resolution of the township  
 6.21 of the land to be detached, if: (i) the land was annexed by ordinance under section 414.033;  
 6.22 (ii) over five years have lapsed since the annexation; and (iii) the land remains rural in  
 6.23 character and not developed for urban residential, commercial, or industrial purposes.

6.24 (c) The petition or resolution shall set forth the boundaries and the area of the land to  
 6.25 be detached, the number and character of the buildings, the resident population, and the  
 6.26 municipal improvements, if any, in the area, and a statement of the reasons the petitioners,  
 6.27 the township, or the municipality is seeking the detachment. In addition, the petitioners  
 6.28 shall summarize what, if any, efforts were undertaken prior to filing the resolution or petition  
 6.29 to resolve the issues forming the basis for the resolution or petition.

6.30 (d) If a petition is submitted without a resolution from the city, the petitioners shall also  
 6.31 provide a copy of the petition to the city from which the land may be detached, and if the  
 6.32 petition includes land for which a property owner has not signed the petition, to each property  
 6.33 owner subject to the petition who has not signed the petition. A copy must also be mailed  
 6.34 or otherwise delivered to the following parties: (1) the clerk of the town to which the property

7.1 would be attached if the detachment is granted; (2) the clerk of any other abutting town or  
 7.2 city; and (3) the county recorder in the county in which the land is located.

7.3 (e) If a resolution is submitted by the township, the township shall also provide a copy  
 7.4 of the resolution to the city from which the land may be detached and each property owner  
 7.5 subject to the resolution. A copy must also be mailed or otherwise delivered to the following  
 7.6 parties: (1) the clerk of the city from which the property would be detached if the detachment  
 7.7 is granted; (2) the clerk of any other abutting town or city; and (3) the county recorder in  
 7.8 the county in which the land is located.

7.9 Sec. 10. Minnesota Statutes 2020, section 414.06, subdivision 2, is amended to read:

7.10 Subd. 2. **Hearing, if needed.** (a) If both a resolution of support from the municipality  
 7.11 and a petition by all the property owners are submitted, and no resolution of opposition has  
 7.12 been received from a town as provided in subdivision 1a, no hearing is necessary and the  
 7.13 chief administrative law judge shall grant the petition.

7.14 (b) If a resolution from a town is submitted, and both a resolution of support from the  
 7.15 municipality and a petition by all property owners are submitted, no hearing is necessary  
 7.16 and the administrative law judge shall grant the resolution.

7.17 (c) If both the municipality and town submit a resolution opposing the petition, a hearing  
 7.18 must not be held and the chief administrative law judge shall deny the petition.

7.19 (d) If both the municipality and all property owners subject to the detachment submit a  
 7.20 petition or resolution opposing the town resolution, a hearing must not be held and the chief  
 7.21 administrative law judge shall deny the resolution.

7.22 (e) In any other case, upon receipt of a petition or resolution, the chief administrative  
 7.23 law judge shall designate a time and place for a hearing in accordance with section 414.09,  
 7.24 except that instead of the meetings otherwise required under section 414.01, subdivision  
 7.25 16, the chief administrative law judge shall order the parties to participate in a mediation  
 7.26 session. The mediator must be on a list of mediators approved by the Office of Administrative  
 7.27 Hearings, unless the parties stipulate to a mediator not on the list. The cost of the mediation  
 7.28 must be apportioned as provided for in subdivision 7.

7.29 Sec. 11. Minnesota Statutes 2020, section 414.06, subdivision 3, is amended to read:

7.30 Subd. 3. **Order.** (a) Upon completion of the hearing, the chief administrative law judge  
 7.31 may order the detachment initiated by property owners or a township resolution, on finding  
 7.32 that: (1) the requisite number of property owners have signed the petition if initiated by the

8.1 property owners, ~~that~~ or the resolution meets the requirements of subdivision 1, paragraph  
 8.2 (b), clause (3), if initiated by a township; (2) the property is rural in character and not  
 8.3 developed for urban residential, commercial or industrial purposes, ~~that;~~ (3) the property is  
 8.4 within the boundaries of the municipality and abuts a boundary, ~~that;~~ (4) the detachment  
 8.5 would not unreasonably affect the symmetry of the detaching municipality, ~~and that;~~ and  
 8.6 (5) the land is not needed for reasonably anticipated future development.

8.7 (b) In making the findings under paragraph (a), the chief administrative law judge shall  
 8.8 consider all applicable comprehensive plans, land use regulations, and land use maps of the  
 8.9 affected municipality, town, and county that have been adopted at the time the petition was  
 8.10 submitted.

8.11 (c) The chief administrative law judge may deny the detachment on finding that the  
 8.12 remainder of the municipality cannot continue to carry on the functions of government  
 8.13 without undue hardship. The chief administrative law judge may decrease the area of property  
 8.14 to be detached and may include only a part of the proposed area to be detached. If the tract  
 8.15 abuts more than one town, it shall become a part of each town, being divided by projecting  
 8.16 through it the boundary line between the towns.

8.17 (d) The detached area may be relieved of the primary responsibility for existing  
 8.18 indebtedness of the municipality and be required to assume the indebtedness of the town  
 8.19 of which it becomes a part, in such proportion as the chief administrative law judge shall  
 8.20 deem just and equitable having in view the amount of taxes due and delinquent and the  
 8.21 indebtedness of each town and the municipality affected, if any, and for what purpose the  
 8.22 same was incurred, all in relation to the benefit inuring to the detached area as a result of  
 8.23 the indebtedness and the last net tax capacity of the taxable property in each town and  
 8.24 municipality.

8.25 Sec. 12. Minnesota Statutes 2020, section 414.06, subdivision 7, is amended to read:

8.26 Subd. 7. **Costs.** Notwithstanding the provisions of section 414.067, the chief  
 8.27 administrative law judge shall apportion the costs of the mediation and hearing in an equitable  
 8.28 manner, but unless the chief administrative law judge makes specific findings as to why a  
 8.29 party shall be responsible for a greater share, the ~~petitioning landowners are~~ party initiating  
 8.30 the proceeding is responsible for at least 50 percent of the total costs.