

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 4109

03/07/2022

Authored by Huot

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; prohibiting annexation of a designated area by means

1.3 other than those identified in an orderly annexation agreement; prohibiting

1.4 annexation of the designated area by nonparties; modifying detachment

1.5 proceedings; amending Minnesota Statutes 2020, sections 414.0325, subdivisions

1.6 1, 1b, 6; 414.033, subdivision 2; 414.036; 414.038; 414.06, subdivisions 1, 2, 3,

1.7 7; 572A.03, subdivision 4; repealing Minnesota Statutes 2020, section 414.033,

1.8 subdivision 3.

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

1.10 Section 1. Minnesota Statutes 2020, section 414.0325, subdivision 1, is amended to read:

1.11 Subdivision 1. **Initiating the proceeding.** (a) One or more townships and one or more

1.12 municipalities, by joint resolution, may designate an unincorporated area as in need of

1.13 orderly annexation. One or more municipalities, by joint resolution with the county, may

1.14 designate an unincorporated area in which there is no organized township government as

1.15 in need of orderly annexation.

1.16 (b) A designated area is any area which the signatories to a joint resolution for orderly

1.17 annexation have identified as being appropriate for annexation, either currently or at some

1.18 point in the future, pursuant to the negotiated terms and conditions set forth in the joint

1.19 resolution. Land described as a designated area is not, by virtue of being so described,

1.20 considered also to be annexed for purposes of this chapter.

1.21 (c) The joint resolution will confer jurisdiction on the chief administrative law judge

1.22 over annexations in the designated area and over the various provisions in said agreement

1.23 by submission of said joint resolution to the chief administrative law judge.

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

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

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

2.7 (2) the chief administrative law judge.

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

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

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

2.18 Sec. 2. Minnesota Statutes 2020, section 414.0325, subdivision 1b, is amended to read:

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

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

2.26 (c) The ~~notice~~ notices under paragraphs (a) and (b) must clearly identify the boundaries
2.27 of the area proposed to be included in the orderly annexation agreement. The cost of
2.28 providing notice must be equally divided between the municipality and the township, unless
2.29 otherwise agreed upon by the municipality and the township. This subdivision applies only
2.30 to the initial designation to include property in an orderly annexation area subject to the
2.31 orderly annexation agreement, or any expansion of the orderly annexation area subject to
2.32 the agreement, and not to any subsequent annexation of any property from within the

3.1 designated area. This subdivision also does not apply when the orderly annexation agreement
 3.2 only designates for immediate annexation property for which all of the property owners
 3.3 have petitioned to be annexed.

3.4 Sec. 3. Minnesota Statutes 2020, section 414.0325, subdivision 6, is amended to read:

3.5 Subd. 6. **Validity, effect of orderly annexation agreement.** An orderly annexation
 3.6 agreement is a binding contract upon all parties to the agreement and is enforceable in the
 3.7 district court in the county in which the unincorporated property in question is located. For
 3.8 agreements entered into on or after August 1, 2022, the parties shall mutually agree to the
 3.9 terms of the orderly annexation agreement, but the agreement must not run for more than
 3.10 ten years. The provisions of an orderly annexation agreement are not preempted by any
 3.11 provision of this chapter unless the agreement specifically provides so. If an orderly
 3.12 annexation agreement provides the exclusive procedures by which the unincorporated
 3.13 property identified in the agreement may be annexed to the municipality, the municipality
 3.14 shall not annex that property by any other procedure. Annexation of the designated area by
 3.15 means other than those identified in the orderly annexation agreement or by a nonparty to
 3.16 the orderly annexation agreement is prohibited. A petition or other filing by a nonparty to
 3.17 the orderly annexation agreement shall be denied as soon as the parcel to be annexed is
 3.18 identified as being subject to an orderly annexation agreement. An ordinance adopted by a
 3.19 nonparty municipality seeking to annex property subject to an orderly annexation agreement
 3.20 is void and unenforceable.

3.21 Sec. 4. Minnesota Statutes 2020, section 414.033, subdivision 2, is amended to read:

3.22 Subd. 2. **Conditions.** A municipal council may by ordinance declare land annexed to
 3.23 the municipality and any such land is deemed to be urban or suburban in character or about
 3.24 to become so if:

3.25 (1) the land is owned by the municipality;

3.26 (2) ~~the land is completely surrounded by land within the municipal limits;~~

3.27 ~~(3)~~ the land abuts the municipality and the area to be annexed is 120 acres or less, and
 3.28 the area to be annexed is not presently served by public wastewater facilities or public
 3.29 wastewater facilities are not otherwise available, and the municipality receives a petition
 3.30 for annexation from all the property owners of the land. Except as provided for by an orderly
 3.31 annexation agreement, this clause may not be used to annex any property contiguous to any
 3.32 property either simultaneously proposed to be or previously annexed under this clause within

4.1 the preceding 12 months if the property is or has been owned at any point during that period
 4.2 by the same owners and annexation would cumulatively exceed 120 acres; or

4.3 ~~(4)~~ (3) the land has been approved after August 1, 1995, by a preliminary plat or final
 4.4 plat for subdivision to provide residential lots that average 21,780 square feet or less in area
 4.5 and the land is located within two miles of the municipal limits.

4.6 Sec. 5. Minnesota Statutes 2020, section 414.036, is amended to read:

4.7 **414.036 CITY REIMBURSEMENT TO TOWN TO ANNEX TAXABLE**
 4.8 **PROPERTY; CEASING REIMBURSEMENT IF PROPERTY DETACHED.**

4.9 (a) Unless otherwise agreed to by the annexing municipality and the affected town, when
 4.10 an order or other approval under this chapter annexes part of a town to a municipality, the
 4.11 order or other approval must provide a reimbursement from the municipality to the town
 4.12 for all or part of the taxable property annexed as part of the order. The reimbursement shall
 4.13 be completed in substantially equal payments over not less than two nor more than eight
 4.14 years from the time of annexation. The municipality must reimburse the township for all
 4.15 special assessments assigned by the township to the annexed property, and any portion of
 4.16 debt incurred by the town prior to the annexation and attributable to the property to be
 4.17 annexed but for which no special assessments are outstanding, in substantially equal payments
 4.18 over a period of not less than two or no more than eight years.

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

4.23 Sec. 6. Minnesota Statutes 2020, section 414.038, is amended to read:

4.24 **414.038 EFFECT OF ANNEXATION AND DETACHMENT ON TOWNSHIP**
 4.25 **ROADS.**

4.26 (a) Whenever a municipality annexes property abutting one side of a township road, the
 4.27 segment of road abutting the annexed property must be treated as a line road and is subject
 4.28 to section 164.14. Whenever a municipality annexes the property on both sides of a township
 4.29 road, that portion of road abutting the annexed property ceases to be a town road and becomes
 4.30 the obligation of the annexing municipality. This section does not prohibit the annexing
 4.31 municipality from contracting with the township for continued maintenance of the road.
 4.32 Any portion of a township road that ceases to be a township road pursuant to this section

5.1 may still be counted as a township road for the road-and-bridge account revenues for the
5.2 year in which the annexation occurs.

5.3 (b) Whenever a town detaches property abutting one side of a township road, the segment
5.4 of road abutting the detached property must be treated as a line road and is subject to section
5.5 164.14. Whenever a town detaches the property on both sides of a township road, that
5.6 portion of road abutting the detached property ceases to be the obligation of the municipality
5.7 and becomes the obligation of the detaching town. This section does not prohibit the
5.8 detaching town from contracting with the municipality for continued maintenance of the
5.9 road.

5.10 Sec. 7. Minnesota Statutes 2020, section 414.06, subdivision 1, is amended to read:

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

5.15 (b) The proceeding may be initiated: (1) by submitting to the chief administrative law
5.16 judge a resolution of the municipality to which the land is attached ~~or~~; (2) by submitting to
5.17 the chief administrative law judge a petition of all of the property owners of the land to be
5.18 detached if the area is less than 40 acres or of 75 percent of the property owners if over 40
5.19 acres; or (3) by submitting to the chief administrative law judge a resolution of the township
5.20 of the land to be detached, if: (i) the land was annexed by ordinance under section 414.033;
5.21 (ii) over five years have lapsed since the annexation; and (iii) the land remains rural in
5.22 character, and not developed for urban residential commercial or industrial purpose.

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

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

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

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

6.9 Sec. 8. Minnesota Statutes 2020, section 414.06, subdivision 2, is amended to read:

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

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

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

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

6.22 (e) In any other case, upon receipt of a petition or resolution, the chief administrative
6.23 law judge shall designate a time and place for a hearing in accordance with section 414.09,
6.24 except that instead of the meetings otherwise required under section 414.01, subdivision
6.25 16, the chief administrative law judge shall order the parties to participate in a mediation
6.26 session. The mediator must be on a list of mediators approved by the Office of Administrative
6.27 Hearings, unless the parties stipulate to a mediator not on the list. The cost of the mediation
6.28 must be apportioned as provided for in subdivision 7.

6.29 Sec. 9. Minnesota Statutes 2020, section 414.06, subdivision 3, is amended to read:

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

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

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

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

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

7.25 Sec. 10. Minnesota Statutes 2020, section 414.06, subdivision 7, is amended to read:

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

7.31 Sec. 11. Minnesota Statutes 2020, section 572A.03, subdivision 4, is amended to read:

7.32 Subd. 4. **Annexations of unincorporated property.** For annexations of unincorporated
 7.33 property under section 414.031 or 414.033, ~~subdivisions 3 and~~ subdivision 5, the arbitration

8.1 panel may order the annexation: (1) if it finds that the subject area is now, or is about to
8.2 become, urban or suburban in character; (2) if it finds that municipal government in the
8.3 area proposed for annexation is required to protect the public health, safety, and welfare;
8.4 or (3) if it finds that the annexation would be in the best interest of the subject area. If only
8.5 a part of a township is to be annexed, the panel shall consider whether the remainder of the
8.6 township can continue to carry on the functions of government without undue hardship.
8.7 The panel shall deny the annexation if it finds that the increase in revenues for the annexing
8.8 municipality bears no reasonable relation to the monetary value of benefits conferred upon
8.9 the annexed area. The panel may deny the annexation: (1) if it appears that annexation of
8.10 all or a part of the property to an adjacent municipality would better serve the interests of
8.11 the residents of the property; or (2) if the remainder of the township would suffer undue
8.12 hardship.

8.13 The panel may alter the boundaries of the area to be annexed by increasing or decreasing
8.14 the area so as to include only that property which is now or is about to become urban or
8.15 suburban in character or to add property of that character abutting the area proposed for
8.16 annexation in order to preserve or improve the symmetry of the area, or to exclude property
8.17 that may better be served by another unit of government. The panel may also alter the
8.18 boundaries of the proposed annexation so as to follow visible, clearly recognizable physical
8.19 features. If the panel determines that part of the area would be better served by another
8.20 municipality or township, the panel may initiate and approve annexation on its own motion
8.21 by conducting further hearings. In all cases, the arbitration panel shall set forth the factors
8.22 that are the basis for the decision.

8.23 Sec. 12. **REPEALER.**

8.24 Minnesota Statutes 2020, section 414.033, subdivision 3, is repealed.

8.25 Sec. 13. **EFFECTIVE DATE.**

8.26 Sections 5, 6, 7, 8, 9, and 10 are effective July 1, 2026.

414.033 ANNEXATION BY ORDINANCE.

Subd. 3. **60 percent bordered and 40 acres or less.** If the perimeter of the area to be annexed by a municipality is 60 percent or more bordered by the municipality and if the area to be annexed is 40 acres or less, the municipality shall serve notice of intent to annex upon the town board and the chief administrative law judge, unless the area is appropriate for annexation by ordinance under subdivision 2, clause (3). The town board shall have 90 days from the date of service to serve objections with the chief administrative law judge. If no objections are forthcoming within the said 90-day period, such land may be annexed by ordinance. If objections are filed with the chief administrative law judge, the chief administrative law judge shall conduct hearings and issue an order as in the case of annexations under section 414.031, subdivisions 3 and 4.