



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB5188

Introduced 2/8/2012, by Rep. Rita Mayfield

#### 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.

LRB097 19372 KMW 64625 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. Any notice required by this  
11 Section need not include a metes and bounds legal description  
12 of the territory to be annexed, provided that the notice  
13 includes: (i) the common street address or addresses and (ii)  
14 the property index number ("PIN") or numbers of all the parcels  
15 of real property contained in the territory to be annexed.

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

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

24 (e) If a State charitable institution is situated upon a  
25 tract or tracts of land that lie partly within and partly  
26 without the corporate limits of any municipality, the corporate

1 authorities of the municipality may by resolution without any  
2 petition or proceedings required by this Article but with the  
3 written consent of the Director of the State Department having  
4 jurisdiction of the institution, annex any part or all of the  
5 tracts lying without the corporate limits.

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

16 (Source: P.A. 97-336, eff. 8-12-11.)

17 (65 ILCS 5/7-1-4) (from Ch. 24, par. 7-1-4)

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

21 Prior to hearing evidence on the validity of the annexation  
22 petition or ordinance, the court shall hear and determine any  
23 objection under sub-paragraph (4) of Section 7-1-3. If the  
24 court is satisfied that such objection is valid, it shall order  
25 the petition or ordinance to be amended to eliminate such

1 objector's land from the territory sought to be annexed.  
2 Thereafter upon this hearing the only matter for determination  
3 shall be the validity of the annexation petition or ordinance,  
4 as the case may be, and the decision of the court shall be  
5 final. All petitions shall be supported by an affidavit of one  
6 or more of the petitioners, or some one on their behalf, that  
7 the signatures on the petition represent at least 60% ~~a~~  
8 ~~majority~~ of the property owners of record of land in the  
9 territory described and at least 60% ~~a majority~~ of the electors  
10 of the territory therein described. Petitions so verified shall  
11 be accepted as prima facie evidence of such facts. If the court  
12 finds that (1) the annexation petition is not signed by the  
13 requisite number of electors or property owners of record; or  
14 (2) that the described property is not contiguous to the  
15 annexing municipality; or (3) that the description is  
16 materially defective; or (4) that the petition or ordinance, as  
17 the case may be, is otherwise invalid, the court shall dismiss  
18 the petition or ordinance, as the case may be.

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

1 copy of the order of the court directing that the question of  
2 annexation be submitted to the corporate authorities shall be  
3 sent to the clerk of the annexing municipality.

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

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

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

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

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

1 territory is situated.

2 (c) If a municipal clerk fails to send any notice to a  
3 highway commissioner as required by this Section, the  
4 municipality shall reimburse the road district served by that  
5 highway commissioner for any loss or liability caused by that  
6 failure.

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

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

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



1 has been filed and shall give the substance of the petition,  
2 including a description of the territory to be annexed, the  
3 name of the annexing municipality, and the date fixed for the  
4 hearing. Notice shall be given by publication in one or more  
5 newspapers published in the annexing municipality or, if no  
6 newspaper is published in the annexing municipality, in one or  
7 more newspapers with a general circulation within the annexing  
8 municipality and territory. The corporate authorities of the  
9 municipality to which annexation is sought shall then consider  
10 the question of the annexation of the described territory. A  
11 majority vote of the corporate authorities then holding office  
12 is required to annex. The vote shall be by "yeas" and "nays"  
13 entered on the legislative records. A copy of the ordinance  
14 annexing the territory together with an accurate map of the  
15 annexed territory shall be recorded with the recorder and filed  
16 with the County Clerk within the county wherever the annexed  
17 territory is located.

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

19 (65 ILCS 5/7-1-11) (from Ch. 24, par. 7-1-11)

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

1 sort as follows:

2 A petition, signed by not less than 100 of the electors of  
3 the territory sought to be annexed and by the owners of record  
4 of more than 60% ~~50%~~ of such territory, shall be filed with the  
5 circuit court for the county in which the territory is  
6 situated. The petition shall request that the question of  
7 annexation of the territory described therein be submitted to  
8 the electors of the territory.

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

12 (1) subdivided into lots or blocks; or

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

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

22 After considering any such application, the court shall  
23 order the question submitted within the territory at an  
24 election in accordance with the general election law. The clerk  
25 of the circuit court shall certify the question to the proper  
26 election authority for submission. The result of the election

1 shall be entered of record in the court. If at least 60% ~~a~~  
2 ~~majority~~ of the votes cast on the question favor annexation,  
3 the court shall then give notice thereof to the corporate  
4 authorities of the proposed annexing municipality. The  
5 corporate authorities shall then vote on the question of such  
6 annexation and if a majority of their membership, by a vote  
7 recorded in the minutes, vote in favor of the annexation, an  
8 ordinance shall be passed annexing the territory. The clerk of  
9 the annexing municipality shall certify and file a copy of the  
10 annexation ordinance with a map showing the boundary lines of  
11 the territory annexed, with the recorder of the county in which  
12 the municipality is located and a document of annexation shall  
13 be filed with the county clerk and County Election Authority.

14 If the question of such annexation does not receive the  
15 requisite majority vote of the corporate authorities, the  
16 municipal clerk shall certify the question at an election in  
17 accordance with the general election law.

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

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

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

2 (65 ILCS 5/7-1-12) (from Ch. 24, par. 7-1-12)

3 Sec. 7-1-12. Upon a written petition which is signed by at  
4 least 60% ~~a majority~~ of the owners of record of land in any  
5 contiguous unincorporated territory wholly bounded by 2 or more  
6 municipalities and after the notice required by this Section  
7 has been given, the specified territory may be annexed by any  
8 one of the specified municipalities by the passage of an  
9 ordinance providing therefor. The corporate authorities of the  
10 annexing municipality shall cause notice of the filing of such  
11 petition to be published once, in a newspaper of general  
12 circulation within the territory to be annexed, not less than  
13 10 days before the passage of the annexation ordinance. When  
14 the territory to be annexed lies wholly or partially within a  
15 township other than that township where the municipality is  
16 situated, the annexing municipality shall give at least 10 days  
17 prior written notice of the time and place of the passage of  
18 the annexation ordinance to the township supervisor of the  
19 township where the territory to be annexed lies. The ordinance  
20 shall describe the territory annexed, which may not exceed 1/3  
21 the area of the annexing municipality before the annexation. A  
22 copy of the annexing ordinance and an accurate map of the  
23 annexed territory shall be recorded by the recorder of the  
24 county wherein the annexed territory is situated and a document  
25 of annexation shall be filed with the county clerk and County

1 Election Authority.

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

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.