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HOUSE FILE NO. 1297

FIRST COMMITTEE ENGROSSMENT

March 5, 2009

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The bill was read for the first time and referred to the Committee on State and Local Government Operations Reform, Technology and Elections

Referred by Chair to Local Government Division.

March 16, 2009

Returned to the Committee on State and Local Government Operations Reform, Technology and Elections as Amended.

1.1 A bill for an act
1.2 relating to local government; amending the municipal boundary adjustment law;
1.3 amending Minnesota Statutes 2008, sections 414.011, by adding a subdivision;
1.4 414.033, subdivisions 2, 12; 414.036.

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

1.6 Section 1. Minnesota Statutes 2008, section 414.011, is amended by adding a
1.7 subdivision to read:

1.8 Subd. 13. Urban or suburban in character. "Urban or suburban in character"
1.9 means any area, property, or collection of properties where actual or planned residential
1.10 densities exceed on average one unit per two and one-half acres or any area where actual
1.11 or planned governmental, institutional, commercial, or industrial development exists,
1.12 excluding industrial development that is appropriate for rural settings such as those
1.13 connected with agricultural, forestry, mining, or energy production industries.

1.14 Sec. 2. Minnesota Statutes 2008, section 414.033, subdivision 2, is amended to read:

1.15 Subd. 2. **Conditions.** (a) A municipal council may by ordinance declare land
1.16 annexed to the municipality and any such land is deemed to be urban or suburban in
1.17 character or about to become so if:

- 1.18 (1) the land is owned by the municipality;
- 1.19 (2) the land is completely surrounded by land within the municipal limits;
- 1.20 (3) the land abuts the municipality and the area to be annexed is 120 acres or less,
1.21 and the area to be annexed is not presently served by public wastewater facilities or
1.22 public wastewater facilities are not otherwise available, and the municipality receives a
1.23 petition for annexation from all the property owners of the land. Except as provided for

2.1 by an orderly annexation agreement, this clause may not be used to annex any property
2.2 contiguous to any property previously annexed under this clause within the preceding 12
2.3 months if the property is owned by the same owners and annexation would cumulatively
2.4 exceed 120 acres; or

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

2.8 (b) A municipality also may annex by ordinance unincorporated territory that abuts
2.9 the municipality under the procedures in this paragraph.

2.10 (1) The municipality must adopt a resolution of consideration and file it with the
2.11 Office of Administrative Hearings, the clerk of the county where the property is located,
2.12 and the clerk of the affected township at least 90 days before the municipality may enact
2.13 an annexation ordinance. The resolution must include a statement of the municipality's
2.14 intent to annex under this paragraph and a legal description of the area to be annexed.

2.15 (2) After the adoption of the resolution of consideration the municipality must
2.16 update its comprehensive plan to include the area proposed for annexation and must
2.17 prepare a report detailing the urban characteristics of the area and a plan for the provision
2.18 of urban services. The report and service plan must include:

2.19 (i) a map showing the area proposed for annexation and its relation to current
2.20 municipal boundaries;

2.21 (ii) a description of the general physical land use pattern, current and proposed
2.22 land uses, current and proposed land use controls, service needs, projected growth,
2.23 environmental conditions, and current and future transportation needs within the proposed
2.24 annexation area;

2.25 (iii) plans for the provision of water and sewer services including a schedule of
2.26 when services would be extended to the annexation area;

2.27 (iv) a plan for the extension of public safety services such as police and fire
2.28 protection;

2.29 (v) a plan for the extension of other municipal services such as recreation, street
2.30 maintenance, and administration; and

2.31 (vi) an updated comprehensive plan that does not allow residential densities in the
2.32 annexation area that are less than what is already in effect for the existing residential
2.33 parts of the municipality.

2.34 (3) The updated comprehensive plan, report, and service plan must be completed at
2.35 least 30 days before a public hearing is held on the proposed annexation. Copies of the

3.1 plans must be sent to the Office of Administrative Hearings and the affected town, and
3.2 must also be made available at city hall for public inspection and copying.

3.3 (4) After the compilation of the report required under clause (2), the municipality
3.4 must fix a date for a public hearing on the question of annexation. The municipality
3.5 must publish notice in a newspaper of general circulation at least ten days before the
3.6 hearing. The municipality must also send a notice of the public hearing to the town clerk
3.7 of the affected township and to all property owners within and contiguous to the proposed
3.8 annexation area. Notice must be given to the town clerk of the affected township and the
3.9 property owners no later than 14 days before the public hearing.

3.10 (5) At the public hearing the municipality shall present its findings and
3.11 recommendations and hear public testimony on the question of annexation. All persons
3.12 appearing must have an opportunity to be heard at least once. The governing body of the
3.13 municipality also may accept written comments on the question of annexation at that time
3.14 and for ten days following the public hearing.

3.15 (6) After the public hearing and before enacting an annexation ordinance under this
3.16 paragraph, the governing body of the municipality must make the following findings:

3.17 (i) the proposed annexation area is contiguous to the municipality's boundaries;

3.18 (ii) the proposed annexation area is developed or is planned to be developed with
3.19 residential lots averaging two and one-half acres or less, or the area is or is planned to be
3.20 developed for commercial, industrial, governmental, or institutional uses; and

3.21 (iii) the municipality is capable of extending services in a manner consistent with the
3.22 municipality's service plan in a reasonable time.

3.23 (7) Upon making the findings required by clause (6), the municipality may enact the
3.24 annexation ordinance declaring the land to be annexed to the municipality.

3.25 Sec. 3. Minnesota Statutes 2008, section 414.033, subdivision 12, is amended to read:

3.26 Subd. 12. **Property taxes.** When a municipality annexes land under subdivision
3.27 2, paragraph (a), clause (2), (3), or (4), or paragraph (b), property taxes payable on the
3.28 annexed land shall continue to be paid to the affected town or towns for the year in which
3.29 the annexation becomes effective. If the annexation becomes effective on or before
3.30 August 1 of a levy year, the municipality may levy on the annexed area beginning with
3.31 that same levy year. If the annexation becomes effective after August 1 of a levy year, the
3.32 town may continue to levy on the annexed area for that levy year, and the municipality
3.33 may not levy on the annexed area until the following levy year.

4.1 Sec. 4. Minnesota Statutes 2008, section 414.036, is amended to read:

4.2 **414.036 CITY REIMBURSEMENT LIMITATION ON PAYMENTS TO**
4.3 **TOWN TO ANNEX TAXABLE PROPERTY.**

4.4 Subdivision 1. **Orderly annexation.** Unless otherwise agreed to by the annexing
4.5 municipality and the affected town; When an order or other approval under ~~this chapter~~
4.6 section 414.0325 annexes part of a town to a municipality, the order or other approval
4.7 must provide a reimbursement from the municipality to the town for all or part of the
4.8 taxable property annexed at the town tax rate at the time of annexation as part of the
4.9 order. The reimbursement shall be completed in substantially equal payments over not
4.10 less than two nor more than eight years from the time of annexation. The municipality
4.11 must reimburse the township for all special assessments assigned by the township to the
4.12 annexed property that are received by the municipality, and any portion of debt incurred
4.13 by the town prior to the annexation and attributable to the property to be annexed but
4.14 for which no special assessments are outstanding, provided the town makes a written
4.15 request and includes supporting documentation to the municipality within 60 days of the
4.16 order. Reimbursement for debt attributable to the annexed property must either be paid
4.17 by the municipality in substantially equal payments over a period of not less than two or
4.18 no more than eight years or upon the same terms as the debt was incurred by the town.
4.19 Reimbursement for special assessments must be paid to the town within 30 days of receipt
4.20 of assessment payments by the municipality from the county or property owner.

4.21 Subd. 2. **Annexation by ordinance.** When a municipality adopts an ordinance
4.22 under section 414.033 annexing part of a town to a municipality, the ordinance must
4.23 provide a reimbursement from the municipality to the town for the loss of taxes from the
4.24 property annexed for the period and in accordance with the following schedule:

4.25 (1) in the first levy year following the year when the annexing municipality could
4.26 first levy on the annexed area, the municipality must make a cash payment to the affected
4.27 town in an amount equal to 90 percent of the property taxes distributed to the town
4.28 in regard to the annexed area in the last year the property taxes from the annexed area
4.29 were payable to the town;

4.30 (2) in the second year, an amount equal to 80 percent;

4.31 (3) in the third year, an amount equal to 60 percent;

4.32 (4) in the fourth year, an amount equal to 40 percent; and

4.33 (5) in the fifth and final year, an amount equal to 20 percent.

4.34 Subd. 3. **Exclusive.** The reimbursements authorized in this section are the only
4.35 payments or consideration that can be made by a municipality to a town under this chapter.