

Senate Study Bill 1225

Bill Text

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1 1 Section 1. Section [368.4](#), Code 2001, is amended to read as
1 2 follows:

1 3 368.4 ANNEXING MORATORIUM.

1 4 A city, following notice and hearing, may by resolution
1 5 agree with another city or cities to refrain from annexing
1 6 specifically described territory for a period not to exceed
1 7 ten years and, following notice and hearing, may by resolution
1 8 extend the agreement for subsequent periods not to exceed ten
1 9 years each. Notice of a hearing shall be served at least
1 10 thirty days before the hearing on the city development board,
1 11

~~and a~~

~~- on the board of supervisors of the county in which the~~
1 12 territory is located. Service shall be by regular mail. The
1 13 notice shall include the time and place of the hearing,
1 14 describe the territory subject to the proposed agreement, and
1 15 the general terms of the agreement. Notice shall also be
1 16 given by publication in an official county newspaper in each
1 17 county which contains any portion of the territory that is the
1 18 subject of the agreement. After enactment of a resolution by
1 19 the cities approving the agreement, a copy of the agreement
1 20 and a copy of any resolution extending an agreement shall be
1 21 filed with the city development board within

~~thirty~~

~~- ten days~~

1 22 of enactment.

1 23 The city development board shall review the agreement and
1 24 make a determination of approval or disapproval upon receipt
1 25 of a petition challenging the resolution. The petition must
1 26 be filed with the city development board by the county board
1 27 of supervisors of a county in which the territory is located
1 28 or by property owners comprising twenty-five percent of the
1 29 land area in the territory impacted by the agreement. The
1 30 petition must be filed within twenty days of enactment of the
1 31 resolution by the cities. If a petition is not filed with the
1 32 city development board, the agreement is deemed approved. The
1 33 city development board shall base its finding upon all
1 34 relevant information, including but not limited to the
1 35 following:

2 1 1. The degree to which the agreement is consistent with
2 2 the ability of the respective cities and private service
2 3 providers to logically provide cost-effective services to the
2 4 territory, including, but not limited to, water supply, sewer
2 5 disposal, road maintenance and repair, and fire and police.

2 6 2. The degree to which the agreement is consistent with
2 7 existing land use plans for the territory.

2 8 3. The degree to which the agreement is consistent with
2 9 wishes of the landowners and residents of the territory.

2 10 4. The location of the territory in relation to each
2 11 city's urbanized area.

2 12 5. The degree to which the projected population growth
2 13 patterns of the communities is consistent with the agreement.

2 14 6. The degree to which the agreement is consistent with
2 15 street addresses and school district boundaries of the

2 16 territory.

2 17 PARAGRAPH DIVIDED. If such an agreement is in force, the
2 18 board shall dismiss a petition or plan which violates the
2 19 terms of the agreement.
2 20 Sec. 2. Section 368.7, subsection 1, Code 2001, is amended
2 21 to read as follows:

2 22 1. All of the owners of land in a territory adjoining a
2 23 city may apply in writing to the council of the adjoining city
2 24 requesting annexation of the territory. Territory comprising
2 25 railway right-of-way or territory comprising not more than
2 26 twenty percent of the land area may be included in the
2 27 application without the consent of the owner to avoid creating
2 28 an island or to create more uniform boundaries if a copy of
2 29 the application is mailed by certified mail to the owner and
2 30 each affected public utility, at least

~~ten~~

- fourteen days prior

2 31 to any action taken by the city council on the application.
2 32 The application must contain a legal description and a map of
2 33 the territory showing its location in relationship to the
2 34 city.

2 35 An application for voluntary annexation of territory by a
3 1 city must be approved by resolution of the council that
3 2 receives the application. The city council shall approve or
3 3 deny the application following notice and public hearing as
3 4 required in this section. An annexation including territory
3 5 comprising not more than twenty percent of the land area
3 6 without consent of the property owners is not complete without
3 7 approval by four-fifths of the members of the board after a
3 8 hearing for all affected property owners and the county. Upon
3 9 approval of the annexation, the board shall file a copy of the
3 10 resolution, map, and legal description of the territory with
3 11 the county recorder of each county which contains any portion
3 12 of the territory.

3 13 Sec. 3. Section 368.7, Code 2001, is amended by adding the
3 14 following new unnumbered paragraph:

3 15 NEW UNNUMBERED PARAGRAPH. The city shall provide for a
3 16 public hearing on the application before approving or denying
3 17 it. The city shall provide written notice at least fourteen
3 18 days prior to any action by the city council regarding the
3 19 application, including a public hearing, by certified mail to
3 20 the chairperson of the board of supervisors of each county
3 21 which contains a portion of the territory proposed to be
3 22 annexed, each public utility which serves the territory
3 23 proposed to be annexed, each owner of property located within
3 24 the territory to be annexed who is not a party to the
3 25 application, and each owner of property which adjoins the
3 26 territory to be annexed. The city shall publish notice of the
3 27 application and public hearing on the application in an
3 28 official county newspaper in each county which contains a
3 29 portion of the territory proposed to be annexed at least ten
3 30 days prior to any action by the city council on the
3 31 application. Both the written and published notice shall
3 32 include the time and place of the public hearing and a legal
3 33 description of the territory to be annexed. The city may
3 34 assess the costs of providing notice as required in this
3 35 section to the applicants.

4 1 Sec. 4. Section 368.7, subsection 2, Code 2001, is amended
4 2 to read as follows:

4 3 2. An application for annexation of territory not within
4 4 an urbanized area of a city other than the city to which the
4 5 annexation is directed must be approved by resolution of the
4 6 council which receives the application. In the discretion of
4 7 a city council, the resolution may include a provision for a
4 8 transition for the imposition of taxes as provided in section
4 9 368.11, subsection 13. The city council shall mail a copy of

4 10 the application by certified mail to the board of supervisors
4 11 of each county which contains a portion of the territory at
4 12 least fourteen days prior to any action taken by the city
4 13 council on the application. The council shall also publish
4 14 notice of the application in an official county newspaper in
4 15 each county which contains a portion of the territory at least
4 16 ten days prior to any action taken by the council on the
4 17 application. Upon receiving approval of the council, the city
4 18 clerk shall file a copy of the resolution, map, and legal
4 19 description of the territory involved with the secretary of
4 20 state, the county board of supervisors of each county which
4 21 contains a portion of the territory, each affected public
4 22 utility, and the state department of transportation. The city
4 23 clerk shall also record a copy of the legal description, map,
4 24 and resolution with the county recorder of each county which
4 25 contains a portion of the territory. The secretary of state
4 26 shall not accept and acknowledge a copy of a legal
4 27 description, map, and resolution of annexation which would
4 28 create an island. The annexation is completed upon
4 29 acknowledgment by the secretary of state that the secretary of
4 30 state has received the legal description, map, and resolution.

4 31 Sec. 5. Section [368.7](#), subsection 3, Code 2001, is amended
4 32 to read as follows:

4 33 3. An application for annexation of territory within an
4 34 urbanized area of a city other than the city to which the
4 35 annexation is directed must be approved both by resolution of
5 1 the council which receives the application and by the board.
5 2 The board shall not approve an application which creates an
5 3 island. Notice of the application shall be mailed by
5 4 certified mail, by the city to which the annexation is
5 5 directed, at least

~~ten~~

- fourteen days prior to any action by

5 6 the city council on the application to the council of each
5 7 city whose boundary adjoins the territory or is within two
5 8 miles of the territory, to the board of supervisors of each
5 9 county which contains a portion of the territory, each
5 10 affected public utility, and to the regional planning
5 11 authority of the territory. Notice of the application shall
5 12 be published in an official county newspaper in each county
5 13 which contains a portion of the territory at least ten days
5 14 prior to any action by the city council on the application.
5 15 In the discretion of a city council, the resolution may
5 16 include a provision for a transition for the imposition of
5 17 taxes as provided in section 368.11, subsection 13. The
5 18 annexation is completed when the board has filed and recorded
5 19 copies of applicable portions of the proceedings as required
5 20 by section 368.20, subsection 2.

5 21 Sec. 6. Section [368.11](#), unnumbered paragraph 4, Code 2001,
5 22 is amended to read as follows:

5 23 At least

~~ten~~

- thirty days before a petition for involuntary

5 24 annexation is filed as provided in this section, the
5 25 petitioner shall make its intention known by sending a letter
5 26 of intent by certified mail to the council of each city whose
5 27 urbanized area contains a portion of the territory, the board
5 28 of supervisors of each county which contains a portion of the
5 29 territory, the regional planning authority of the territory
5 30 involved, each affected public utility, and to each property
5 31 owner listed in the petition. The written notification shall
5 32 include notice that the petitioners shall hold a public
5 33 meeting on the petition for involuntary annexation prior to
5 34 the filing of the petition.

5 35 Sec. 7. Section [368.11](#), unnumbered paragraph 5, Code 2001,

6 1 is amended to read as follows:

6 2 Before a petition for involuntary annexation may be filed,
6 3 the petitioner shall hold a public meeting on the petition.
6 4 Notice of the meeting shall be published in an official county
6 5 newspaper in each county which contains a part of the
6 6 territory at least

~~five~~

- ~~ten~~ days before the date of the public

6 7 meeting. The mayor of the city proposing to annex the
6 8 territory, or that person's designee, shall serve as
6 9 chairperson of the public meeting. The city clerk of the same
6 10 city or the city clerk's designee shall record the proceedings
6 11 of the public meeting. Any person attending the meeting may
6 12 submit written comments and may be heard on the petition. The
6 13 minutes of the public meeting and all documents submitted at
6 14 the public meeting shall be forwarded to the board by the
6 15 chairperson of the meeting.

6 16 Sec. 8. APPLICABILITY. Section 1 of this Act applies to
6 17 adoption of resolutions proposing, extending, or repealing
6 18 moratorium agreements on or after the effective date of this
6 19 Act. The remainder of this Act applies to applications,
6 20 petitions, or plans filed for annexation of territory on or
6 21 after the effective date of this Act.

6 22 EXPLANATION

6 23 This bill makes changes to the law relating to annexation
6 24 of territory.

6 25 The bill amends Code section 368.4, relating to annexing
6 26 moratorium agreements, to require that notice of a hearing on
6 27 an agreement be served at least 30 days before the hearing.
6 28 Besides notice being served on the city development board, the
6 29 bill requires that notice also be served on the board of
6 30 supervisors of the county where the territory is located. The
6 31 bill provides that notice must be served by regular mail.
6 32 Notice must also be made by publication in an official county
6 33 newspaper in each county which contains any portion of the
6 34 territory that is the subject of the agreement. The county or
6 35 property owners may challenge the moratorium agreement by
7 1 filing a petition with the city development board. These
7 2 amendments apply to adoption of resolutions proposing,
7 3 extending, or repealing agreements on or after the effective
7 4 date of this bill.

7 5 Code section 368.7 is amended to provide that an
7 6 application for voluntary annexation that is not required to
7 7 have the consent of all landowners of the territory must be
7 8 approved by resolution of the city council after notice and
7 9 public hearing. The bill increases from 10 days to 14 days
7 10 the time period which must expire between the time a copy of
7 11 an application is mailed to each landowner and public utility
7 12 and the time at which the council may take action on the
7 13 application. The bill provides that the city must hold a
7 14 public hearing on the application and provide notice of the
7 15 hearing to the county board of supervisors, each landowner,
7 16 and each public utility in the territory to be annexed. The
7 17 city must also provide notice by publication at least 10 days
7 18 before any action by the city council on the application. The
7 19 bill provides that the city may assess the costs of providing
7 20 notice to the applicants.

7 21 Code section 368.7 is also amended, relating to annexation
7 22 applications involving territory within the urbanized area of
7 23 the annexing city and not within any other city's urbanized
7 24 area. The Code section is amended to provide that a copy of
7 25 the application for such annexations must be sent by certified
7 26 mail to the board of supervisors of the county at least 14
7 27 days prior to any action. The council is also required to
7 28 publish notice of the application at least 10 days prior to
7 29 any action taken by the council. Code section 368.7 is

7 30 amended to require that certain documents relating to all
7 31 voluntary annexations be filed with the county recorder.
7 32 The bill also amends Code section 368.7 to increase from 10
7 33 days to 14 days the time period that notice must be provided
7 34 before a city takes action to voluntarily annex territory
7 35 within the urbanized area of another city.
8 1 Code section 368.11 is amended to increase from 10 days to
8 2 30 days the time when notice of an involuntary petition must
8 3 be provided to interested parties. The Code section is also
8 4 amended to increase from five days to 10 days the date by
8 5 which publication notice must be made before a public meeting
8 6 on the petition.
8 7 Amendments in the bill relating to voluntary and
8 8 involuntary annexations apply to applications, petitions, or
8 9 plans for annexation filed on or after the effective date of
8 10 the bill.
8 11 LSB 3358SC 79
8 12 sc/cls/14