

State Notes

TOPICS OF LEGISLATIVE INTEREST

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Annexation and Detachment In Michigan **by George Towne, Legislative Analyst**

All property in Michigan is located in a local unit of government. Local units of government include cities, villages, home rule villages, townships, and charter townships, all of which lie within the State's 83 counties. While county boundaries are permanently fixed, the boundaries of local units may be changed by annexation or detachment. Annexation is the process of transferring land from one jurisdiction to another, by petition or resolution. Detachment is the rarely used process by which a township reclaims property that was formerly annexed from it.

Local units are legally organized under various statutes. Cities operate under the Home Rule City Act; home rule villages under the Home Rule Village Act; general law villages under the General Law Village Act; general law townships under Revised Statute 16 of 1846; and charter townships under the Charter Township Act. Each of these statutes contains provisions regarding annexation. Specific procedures for annexation vary according to the type of local unit attempting to annex territory, and the type of local unit whose territory is proposed for annexation.

Early in its history, the State was divided into townships that were roughly 36 square miles each. Cities were incorporated as the population grew and became denser in certain areas, thus removing land from the jurisdiction of townships. Villages also developed, although a village is not completely removed from township jurisdiction because village residents pay both village and township property taxes. Once incorporated, a city or village must annex surrounding territory in order to expand. (This territory is usually governed by a township or charter township, although annexation can occur from one township to another, from one village to another, or from a village to a city.)

A city may annex land from a township by entering into an agreement with the township governing body. Often, however, agreements are not reached and a city may attempt to annex township property without the township's consent. In such situations, the State Boundary Commission governs the annexation process. Requests for annexation may be brought to the Commission through one of four types of petitions: by resolution of a city council; by the owners of at least 75% of the land proposed for annexation; by at least 20% of the registered voters residing in the territory proposed for annexation; or by at least 1% of the property owners in the affected township and city.

Upon receiving a petition, the Commission must hold various hearings to determine if the petition is legally sufficient, and to hear from interested parties. If the Commission decides to approve the annexation, it forwards its recommendation to the Director of the Department of Consumer and Industry Services (DCIS) for a final decision. If the Director signs the order of annexation, public officials or residents may challenge the decision by a referendum election or judicial review. A circuit court judge has the authority to overturn an order of the DCIS Director. A request for referendum must be filed by petition to the Commission within 30 days after the Director's approval of the annexation. (A referendum is called if at least 25% of the registered voters residing in the area proposed for annexation, in the annexing city, or in the balance of the township sign the petition to call a referendum.) If a referendum is held, the annexation is approved only if a majority of the electors in the area to be annexed, the balance of the township,



and the city, voting separately, vote in favor of the annexation. A referendum is permitted only if the area to be annexed had a population of 100 or more on the date the petition was filed.

In some areas of the State, annexation disputes have caused great acrimony. While many city officials may believe that the only way to grow, and expand their tax base, is to annex nearby territory, some township officials might feel that their land, and their tax base, is being stolen by a predatory city. In the past, there have been instances in which a township has worked hard to establish a sound revenue base by fostering industrial and commercial development, only to have a neighboring city annex the development. In addition to leaving the township and its taxpayers to deal with the loss of territory and revenue, these annexations can cause such negativity that there is little chance the city and township will work cooperatively in the future. In some cases, by drawing proposed annexation boundaries to exclude residents, cities have been resourceful at annexing open township land, because there is no right to referendum on the annexation of an area that has fewer than 100 residents. Recently, some townships have initiated successful detachment efforts and reclaimed previously annexed territory.

Some people complain that the current situation favors developers. If a developer who owns township land that borders a city thinks that it would be advantageous to be part of the city (for water and sewer services, for instance), often there is little the township can do to prevent the annexation. For example, a developer who owns vacant or sparsely populated property asks the adjacent city to annex his or her property. The city can attempt to strike an agreement with the township, or it can bypass the township and file an annexation petition with the State Boundary Commission, on the basis that the owner of at least 75% of the land proposed for annexation has requested that it be annexed. If the Commission approves the proposal, the township cannot file a petition for referendum because the area proposed for annexation has fewer than 100 residents.

Many people believe that the current annexation and detachment process fosters feuds among local units and discourages local and regional cooperation. The Michigan Senate recently passed a package of bills that would address this issue (Senate Bills 379 through 384). These bills are similar to proposals that the House passed last year (House Bills 4720 through 4725), and to House bills introduced this year (House Bills 4527 through 4532). The Senate bills would amend various statutory provisions regarding the annexation and detachment of city, village, township, or charter township territory. Among other things, the bills would do the following:

- Prescribe procedures, including a referendum, for the annexation of territory in which there were 100 or fewer residents.
- Provide for negotiated annexation agreements.
- Revise procedures for the annexation of territory that has no residents.
- Revise provisions for the annexation of city-owned territory in a township.
- Require that certain conditions be met for the detachment of territory.
- Provide for a referendum on the annexation of township territory by a city or village.

(Detailed information on the bills is available at <http://michiganlegislature.org> or www.michigan.gov/cis.)