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BILL ANALYSIS



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Senate Bills 379 through 382 (as passed by the Senate)
Senate Bill 383 (Substitute S-1 as passed by the Senate)
Senate Bill 384 (as passed by the Senate)
Sponsor: Senator Patricia L. Birkholz (S.B. 379)
Senator Laura M. Toy (S.B. 380)
Senator Alan Sanborn (S.B. 381)
Senator Jud Gilbert, II (S.B. 382)
Senator Raymond E. Basham (S.B. 383)
Senator Jim Barcia (S.B. 384)

Committee: Local, Urban and State Affairs

Date Completed: 7-29-03

RATIONALE

Procedures for the annexation and detachment of land are of concern to local units of government, which contain all of the territory in Michigan. 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, which contain provisions regarding annexation and detachment. 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. Although annexation can occur from one township to another, from one village to another, or from a village to a city,

the vast majority of proposed annexations involve the transfer of township property to a city or village. A city may annex land from a township by entering into an agreement with the township governing body. Often, however, agreements are not sought or reached and a city may attempt to annex township property without the township's consent. There are certain legal requirements the city must meet to complete the annexation, and a referendum must be held if a petition containing sufficient signatures is filed. The township's residents have no right to a referendum on the matter, however, if the territory proposed for annexation has 100 or fewer residents.

There have been numerous reports of successful or attempted annexations that have resulted in bitter feelings among community residents and expensive, time-consuming lawsuits. In recent years, especially in areas where a growing township adjoins a city whose population is dwindling, there have been successful detachments by a township of property that was formerly annexed by the city, again resulting in lawsuits and anger.

While many believe that annexation of nearby territory is necessary to allow cities to expand, others contend that cities have too much power throughout the annexation process. Some have complained that detachments are too easily accomplished. It has been suggested that the statutes that govern annexations and detachments be revised.

CONTENT

The bills would amend various statutes to do the following:

- Revise provisions regarding the annexation and detachment of city, village, township, or charter township territory.**
- 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 or village-owned territory in a township.**
- Require that certain conditions be met for the detachment of territory.**
- Provide for a referendum on the annexation of charter township territory by a city or village, and on the annexation of territory by a village.**

Senate Bills 379 through 382 and 384 are tied to each other and to Senate Bill 383.

Senate Bill 379

Overview

The bill would amend the Home Rule City Act to do the following:

- Provide for a referendum or a negotiated agreement on the annexation to a city from a township of any territory with 100 or fewer residents.
- Establish conditions for the detachment of territory from a city to a township.
- Establish methods for the annexation to a city of city-owned property located in a township.
- Provide that a village's incorporation as a city would not be an annexation under the Act.

Annexation: More Than 100 Residents

Section 9 of the Act governs the annexation of territory by a city. With certain exceptions, a petition or resolution for annexation must be filed with the State Boundary Commission. After determining the validity of the petition or resolution, the Commission must hold a public hearing in or near the area proposed for

annexation. The Commission must approve, deny, or revise the petition or resolution.

If the Commission approves the annexation and more than 100 people resided in the territory approved for annexation on the date the petition or resolution was filed, the Commission must send a copy of its order to the clerk of each county, city, village, and township affected and to the Secretary of State. The Commission's order will become final after 30 days unless, within that time, the Commission receives a petition signed by at least 25% of the electors residing in the territory proposed for annexation, the balance of the township, or the city. After verifying the validity of the petition, the Commission must order a referendum in each area from which a valid petition was filed. The annexation will take effect if a valid petition is not filed, or if the majority of the electors voting on the question in each area in which a referendum is held, voting separately, approve the annexation.

The bill would retain these provisions.

Annexation: 100 or Fewer Residents

Currently, if the State Boundary Commission approves an annexation, and if on the date the petition or resolution was filed 100 or fewer people resided in the area approved for annexation, the Commission's order is not subject to a referendum. The Commission must send a certified copy of its order to the clerk of each county, city, village, and township affected and to the Secretary of State. The annexation is effective on a date set forth in the Commission's order. The bill would delete these provisions. Instead, the annexation of territory with 100 or fewer residents, for which a petition was filed on or after the bill's effective date, would be subject to the procedures and conditions provided in Section 9c, proposed by the bill.

Under the bill, a city, property owner, or registered elector who intended to petition the 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 by certified mail, return receipt requested, to the clerk of any city or township that was affected by the proposal and to the Commission. The Commission would have to dispose of that petition before processing any other petitions that dealt with all or part of the same territory.

The city and township could negotiate an agreement concerning the annexation of the territory that included an agreement not to contest the annexation petition before the Commission, the sharing of tax revenues, the future land use of the territory, and any other factors or terms that might be considered or provided for in a contract negotiated under Public Act 425 of 1984 (which permits the conditional transfer of property by contract between local units of government), or in an interlocal agreement negotiated under the Urban Cooperation Act.

If no agreement had been reached between the city and the township 45 days after the receipt of a notice of intent to annex, a petition for annexation could be filed in the Lansing office of the Commission. On the day that the petition was filed, the petitioner would have to send a copy by certified mail, return receipt requested, to the clerks of both the city and the township. Within 10 days after the 45-day period expired, the city or the township could file a claim in the circuit court asserting that the other party did not participate in negotiations in good faith. If the court found that the city or township did not negotiate in good faith, it could provide appropriate equitable relief, including prohibiting the annexation for up to two years or prohibiting a referendum.

If, within 30 days after a township clerk received a petition for annexation, a petition for a referendum on the question of annexation signed by at least 25% of the registered electors in the affected township were filed with the county election commission, the county election commission would have to certify that the referendum petition met the requirements for petitions under the Michigan Election Law, and call a special election in the township within which the territory proposed for annexation was located. The governing body of the city also could schedule 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, the governing body of the city or township could adopt a resolution to delay the scheduling of the referendum in order to give the city and township time to continue negotiations concerning the annexation; the scheduling of the referendum then would be delayed until 90 days after the date on which the referendum petition was certified.

The county election commission could not meet to schedule the referendum until 30 days after the referendum petition was filed. The special election would have to 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 called for another purpose, occurred during that time. In that event, the referendum would have to be submitted at that primary, regular, or special election and an additional special election could not be called.

If the city and the township reached an agreement 30 days before the date of a scheduled election, the referendum could not be held. If no agreement were reached, the referendum would have to be held as ordered by the county election commission. The annexation could occur only if a majority of the electors voting on the issue in the township that contained the territory proposed for annexation, and in the city if it held an election, counted separately, voted for the annexation. If a majority of the electors voting on the issue in the township and in the city (if it held an election) voted for the annexation, and the State Boundary Commission approved the annexation, the Commission would have to 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 in the Commission's order.

If a petition for a referendum on the question of annexation were not filed with the county election commission, the State Boundary Commission would have to process the annexation petition under Section 9 of the Act.

If the governing bodies of a city and township approved by resolution an agreement to annex, or not to contest the annexation of, territory in the township before a petition for annexation was filed with the Commission, the proposed procedures for the annexation of township territory with 100 or fewer residents would not apply, and a petition for annexation could be filed at any time. If the township territory met current requirements in the Act regarding annexation of property adjacent to a city (and consisting of property owned by the city or consisting of fractional parts of platted subdivision lots), an annexation could proceed, as provided in the Act, by a vote of

the legislative bodies of the local units involved in the annexation.

Detachment

The Act sets forth conditions under which territory may be detached from a city. Under the bill, these conditions would apply to the detachment of territory from a city to another city or village.

The bill would add Section 9e to provide that territory could be detached from a city to a township only if all the following conditions were met:

- The territory to be detached did not contain any real property owned by the city, except for utilities and other facilities located within a public right-of-way.
- The territory to be detached was not annexed within the previous two years, calculated from the date that the most recent annexation of that territory, if any, was completed.
- The detachment was approved by a majority vote of the qualified electors, counted separately, in the territory proposed to be detached from the city, the remaining portion of the city, and the township.

Annexation of City-Owned Territory

Currently, where the territory proposed to be annexed to any city is adjacent to it, and consists of a park or vacant property located in a township and owned by the city, and there is no one residing there, the territory may be annexed to the city solely by resolution of the city council. The bill would delete this provision. Under the bill, if the territory proposed to be annexed to a city were located in a township, had no residents, and were adjacent to and owned by the city, the territory could be annexed by the affirmative majority votes of both the city council and the township board or, as described below, by the city council's adoption of a resolution.

If the city council adopted a resolution to annex the territory before the bill's effective date, and the territory consisted of park or vacant property, the territory could be annexed solely by a resolution of the council.

If the city council adopted a resolution to annex the territory on or after the bill's effective date, and the territory would be used for a public purpose for a period beginning with the adoption of the resolution and lasting at least eight years, the territory would be annexed by that resolution of the city council. Territory would be considered used for a public purpose if it were exempt from property taxes. The township could file a petition with the Commission at any time within the eight-year period, alleging that the property annexed was not being used for a public purpose. If the Commission found after a hearing on the petition that the property was not being used for a public purpose, the Commission would have to issue and enter in its records an order that the property be reattached to the township.

Senate Bill 380

The bill would add Section 5b to the Home Rule Village Act to provide that territory could be detached from a village to a township only if all the following conditions were met:

- The territory to be detached did not contain any real property owned by the village, except for utilities and other facilities located within a public right-of-way.
- The territory was not annexed within the previous two years.
- The detachment was approved by a majority vote of the qualified electors, counted separately, residing in the territory proposed to be detached, the remaining portion of the village, and the township.

Under the Act, a petition for incorporation, consolidation, or change of boundaries must be submitted to the county board of commissioners in the county that contains the territory to be affected. If it determines that the petition conforms to the Act, the commission must adopt a resolution providing for the question to be submitted to the voters of the affected district at the next general election, if it will occur at least 40 days but not more than 90 days after the resolution is adopted. (Otherwise, the resolution must set a date for a special election.) The bill would lengthen the 40 days to 60 days, requiring the question to be submitted at the next general election if it would take place between 60 and 90 days after the resolution was adopted.

The bill also provides that a county board of commissioners could not approve a proposed annexation if the proposal were disapproved by the board or rejected by the voters within two years before the date a petition was filed.

The bill also provides that a village's incorporation as a city would not be an annexation under the Act.

Senate Bill 381

The bill would amend Public Act 191 of 1968, which prescribes the powers and duties of the State Boundary Commission, to provide that a petition or resolution for annexation of territory in a township with 100 or fewer residents would be subject to the referendum and election process provided for in Section 9c of the Home Rule City Act (proposed by Senate Bill 379).

Senate Bill 382

The bill would amend Revised Statute 16 of 1846, which prescribes the powers and duties of general law townships, to establish conditions that would apply to the detachment of territory to a township, and the annexation of township territory with 100 or fewer residents from a township.

Under the bill, the annexation of any territory with 100 or fewer residents to a city or village from a township would be subject to the following:

- In the case of annexation to a city, Section 9c of the Home Rule City Act (proposed by Senate Bill 379).
- In the case of annexation to a general law village, Section 6b of the General Law Village Act (proposed by Senate Bill 383 (S-1)).
- In the case of annexation to a home rule village, Sections 4 and 5 of the Home Rule Village Act (which provide for the annexation of territory by a home rule village).

The bill provides that the detachment of any territory from a city or village to a township would be subject to the following:

- In the case of detachment from a city, Section 9e of the Home Rule City Act (proposed by Senate Bill 379).
- In the case of detachment from a general

law village, Section 6d of the General Law Village Act (proposed by Senate Bill 383 (S-1)).

- In the case of detachment from a home rule village, Section 5b of the Home Rule Village Act (proposed by Senate Bill 380).

Senate Bill 383 (S-1)

Overview

The bill would amend the General Law Village Act to do the following:

- Prescribe procedures for the annexation to a village of township territory with more than 100 residents, including a referendum on the matter if certain petition requirements were met.
- Set forth procedures for the annexation to a village of township territory with 100 or fewer residents, and provide for a referendum or negotiated agreement on the matter.
- Establish conditions for the detachment of territory from a village to a township.
- Establish procedures for a village to annex village-owned territory located in a township if the territory contained no real property owned by the township and had no residents.
- Provide that a village's incorporation as a city would not be an annexation under the Act.

Annexation: More than 100 Residents

Under the Act, if a village council petitions a county board of commissioners proposing to annex township territory, and the board approves the petition, the proposed annexation is allowed. The bill provides, instead, that if the county board of commissioners entered an order approving a petition, and on the date the petition or resolution was filed more than 100 people resided in the area approved for annexation, the board would have to send a certified copy of its order to the clerk of each county, village, and township affected and to the Secretary of State. The board's order would become final 30 days after the date of the order unless within that 30-day period a petition was filed with the county election commission. The petition would have to contain the signatures of at least 25% of the registered electors residing in the portion of the territory approved for annexation, in the annexing

village, or in the balance of the township. After verifying that the referendum petition met the requirements for petitions under the Michigan Election Law, the commission would have to order that a referendum on the question of annexation be held in each area from which a valid petition was filed. If a valid petition were not filed within 30 days or if the majority of the electorate voting on the question in each area in which a referendum was held, voting separately, approved the annexation, the annexation would be effective on a date set by order of the board; otherwise the annexation would not take effect.

A county board of commissioners could not approve a petition for annexation or detachment if the proposed annexation or detachment were disapproved by the board or rejected by the voters within two years before the date the petition was filed.

Annexation: 100 or Fewer Residents

The bill would add Section 6b to govern the annexation of territory with 100 or fewer residents from a township to a village, for which a petition was filed on or after the bill's effective date.

Under the bill, if a village, property owner, or registered elector intended to petition the county board of commissioners for annexation of territory with 100 or fewer residents to a village from a township, the village, property owner, or elector would have to provide written notice of that intent by certified mail, return receipt requested, to the clerk of any village or township affected by the proposal and to the county election commission.

The village and township could negotiate an agreement concerning the annexation of the territory that would include an agreement not to contest the annexation petition before the county board of commissioners, the sharing of tax revenues, the future land use of the territory, and any other factors or terms that might be considered or provided for in a contract negotiated under Public Act 425 of 1984 (which permits the conditional transfer of property by contract between local units of government), or in an interlocal agreement negotiated under the Urban Cooperation Act.

If no agreement had been reached between the village and the township 45 days after the

receipt of a notice of intent to annex, a petition for annexation could be filed with the county board of commissioners. On the same day that the petition was filed, the petitioner would have to send a copy by certified mail, return receipt requested, to the clerks of both the village and the township. Within 10 days after the 45-day period expired, the village or the township could file a claim in the circuit court, asserting that the other party did not participate in negotiations in good faith. If the court found that the village or township did not negotiate in good faith, it could provide appropriate equitable relief, including prohibiting the annexation for up to two years or prohibiting a referendum.

If, within 30 days after a township clerk received a petition for annexation, a petition for a referendum on the question of annexation containing the signatures of at least 25% of the registered electors in the affected township were filed with the county election commission, the commission would have to certify that the referendum petition met the requirements for petitions under the Michigan Election Law, and call a special election in the township. The governing body of the village also could schedule a referendum on the annexation, to be held in the village on the same day as the township referendum. Up to 30 days after the referendum petition was filed, the village or township governing body could adopt a resolution to delay the scheduling of the referendum in order to give the village and township time to continue negotiations concerning the annexation; the scheduling of the referendum then would be delayed until 90 days after the date on which the referendum petition was certified.

The county election commission could not meet to schedule the referendum until 30 days after the referendum petition was filed. The special election would have to 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 called for another purpose, occurred during that time. In that event, the referendum would have to be submitted at that primary, regular, or special election and an additional special election could not be called.

If the village and the township reached an agreement 30 days before the date of the

scheduled election, the referendum could not be held. If no agreement were reached, the referendum would have to be held as ordered by the county election commission. The annexation could occur only if a majority of the electors voting on the issue in the township containing the territory proposed for annexation, and in the village if it held an election, counted separately, voted for the annexation. If a majority of the electors voting on the issue in the township and in the village (if it held an election) voted for the annexation, and the county board of commissioners approved the annexation, the county board would have to send a certified copy of its order to the clerk of each county, village, and township affected and to the Secretary of State. The annexation would be effective on a date set in the board's order.

If a petition for a referendum on the question of annexation were not filed with the county election commission, the county board of commissioners would have to process the annexation petition under the provisions in the Act that govern annexation or detachment upon the resolution and petition of a village council.

If the governing bodies of a village and township approved by resolution an agreement to annex, or not to contest the annexation of, territory in the township before a petition for annexation were filed with the board of commissioners, the proposed procedures for the annexation of township territory with 100 or fewer residents would not apply, and a petition for annexation could be filed at any time.

Detachment

The bill would add Section 6d to provide that territory could be detached from a village to a township only if all the following conditions were met:

- The territory to be detached did not contain any real property owned by the village, except for utilities and other facilities located within a public right-of-way.
- The territory to be detached was not annexed within the previous two years, calculated from the date that the most recent annexation of that territory, if any, was completed.
- The detachment was approved by a majority vote of the qualified electors, counted separately, in the territory

proposed to be detached from the village, the remaining portion of the village, and the township.

Annexation of Village-Owned Property

Under the bill, notwithstanding the provisions of proposed Section 6b, if territory proposed to be annexed to a village were located in a township, had no residents, and were adjacent to and owned by the village, the territory could be annexed by the affirmative majority vote of both the village council and the township board. The territory also could be annexed by resolution of the village council if the territory would be used for a public purpose for at least eight years from the adoption of the resolution. Territory would be considered used for a public purpose if it were exempt from taxation under the General Property Tax Act. The township could file a petition with the county board of commissioners at any time within the eight-year period, alleging that the property was not being used for a public purpose. If the board found, after a hearing on the petition, that the property was not being used for a public purpose, it would have to issue and enter in its records an order that the property be reattached to the township.

Senate Bill 384

Overview

The bill would amend the Charter Township Act to revise procedures for the annexation of property to a city or village from a charter township. The bill also would provide for a referendum on the annexation of township territory to a city or village. The bill specifies that the annexation of any territory with 100 or fewer residents from a charter township, and the detachment of territory to a charter township, would be subject to procedures set forth in the Home Rule City Act, the Home Rule Village Act, and the General Law Village Act (as proposed by Senate Bills 379, 380, and 383 (S-1)).

Exemption from Annexation; Exceptions

Under the Act, a charter township that complies with specified standards is exempt from annexation to any contiguous city or village. The charter township must have a State equalized valuation of at least \$25 million; have a minimum population density of 150 people per square mile; provide fire and

police protection service; provide water and sewer services and solid waste disposal; and be governed by a comprehensive zoning ordinance or master plan. The Act makes certain exceptions to the exemption from annexation.

Currently, the State Boundary Commission may, under procedures initiated and conducted pursuant to the Home Rule City Act, order a portion or portions of a charter township to be annexed as necessary to eliminate freestanding islands of the charter township completely surrounded by an annexing city, or to straighten or align the exterior boundaries of the city or village so that the charter township and city or village contain uniform straight boundaries wherever possible. The bill specifies that annexation under these provisions, of any territory with more than 100 residents from a charter township to a city, would be subject to the requirements set forth in Section 9(5) of the Home Rule City Act. (Under Section 9(5), the Commission's approval of an annexation of territory with more than 100 residents is final unless a petition that contains the signatures of at least 25% of the registered electors in the territory approved for annexation, in the annexing city, or in the balance of the township, is filed. The Commission must order a referendum on the annexation in each area from which a valid petition is filed.)

Currently, a portion of a charter township that is contiguous on all sides with a city or village may be annexed by that city or village with the approval of a majority of the electors in that portion of the charter township. Under the bill, this would apply to a charter township with more than 100 residents.

Under the bill, if the territory to be annexed under either of the circumstances described above had 100 or fewer residents, the annexation would be subject to the following:

- In the case of annexation to a city, Section 9c of the Home Rule City Act (proposed by Senate Bill 379).
- In the case of annexation to a general law village, Section 6b of the General Law Village Act (proposed by Senate Bill 383 (S-1)).
- In the case of annexation to a home rule village, Sections 4 and 5 of the Home Rule Village Act.

Under conditions specified in the Act, a charter township board and the council or board of a city or village may vote to agree to an annexation. The bill provides that the agreement could include an agreement described in Section 9c(3) of the Home Rule City Act. (As proposed by Senate Bill 379, that section would allow a city and township to negotiate an annexation agreement that included an agreement not to contest the annexation petition before the Commission, the sharing of tax revenues, the future land use of the territory, and any other factors or terms that might be considered or provided for in a contract negotiated under Public Act 425 of 1984, or in an interlocal agreement negotiated under the Urban Cooperation Act.)

Annexation Referendum

The bill provides that a city, village, property owner, or registered elector who intended to petition for annexation of territory to a city or village from a township would have to provide written notice of that intent by certified mail, return receipt requested, to the clerk of any city, village, or township that was affected by the proposal.

The city or village and the township could negotiate an agreement concerning the annexation of the territory that included the sharing of tax revenues, the future land use of the territory, and any other factors or terms that might be considered or provided for in a contract negotiated under Public Act 425 of 1984, or in an interlocal agreement negotiated under the Urban Cooperation Act.

If no agreement had been reached between the city or village and the township 45 days after receipt of the notice of intent to annex, a petition for annexation of territory could be filed. On the same day that the petition was filed, the petitioner would have to send a copy by certified mail, return receipt requested, to the clerks of both the city or village and the township. Within 10 days after the 45-day period expired, the city or village or the township could file a claim in the circuit court, asserting that the other party did not participate in negotiations in good faith. If the court found that the city or village or the township did not negotiate in good faith, it could provide appropriate equitable relief, including prohibiting the annexation for up to two years or prohibiting a referendum.

If, within 30 days after a township clerk received a petition for annexation, a petition for a referendum on the question of annexation that was signed by at least 25% of the registered electors in the affected township were filed with the county election commission, the county election commission would have to certify that the referendum petition met the requirements for petitions under the Michigan Election Law, and place the issue on the ballot at the same election at which the question of the proposed annexation was presented, as provided in the Act. If an agreement were reached 30 days before the date of an election, the referendum would have to be held as provided in Section 34(5) of the Charter Township Act. (Section 34(5) provides that a portion of a charter township contiguous to a city or village may be annexed to the city or village upon the filing with the county clerk of a petition signed by 20% of the registered electors in the area to be annexed and approval by a majority of the electors voting on the question in the city or village to which the portion is to be annexed, and the portion of the township that is to be annexed.)

If a petition containing sufficient valid signatures for a referendum on the annexation question were not filed with the county election commission, the election would have to take place as provided in Section 34(5).

If a petition containing sufficient valid signatures for a referendum were filed with the county election commission, the annexation could occur only if 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, voted for the annexation.

Detachment

The bill provides that detachment of any territory from a city or village to a charter township would be subject to the following:

- In the case of detachment from a city, Section 9e of the Home Rule City Act (proposed by Senate Bill 379).
- In the case of detachment from a general law village, Section 6d of the General Law Village Act (proposed by Senate Bill 383 (S-1)).
- In the case of detachment from a home

rule village, Section 5b of the Home Rule Village Act (proposed by Senate Bill 380).

- MCL 117.9 et al. (S.B. 379)
- 78.4 et al. (S.B. 380)
- 123.1011b (S.B. 381)
- Proposed MCL 41.104a (S.B. 382)
- MCL 74.6 et al. (S.B. 383)
- 42.34 (S.B. 384)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

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 100 or fewer residents. Recently, some townships have initiated successful detachment efforts and reclaimed previously annexed territory.

The bills propose new requirements for annexation and detachment proceedings that would strongly encourage local units to negotiate and cooperate with each other when annexation or detachment issues arose. In particular, if a city or village proposed to annex township territory that had 100 or fewer residents, the local units would have 45 days to negotiate before a petition for annexation could be filed with the State Boundary Commission, and a petition for a referendum could be filed within the following 30 days. The county election commission could not meet to schedule the referendum

until 30 days after the petition was filed, and the soonest a vote could take place would be 60 days later. Meanwhile the parties could continue to negotiate, and a scheduled referendum could be delayed for 90 days to allow further negotiations. If a party did not negotiate in good faith, the issue could be taken to the circuit court. If, in the end, there were no agreement, the voters of the local units, and the voters in the territory proposed for annexation, would have an opportunity to settle the matter.

Further, the bills would place limits on the ability of townships to detach territory from cities or villages. A township could not reclaim territory that contained any city- or village-owned property (except utilities or other facilities in a public right-of-way), and the detachment would have to be approved by the voters in the territory, the balance of the city or village, and the township.

Response: While it is important to encourage local units to cooperate and negotiate, the bills would foster inefficiency. The current annexation process is complicated and time consuming. In cases that reach the State Boundary Commission, it may take a year for the Commission to rule, and then its ruling may be subject to judicial review. The bills would add to this process time required for negotiation, and possible review by the circuit court if one of the local units felt that the other had not negotiated in "good faith" (which is not defined). This could cause significant, costly delays in the annexation process. As a result, developers could scrap proposed housing projects that were contingent upon an annexation of vacant land.

Supporting Argument

Current annexation procedures favor cities and developers, especially if the territory to be annexed has 100 or fewer residents. If a developer who owns vacant or sparsely populated 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), there is little the township can do to prevent the annexation. 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 101 residents. The bills would give townships and their residents an opportunity to vote on unwanted or contentious annexations.

Opposing Argument

The bills would require a referendum on all proposed annexations, other than those in which an agreement was reached, if petitions containing sufficient signatures were filed. Although a vote already may be required for a city to annex township territory that has over 100 residents, the bill would extend this to vacant or nearly vacant land, and would enact the same referendum provisions for annexations by villages. Once put on the ballot, approval of an annexation would require a favorable vote in the township at large, the township territory to be annexed, and the city or village (if it called an election), counted separately. As a result, the township would have veto power over annexation proposals. This would eliminate annexation as a viable opportunity for a city or village to grow, and allow townships to put an invisible wall around their boundaries. The ability of cities and villages to expand in an orderly fashion is important for growth and economic development in the State's communities. If they are unable to expand, municipalities will deteriorate and residents will move out, leaving pockets of blight and poverty.

Response: The bills would not end all annexations. What they would do is establish parity between cities and townships. It is possible that the bills could result in fewer annexations, but they also could cause more earnest negotiations to take place among communities. Saying that township residents would have veto power presumes that proponents of an annexation proposal would have little or no ability to persuade voters to think favorably toward the proposal. If a proposed annexation would be advantageous for the majority, then proponents should have little trouble convincing the voters to approve it.

Further, the claim that cities would never be able to expand is unfounded. Under the bills, a city that wanted to expand would have to make an honest effort to negotiate a deal that would have positive results for both the city and the township. Under the current situation, under several circumstances, a city can simply take what it wants, leaving a township with a reduced tax base, higher

taxes for the remaining residents, and less control over the quality of its community.

Opposing Argument

The bills would lead to increased sprawl, and contribute to the movement of the population away from urban cities. By severely limiting the ability of cities to expand by annexation, and allowing townships to block annexation attempts, the bills would cause a duplication of housing and water and sewer infrastructure in local units, and thus lead to inefficiencies in government services. Further, property values in cities would remain stagnant or decline, while property values in outlying areas increased. Although sprawl, population fluctuations, and changes in property values all occur under the current statutes, the bills would exacerbate the problem.

Opposing Argument

The current annexation procedures are in place for a reason. Cities that wish to expand often attempt to negotiate amicable annexations. These negotiations can be disrupted by a few disgruntled residents in either a city or a township or both. Formal annexation procedures are used as a last resort, as a way for a city to accomplish its goals and expand in a reasonable manner.

Response: Under current annexation procedures, there is no requirement for a city to negotiate, and a township might discover that a city wants part of its territory only when the city files an annexation petition. This means that, sometimes, the filing of an annexation petition is the first step, not the last. The bills would prevent this type of "stealth" annexation.

Opposing Argument

The bills would impose upon the property rights of developers and individuals. Developers who own township land and wish to develop it, or individual property owners with land adjacent to a city, may wish to become a part of that city to take advantage of water, sewer, and other municipal services. Current procedures make annexation a viable option. The bills would construct nearly insurmountable barriers to a successful annexation.

Response: The bills would protect the rights of township residents. Township denizens are often astounded to find that the property they own and/or live on is about to become part of a nearby city, that their taxes will increase, and that they will have no say in

the matter. At the very least, individuals should have an opportunity to petition for a vote on where they are going to live. The bills would extend that opportunity to all township residents.

Legislative Analyst: George Towne

FISCAL IMPACT

To the extent that the bills would reduce the rate of annexations or amount of property annexed, the bills would minimally slow the rate at which revenues may increase for local units that annex, and minimally slow any revenue losses for local units that lose property under an annexation. It is expected that the net effect would negligibly slow the rate of growth in local unit revenues. To the extent that tax changes under annexations affect property tax credits, the bills should negligibly reduce the rate of growth in property tax refunds. Similar effects would result to the extent that the bills would increase the rate of detachments.

This estimate is preliminary and will be revised as new information becomes available.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.