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LOCAL GOVERNMENT ANNEXATION PROTOCOLS

House Bill 4527

Sponsor: Rep. Lauren Hager

House Bill 4528

Sponsor: Rep. Mike Pumford

House Bill 4529

Sponsor: Rep. Frank Accavitti

House Bill 4530

Sponsor: Rep. Ruth Ann Jamnick

House Bill 4531

Sponsor: Rep. Shelly Taub

House Bill 4532

Sponsor: Rep. Edward Gaffney

**Committee: Local Government and
Urban Policy**

Complete to 4-17-03

House Bills 4527-4532 (4-17-03)

A SUMMARY OF HOUSE BILLS 4527 - 4532 AS INTRODUCED 4-8-03

Under current law, specific procedures vary according to the type of local government unit that annexes or detaches territory and the type of local governmental unit whose territory is proposed for annexation or detachment. Local government units are legally organized under several different statutes. Cities may operate under a special charter, a fourth class cities charter, or a home rule charter. A village may be a home rule village or a general law village. Finally, there are two kinds of townships: general law townships and charter townships. The bills would increase uniformity in annexation procedures for the various types of local government units. House Bill 4530 is described in detail below. The other bills in the package would add similar provisions in the other acts. Note, however, that references to "townships" in all bills except for House Bill 4531 apply to general law townships, unless they specifically include or mention charter townships.

House Bill 4530 would amend the Home Rule Cities Act (MCL 117.9 et al.) to establish new procedures for annexing township territory with 100 or fewer residents and new procedures and conditions for detaching land from a city to a township. The bill would make other changes to the current law as specified below.

The Home Rule Cities Act states that, in general, a petition or resolution for annexation of territory by a city must be filed in the Lansing office of the State Boundary Commission. The act specifies three ways in which a resolution or petition to annex land may be submitted to the

commission: (1) by resolution of the legislative body of the city to which the area is proposed to be annexed; (2) by petition by the persons, firms, corporations, the United States government, or the state or any of its subdivisions that collectively hold equitable title under a recorded land contract or record title to 75 percent or more of the area land in the territory proposed for annexation; or (3) by petition by 20 percent of the registered electors who reside in the area proposed for annexation. Under current law, the commission considers the petition or resolution's validity, and holds a public hearing in or reasonably near the area proposed for annexation. The commission then approves, denies, or revises the petition. If the commission denies an annexation proposal, it sends a certified copy of its order to the clerk of each county, city, village, and township affected. If the commission approves the annexation and 100 or fewer people live in the territory, the commission's order is not subject to a referendum, and the annexation takes effect. If an annexation is approved and 100 or more people live in the territory, the commission's order becomes final 30 days after the date of the order, unless a referendum petition is filed containing the signatures of at least 25 percent of the registered electors in one or more of the three areas to be affected by the annexation: the portion of the territory approved for annexation, the annexing city, or the balance of the township. After verifying the validity of the referendum petition, the commission orders a referendum on the annexation in each area from which a valid petition is filed. If a valid petition is not filed within the 30 days, the annexation is effective on the date set in the order. The commission rejects a petition or resolution if any of the territory proposed to be annexed was included in any petition or resolution for annexation that was filed within the previous two years and was either denied by the commission or defeated in a referendum. Certain exceptions apply; see below.

Annexation of territory with 100 or fewer residents. Under the bill, a substantially new procedure would be established for the annexation of a territory with 100 or fewer residents to a city from a township. A city, property owner, or registered electors that intended to petition the State Boundary Commission for annexation of territory with 100 or fewer residents to a city from a township would have to provide written notice of that intent. The notice of intent would have to be sent by certified mail, return receipt requested, to the clerk of any city or township that would be affected by the proposed annexation and to the State Boundary Commission. The bill would specify that once a notice of intent to petition for annexation was filed with the commission, the commission would have to finally dispose of the petition before processing any other petitions dealing with all or any part of the same territory.

The city and township could negotiate an agreement concerning the annexation of the territory; possible agreements would include—but not be limited to—the following: an agreement not to contest the annexation petition before the State Boundary Commission; the sharing of tax revenues; the future land use of the territory; any other factors or terms that could be considered or provided for in a 425 agreement or in an interlocal agreement negotiated under the Urban Cooperation Act. If no agreement was reached within 45 days after receipt of the written notice of intent, a petition for annexation could be filed with the State Boundary Commission. On the same day as the petition was filed, the petitioner would have to send a copy of the petition by certified mail, return receipt requested, to the clerks of both the city and the township in which the territory was located. No later than ten days after the 45-day period following the receipt of the notice of intent, the city or township could file a claim in the circuit court asserting that the other party failed to negotiate in good faith. If the court found that the

city or township failed to negotiate in good faith, it could provide appropriate equitable relief, including, but not limited to, prohibiting the annexation for a period of up to two years or prohibiting a referendum on the annexation.

Within 30 days after the clerk of the township received the annexation petition, a petition for a township referendum on the proposed annexation, with signatures of at least 25 percent of the township's registered electors, could be filed with the county election commission. (Under current law, no referendum is allowed for city annexations of territory with 100 or fewer persons.) If a valid referendum petition was not filed within 30 days, the State Boundary Commission would proceed to process the annexation petition. However, if the county election commission certified that the referendum petition was legally valid, it would call a special election for the referendum to be held in the township within which the territory proposed for annexation was located. Although the county election commission could not schedule the referendum until 30 days after the referendum petition was filed, the governing body of the city could call for a referendum on the annexation to be held in the city on the same day as the township referendum. Up to 30 days after the referendum petition was filed, either the city or township's governing body could adopt a resolution to delay the scheduling of the referendum to allow more time for further negotiations between the city and township. In that case, the scheduling of the referendum would be delayed until 90 days after the date on which the referendum petition was certified.

The special election would be held between 60 and 90 days after the county election commission met to schedule the election, unless a primary or regular election, or a special election that had been called for another purpose, occurred in the same time period; in which case, the referendum would be submitted at the other election. Negotiations could continue after the commission scheduled the election, but if an agreement had not been reached 30 days before the date of the election, the referendum would be held, as ordered by the county election commission. The annexation would be allowed to occur only if a majority of the electors voting on the issue in the township and the city (if it held an election), voting separately, voted for the annexation. If the annexation was allowed to occur and the State Boundary Commission approved the annexation, it would send a certified copy of its order to the clerk of each county, city, and township affected and to the secretary of state. The annexation would be effective on a date set forth in the State Boundary Commission's order. The bill would specify that if a proposed annexation was defeated in such an election, the State Boundary Commission would reject any petition or resolution that contained any or all of the territory proposed for annexation that was filed within the next two years.

An annexation for which a petition was filed with the commission before the date that the bill was enacted into law would be exempt from these procedures. Moreover, if, before a petition for annexation was filed with the State Boundary Commission, the governing bodies of a city and township approved by resolution an agreement to annex, or not to contest the annexation of, township territory with 100 or fewer residents, the procedures above would not apply, and the petition could be filed for processing by the State Boundary Commission at any time.

Detachment. Procedures currently in place for detachment from a city would apply only in the case of detachment from a city to another city or village. Territory could be detached from

a city to a township only if the following conditions were met. The detachment would have to be approved by a majority vote of the qualified electors residing in each of the districts that would be affected by the proposed detachment: the territory to be detached, the remaining portion of the city, and the township to which the territory would be attached. The territory to be detached could not contain any city-owned real property, except for utilities and other facilities that were located within a public right-of-way. The territory to be detached could not have been annexed within the previous two years, calculated from the date that the most recent annexation of that territory—if any—was completed.

Annexation of adjacent, city-owned township land with no residents. Under current law, if a city owns township land that is adjacent to the city, consists of a park or a vacant property, and that has no residents, annexation may be accomplished by a resolution of the city council. The bill would specify that such a resolution would have to have been adopted by the city council before the effective date of the act for the current law to apply. However, the bill would add a more general provision covering annexation to a city of any territory that was located in a township, had no residents, and was adjacent to and owned by the city. Such land could be annexed by the affirmative majority votes of both the city council and the township board. If the territory would be used for a public purpose—i.e., if it would be exempt from the collection of taxes under the General Property Tax Act (MCL 211.1 et al.)—for a period of at least 8 years after the adoption of the resolution, the territory could be annexed by resolution of the city council alone. At any time during that eight-year period, the township could file a petition with the commission alleging that the territory was not being used for a public purpose. If the commission concurred, after a hearing on the petition, the commission would issue and enter in its records an order that the territory be reattached to the township from which it was annexed. (General procedures for annexing territory with 100 or fewer residents discussed above would not apply.)

Annexation from another city. The bill would clarify that, in general, a city could not attach territory from any other city unless the voters of the entire cities affected approved the annexation. Currently, the law states simply that the law *may not be construed* so as to give a city the authority to annex territory from another city without such a vote. The bill would also specify that such an election would have to be held in the case of an annexation of city territory approved by the commission, if more than 100 persons resided in the area proposed for annexation, regardless of whether a referendum petition was filed. (The bill would make no substantial changes to annexation procedures for areas with more than 100 persons.) The bill would also specify that if a proposed annexation of city land was defeated by voters, the commission would reject any petition or resolution for annexation of territory that included all or any part of the territory proposed in the defeated annexation for two years following the election.

Exemptions. The law currently exempts annexations of part of a township or village to a city that are approved by the commission from certain provisions dealing with the division of assets and liabilities, except in the event of outstanding bonds or other evidence of the township's or village's indebtedness. The bill would exempt any other annexation approved under the above procedures—e.g., annexations approved by resolution of the city council or by the affirmative majority votes of both the city council and the township board—from those provisions as well.

Territory containing township-owned real property. The bill would prohibit a city from annexing territory from a township if it contained any real property owned by the township other than utilities and other facilities that were located within a public right-of-way.

Incorporation as a city by a village. The bill would specify that a village's incorporation as a city would not be considered an annexation under the act.

House Bill 4532 would amend the General Law Village Act (MCL 74.6 and 74.6b) to give voters in villages and voters in territory proposed to be annexed to villages the opportunity to approve or reject annexation proposals. Currently, a village council may determine by resolution to alter the boundaries of a village. If it does so, the council must petition the county board of supervisors, which is authorized to make a judgment on the proposal after holding a public hearing during which persons living in the district to be affected are given the opportunity to express their views.

The bill would change all references to the "county board of supervisors" to the "county board of commissioners." The bill would still require that a hearing on an annexation or detachment proposal be held, and the board of commissioners would still be required to make a judgment on the proposal. If the board of commissioners rejected the proposal, it would retain the authority to enter an order to that effect and the boundaries of the village would stay the same. However, if the board of commissioners approved a proposed annexation, the bill would require that an election be held, in accordance with the procedure described above.

House Bill 4529 would amend the Home Rule Village Act (MCL 78.4 et al.) to establish new conditions and procedures for detachment of home rule village territory to a township. The bill would specify that territory could be detached from a village to a township only if conditions identical to those outlined above for detachments from a city to a township were satisfied. The bill would not change procedures for proposed incorporations or consolidations. One significant change would be made to annexation procedures: the bill would prohibit the board from approving a proposed annexation if the annexation was disapproved by the board or rejected by electors within two years before the date the petition was filed. Below is a summary of current procedures for incorporations, consolidations, and all boundary changes, which would continue to apply to proposed incorporations, consolidations, and annexations.

A proposed incorporation of new territory, consolidation, or change of boundary is stated on a petition and filed with the county clerk. If the board of supervisors certifies the petition as valid, the board resolves to submit the proposal to the qualified electors of "the district to be affected." The vote occurs at the next general election, if one is scheduled sometime between 60 and 90 days from the adoption of the resolution, or at a special election if no general election is scheduled in that time period. The voting procedure is rather complicated, involving separate votes for different regions within the "district to be affected." The "district to be affected" by an incorporation, consolidation, or change of boundaries includes the whole of each city, village, or township from which territory is to be taken or to which territory is to be annexed. The law states that, in general, the question is to be submitted to electors residing within territory proposed to be incorporated or to electors residing within the village to which territory is to be annexed, whichever the case may be. The question must also be submitted to the electors of

the city, village, or township, from which the territory to be taken is located. Votes from electors residing in the territory proposed to be incorporated, annexed, or detached must be kept separate from votes from electors residing in the territory that would remain in the city, village, or township from which land would be taken, if the annexation was accomplished. The proposal is accomplished if a majority of the votes in the district proposed to be incorporated or annexed are cast in favor of the proposal, and if a majority of the votes in the remainder of the district to be affected, counted collectively, are cast in favor of the of the proposal. Further, if there are no qualified electors residing within the territory proposed to be annexed or detached, and if a majority of electors voting in the remainder of the district to be affected vote in favor of the proposal, the annexation or detachment is accomplished. Finally, a new village can be incorporated from territory located in a township or townships if a majority of the voters residing within the territory proposed to be incorporated cast votes in favor of the proposal.

House Bill 4528 would amend the law establishing general law townships (1846 RS 16, MCL 41.104a) to bring procedures for annexation of any territory with 100 or fewer residents to a city or village from a general law township into conformity with the procedures that would be established by House Bills 4532, 4529, and 4530. The bill would also amend the general law township law to bring procedures for detachment of any territory from a city or village to a general law township into conformity with the procedures that would be established by those bills.

House Bill 4527 would amend the act that prescribes the powers and duties of the State Boundary Commission (MCL 123.1011b) to clarify that annexations of territory in a township that had 100 or fewer residents would be subject to the referendum and election process that would be established under House Bill 4530.

House Bill 4531 would amend the Charter Township Act (MCL 42.34) to establish new procedures for annexing charter township territory to a city or village and clarifies detachment procedures by references to changes that would be made by other bills. The act currently sets forth conditions under which a charter township is generally exempt from annexation. (Historically, protection from annexation is one reason why general law townships have converted to charter townships.) However, the law also sets forth several exceptions to this exemption. The bill would not change the conditions for exemption, but would make several changes to individual exceptions to the exemption and the procedures that would have to be followed for accomplishing an annexation. The new annexation procedures are similar to the procedures that House Bill 4530 would establish in the case of annexations of general law township territory with 100 or fewer residents. The following summary highlights deviations from that process and does not discuss exceptions to charter township's exemption from annexation that would not be changed by the bill.

Annexation by petition of 20 percent of registered electors and election. Under current law, a portion of a charter township contiguous to a city or village may be annexed to that city or village if 20 percent of the registered electors in the area to be annexed sign a petition and the annexation is approved in an election. A majority of the qualified and registered voters voting on the question in the city or village to which the portion is to be annexed and a majority in the portion of the township which is to be annexed would be required for approval.

The bill would add the following steps to the annexation process. A city, village, property owner, or registered elector that intended to petition for annexation territory to a city or village from a charter township would have to provide written notice of that intent, regardless of the number of residents of the territory. The written notice would have to be sent to the clerk of any city, village, or township that would be affected by the proposed annexation; the State Boundary Commission would not be involved in the process. If no agreement was reached within 45 days of receiving the notice of intent, a petition for annexation could be filed. The city, village, or township could file a claim within 10 days of the end of the 45-day negotiation period alleging that the other party did not negotiate in good faith. If the court concurred, it could, among other possible provisions of equitable relief, prohibit the annexation for a period of not more than two years or prohibit a referendum. If, within 30 days after the clerk of the charter township received the annexation petition, the county election commission certified as valid a referendum petition containing at least 25 percent of the registered electors in the affected township, it would approve a referendum for the township. The issue would be placed on the ballot at the same election in which the question was voted on by the voters in the annexing city or village and the voters in the portion of the township that would be annexed. The annexation would only be allowed to occur if approved by a majority of the electors voting on the issue in the annexing city or village, in the territory proposed for annexation, and in the balance of the township within which the territory proposed for annexation was located. If a valid petition was not filed, voters in the annexing city or village and the voters in the portion of the township to be annexed would still have to approve the annexation, as specified in current law. The bill would not change the current law's specifications for the timing of the referendum.

Detachment. The bill would specify that detachment of any territory from a city or village to a charter township would be subject to procedures set forth in House Bills 4532, 4529, and 4530.

State Boundary Commission annexations and annexations of contiguous portions of a township. Under current law the State Boundary Commission may order a portion or portions of a charter township to be annexed in two cases. First, the commission may order annexation to eliminate free-standing islands of the township that are completely surrounded by an annexing city. Second, the commission may order annexation to straighten or align the exterior boundaries of the city or village to ensure that the township and city or village have uniform straight boundaries wherever possible. The bill would specify that the annexation of territory with more than 100 residents that was ordered by the commission would be subject to the procedures outlined in the Home Rule City Act, as revised by House Bill 4530. The law also states that if a portion of a charter township is contiguous on all sides with a city or village, that portion may be annexed by the city or village with the approval of a majority of electors in that portion of the charter township. The bill would specify that only an annexation of a portion of a charter township that was contiguous on all sides with a city or village and that had more than 100 residents could be approved by a majority of the electors of that portion. For either an annexation of charter township territory ordered by the commission or an annexation of a contiguous portion of a charter township, if the territory had 100 or fewer residents, procedures set forth in House Bills 4532, 4529, or 4530 would apply, depending on the type of local government unit annexing the territory.

Annexations with support of 100 percent of qualified electors or owners of 50 percent of property. If the only qualified electors residing in the territory proposed to be annexed are the persons petitioning, or if a petition is signed by one or more persons, firms, corporations, the United States government, or the state or any of its subdivisions that collectively own more than one-half of the area of the land, a petition may be filed with the city or village and the township board. The annexation may be accomplished by the affirmative majority vote of the city council or village board and the approval of the charter township board. The bill would specify that the annexation could include an agreement as would be allowed by House Bill 4530, in the case of annexations of territory with 100 or fewer residents.

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.