



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB4676

by Rep. Bill Mitchell

#### SYNOPSIS AS INTRODUCED:

65 ILCS 5/7-1-2	from Ch. 24, par. 7-1-2
65 ILCS 5/7-1-4	from Ch. 24, par. 7-1-4
65 ILCS 5/7-1-7	from Ch. 24, par. 7-1-7
65 ILCS 5/7-1-8	from Ch. 24, par. 7-1-8
65 ILCS 5/7-1-11	from Ch. 24, par. 7-1-11
65 ILCS 5/7-1-12	from Ch. 24, par. 7-1-12

Amends the Illinois Municipal Code. In provisions concerning the annexation of contiguous territory, requires a 60% vote (now, a majority) of the owners of record of land in the territory to be annexed and 60% (now, a majority) of the electors, if any, residing in the territory to petition the circuit court for annexation. Requires that at least 60% (now, a majority) of the electors residing in the unincorporated territory cast ballots in favor of annexation for the territory to become a part of the annexing municipality. Sets forth public hearing and notice requirements for the annexation of contiguous territory with no electors. Effective immediately.

LRB096 15233 RLJ 30308 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Municipal Code is amended by  
5 changing Sections 7-1-2, 7-1-4, 7-1-7, 7-1-8, 7-1-11, and  
6 7-1-12 as follows:

7 (65 ILCS 5/7-1-2) (from Ch. 24, par. 7-1-2)

8 Sec. 7-1-2. (a) A written petition signed by at least 60% ~~a~~  
9 ~~majority~~ of the owners of record of land in the territory and  
10 also by at least 60% ~~a majority~~ of the electors, if any,  
11 residing in the territory shall be filed with the circuit court  
12 clerk of the county in which the territory is located, or the  
13 corporate authorities of a municipality may initiate the  
14 proceedings by enacting an ordinance expressing their desire to  
15 annex the described territory. A person owning land underlying  
16 a highway shall not be considered an owner of record for  
17 purposes of this petition unless that person owns some land not  
18 underlying a highway proposed to be annexed in the petition for  
19 annexation. No tract of land in excess of 10 acres in area may  
20 be included in the ordinances of a municipality initiating the  
21 proceedings, however, without the express consent of the owner  
22 of the tract unless the tract (i) is subdivided into lots or  
23 blocks or (ii) is bounded on at least 3 sides by lands

1 subdivided into lots or blocks. A tract of land shall be deemed  
2 so bounded if it is actually separated from the subdivision  
3 only by the right-of-way of a railroad or other public utility  
4 or at a public highway. The petition or ordinance, as the case  
5 may be, shall request the annexation of the territory to a  
6 specified municipality and also shall request that the circuit  
7 court of the specified county submit the question of the  
8 annexation to the corporate authorities of the annexing  
9 municipality or to the electors of the unincorporated  
10 territory, as the case may be. The circuit court shall enter an  
11 order fixing the time for the hearing upon the petition, and  
12 the day for the hearing shall be not less than 20 nor more than  
13 30 days after the filing of the petition or ordinance, as the  
14 case may be.

15 (b) The petitioners or corporate authorities, as the case  
16 may be, shall give notice of the annexation petition or  
17 ordinance, as the case may be, not more than 30 nor less than  
18 15 days before the date fixed for the hearing. This notice  
19 shall state that a petition for annexation or ordinance, as the  
20 case may be, has been filed and shall give the substance of the  
21 petition, including a description of the territory to be  
22 annexed, the name of the annexing municipality, and the date  
23 fixed for the hearing. This notice shall be given by publishing  
24 a notice at least once in one or more newspapers published in  
25 the annexing municipality or, if no newspaper is published in  
26 the annexing municipality, in one or more newspapers with a

1 general circulation within the annexing municipality and  
2 territory. A copy of this notice shall be filed with the clerk  
3 of the annexing municipality and the municipal clerk shall  
4 send, by registered mail, an additional copy to the highway  
5 commissioner of each road district within which the territory  
6 proposed to be annexed is situated. If a municipal clerk fails  
7 to send the notice to a highway commissioner as required by  
8 this subsection, the municipality shall reimburse the road  
9 district served by that highway commissioner for any loss or  
10 liability caused by that failure.

11 (c) The petitioners or corporate authorities, as the case  
12 may be, shall pay to the clerk of the circuit court \$10 as a  
13 filing and service fee, and no petition or ordinance, as the  
14 case may be, shall be filed until this fee is paid.

15 (d) No petitioner may withdraw from this petition except by  
16 consent of the majority of the other petitioners, or where it  
17 is shown to the satisfaction of the court that the signature of  
18 the petitioner was obtained by fraud or misrepresentation.

19 (e) If a State charitable institution is situated upon a  
20 tract or tracts of land that lie partly within and partly  
21 without the corporate limits of any municipality, the corporate  
22 authorities of the municipality may by resolution without any  
23 petition or proceedings required by this Article but with the  
24 written consent of the Director of the State Department having  
25 jurisdiction of the institution, annex any part or all of the  
26 tracts lying without the corporate limits.

1 (f) If real estate owned by the State of Illinois or any  
2 board, agency, or commission of the State is situated in  
3 unincorporated territory adjacent to a municipality, the  
4 corporate authorities of the municipality may annex any part or  
5 all of the real estate only with the written consent of the  
6 Governor or the governing authority of the board, agency, or  
7 commission, without any petition or proceedings required by  
8 this Article by resolution of the corporate authorities. This  
9 requirement does not apply, however, to State highways located  
10 within territory to be annexed under this Article.

11 (Source: P.A. 87-533; 88-355.)

12 (65 ILCS 5/7-1-4) (from Ch. 24, par. 7-1-4)

13 Sec. 7-1-4. The cause shall be heard without further  
14 pleadings. At the hearing the objector may be heard in person  
15 or by counsel.

16 Prior to hearing evidence on the validity of the annexation  
17 petition or ordinance, the court shall hear and determine any  
18 objection under sub-paragraph (4) of Section 7-1-3. If the  
19 court is satisfied that such objection is valid, it shall order  
20 the petition or ordinance to be amended to eliminate such  
21 objector's land from the territory sought to be annexed.  
22 Thereafter upon this hearing the only matter for determination  
23 shall be the validity of the annexation petition or ordinance,  
24 as the case may be, and the decision of the court shall be  
25 final. All petitions shall be supported by an affidavit of one

1 or more of the petitioners, or some one on their behalf, that  
2 the signatures on the petition represent at least 60% ~~a~~  
3 ~~majority~~ of the property owners of record of land in the  
4 territory described and at least 60% ~~a majority~~ of the electors  
5 of the territory therein described. Petitions so verified shall  
6 be accepted as prima facie evidence of such facts. If the court  
7 finds that (1) the annexation petition is not signed by the  
8 requisite number of electors or property owners of record; or  
9 (2) that the described property is not contiguous to the  
10 annexing municipality; or (3) that the description is  
11 materially defective; or (4) that the petition or ordinance, as  
12 the case may be, is otherwise invalid, the court shall dismiss  
13 the petition or ordinance, as the case may be.

14 But if the court finds that the petition or ordinance, as  
15 the case may be, is valid, the court shall (1) enter an order  
16 describing the territory to be annexed, (2) find that the  
17 petition or ordinance, as the case may be, conforms to this  
18 Article, and (3) direct that the question of annexation be  
19 submitted to the corporate authorities of the annexing  
20 municipality or to the electors of the unincorporated  
21 territory, as the case may be, for final action. A certified  
22 copy of the order of the court directing that the question of  
23 annexation be submitted to the corporate authorities shall be  
24 sent to the clerk of the annexing municipality.

25 Appeals shall lie from any final order of the court as in  
26 other civil actions.

1 (Source: P.A. 81-448.)

2 (65 ILCS 5/7-1-7) (from Ch. 24, par. 7-1-7)

3 Sec. 7-1-7. (a) If the court finds that an annexation  
4 ordinance is valid, the court shall enter an order directing  
5 the submission of the question of annexation of the  
6 unincorporated territory to the electors of that territory at  
7 an election in accordance with the general election law and  
8 directing the clerk of the annexing municipality to send, by  
9 registered mail, a notice of the date of the prospective  
10 referendum to the highway commissioner of each road district  
11 within which the territory proposed to be annexed is situated.  
12 The clerk of the circuit court shall certify the question for  
13 submission.

14 (b) If at least 60% ~~a majority~~ of those casting ballots  
15 favor annexation, the described territory shall, except as  
16 otherwise provided in Section 7-1-1, thereupon be a part of the  
17 annexing municipality. Within 15 days after the referendum, the  
18 clerk of the annexing municipality shall promptly send written  
19 notice of the results of the referendum by registered mail to  
20 the highway commissioner of each road district within which the  
21 territory is situated.

22 (c) If a municipal clerk fails to send any notice to a  
23 highway commissioner as required by this Section, the  
24 municipality shall reimburse the road district served by that  
25 highway commissioner for any loss or liability caused by that

1 failure.

2 (Source: P.A. 87-533; 88-355.)

3 (65 ILCS 5/7-1-8) (from Ch. 24, par. 7-1-8)

4 Sec. 7-1-8. Any territory which is not within the corporate  
5 limits of any municipality but which is contiguous to a  
6 municipality at the time of annexation and which territory has  
7 no electors residing therein, or any such territory with  
8 electors residing therein, may be annexed to the municipality  
9 in the following manner: a written petition signed by the  
10 owners of record of all land within such territory and by at  
11 least 60% ~~51%~~ of the electors residing therein shall be filed  
12 with the municipal clerk. The petition shall request annexation  
13 and shall state that no electors reside therein or that at  
14 least 60% ~~51%~~ of such electors residing therein join in the  
15 petition, whichever shall be the case, and shall be under oath.  
16 The corporate authorities of the municipality shall conduct a  
17 public hearing at least 30 days prior to its adoption of an  
18 annexation ordinance. Notice of the public hearing must be  
19 given not more than 30 nor less than 20 days before the public  
20 hearing. This notice shall state that a petition for annexation  
21 has been filed and shall give the substance of the petition,  
22 including a description of the territory to be annexed, the  
23 name of the annexing municipality, and the date fixed for the  
24 hearing. Notice shall be given by publication in one or more  
25 newspapers published in the annexing municipality or, if no



1 newspaper is published in the annexing municipality, in one or  
2 more newspapers with a general circulation within the annexing  
3 municipality and territory. The corporate authorities of the  
4 municipality to which annexation is sought shall then consider  
5 the question of the annexation of the described territory. A  
6 majority vote of the corporate authorities then holding office  
7 is required to annex. The vote shall be by "yeas" and "nays"  
8 entered on the legislative records. A copy of the ordinance  
9 annexing the territory together with an accurate map of the  
10 annexed territory shall be recorded with the recorder and filed  
11 with the County Clerk within the county wherever the annexed  
12 territory is located.

13 (Source: P.A. 83-358.)

14 (65 ILCS 5/7-1-11) (from Ch. 24, par. 7-1-11)

15 Sec. 7-1-11. The following is an optional method of  
16 annexing any territory which, (1) is not less than one square  
17 mile in area; (2) contains at least 500 inhabitants; (3) is not  
18 included within any municipality; and (4) is contiguous to a  
19 municipality having not more than 100,000 inhabitants. Such  
20 territory may be annexed to a municipality of the specified  
21 sort as follows:

22 A petition, signed by not less than 100 of the electors of  
23 the territory sought to be annexed and by the owners of record  
24 of more than 60% ~~50%~~ of such territory, shall be filed with the  
25 circuit court for the county in which the territory is

1 situated. The petition shall request that the question of  
2 annexation of the territory described therein be submitted to  
3 the electors of the territory.

4 No tract of land in excess of 10 acres in area shall be  
5 included in the annexation petition without the express consent  
6 of the owner thereof unless the tract is

7 (1) subdivided into lots or blocks; or

8 (2) bounded on at least 3 sides by lands subdivided into  
9 lots or blocks.

10 The owner of record of land comprising any part of the  
11 perimeter of the territory sought to be annexed may apply to  
12 the court for the exclusion of his or her land from the  
13 territory described in such petition. The court shall grant  
14 such application if the exclusion of such land will not destroy  
15 the contiguity of the land sought to be annexed with the  
16 annexing municipality.

17 After considering any such application, the court shall  
18 order the question submitted within the territory at an  
19 election in accordance with the general election law. The clerk  
20 of the circuit court shall certify the question to the proper  
21 election authority for submission. The result of the election  
22 shall be entered of record in the court. If at least 60% ~~a~~  
23 ~~majority~~ of the votes cast on the question favor annexation,  
24 the court shall then give notice thereof to the corporate  
25 authorities of the proposed annexing municipality. The  
26 corporate authorities shall then vote on the question of such

1 annexation and if a majority of their membership, by a vote  
2 recorded in the minutes, vote in favor of the annexation, an  
3 ordinance shall be passed annexing the territory. The clerk of  
4 the annexing municipality shall certify and file a copy of the  
5 annexation ordinance with a map showing the boundary lines of  
6 the territory annexed, with the recorder of the county in which  
7 the municipality is located and a document of annexation shall  
8 be filed with the county clerk and County Election Authority.

9 If the question of such annexation does not receive the  
10 requisite majority vote of the corporate authorities, the  
11 municipal clerk shall certify the question at an election in  
12 accordance with the general election law.

13 If at least 60% ~~a majority~~ of the persons voting upon the  
14 question vote for annexation, the described territory is  
15 annexed to the annexing municipality. The clerk of the annexing  
16 municipality shall certify and file a statement of the  
17 annexation proceeding with a map showing the boundary lines of  
18 the territory annexed, as provided in this Section ~~section~~.

19 If a majority of persons voting on the question vote  
20 against annexation, no further proceedings shall be had on the  
21 question for at least 22 months from the date of such election.

22 (Source: P.A. 83-1362.)

23 (65 ILCS 5/7-1-12) (from Ch. 24, par. 7-1-12)

24 Sec. 7-1-12. Upon a written petition which is signed by at  
25 least 60% ~~a majority~~ of the owners of record of land in any

1 contiguous unincorporated territory wholly bounded by 2 or more  
2 municipalities and after the notice required by this Section  
3 has been given, the specified territory may be annexed by any  
4 one of the specified municipalities by the passage of an  
5 ordinance providing therefor. The corporate authorities of the  
6 annexing municipality shall cause notice of the filing of such  
7 petition to be published once, in a newspaper of general  
8 circulation within the territory to be annexed, not less than  
9 10 days before the passage of the annexation ordinance. When  
10 the territory to be annexed lies wholly or partially within a  
11 township other than that township where the municipality is  
12 situated, the annexing municipality shall give at least 10 days  
13 prior written notice of the time and place of the passage of  
14 the annexation ordinance to the township supervisor of the  
15 township where the territory to be annexed lies. The ordinance  
16 shall describe the territory annexed, which may not exceed 1/3  
17 the area of the annexing municipality before the annexation. A  
18 copy of the annexing ordinance and an accurate map of the  
19 annexed territory shall be recorded by the recorder of the  
20 county wherein the annexed territory is situated and a document  
21 of annexation shall be filed with the county clerk and County  
22 Election Authority.

23 (Source: P.A. 86-769.)

24 Section 99. Effective date. This Act takes effect upon  
25 becoming law.