

Legislative Analysis



CHARTER TOWNSHIPS OVER 20,000: CANNOT BE ANNEXED; CANNOT DETACH

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House Bill 6071 as introduced
Sponsor: Rep. Marc Corriveau

House Bill 6072 (Substitute H-1)
Sponsor: Rep. Mark Meadows

Committee: Intergovernmental and Regional Affairs

First Analysis (5-11-10)

BRIEF SUMMARY: The bills would exempt townships having more than 20,000 people and offering a full range of services from both annexing and detaching territory.

FISCAL IMPACT: There would be no direct state fiscal impact, and because any potential annexations/detachments that might be prevented cannot be identified, the fiscal impact on the affected local units is indeterminate. However, as written the bills should not significantly affect the total amount of local revenue.

THE APPARENT PROBLEM:

The Charter Township Act provides protection for a charter township from annexation by a contiguous city or village if the township existed prior to June 15, 1978, or if it was incorporated after that date and meets certain specified criteria. Those criteria include: (1) has a state equalized valuation of at least \$25 million; (2) has a minimum population density of 150 persons per square mile; (3) provides fire protection services; (4) is governed by a comprehensive zoning ordinance or master plan; (5) provides solid waste disposal services to township residents; (6) provides water and/or sewer services; and (7) provides police protection.

There are 37 charter townships in Michigan that meet these criteria. Generally, townships of this size function very much like cities—they are densely populated, built-up areas that provide a wide range of public services. Consequently, the customary justification used by residents or property developers seeking annexation to a city—that is, to obtain public services not available from the township—does not apply in these cases in the way that it would in rural townships.

Nonetheless, developers in townships have petitioned cities to annex the land in charter townships that they intend to develop. For example, according to committee testimony, in 2008 in Northville Township (located in Wayne County), an annexation was used by a developer as a way to obtain greater influence over land use decision-making. There, the developer of a 414-acre plot of land in the township had the option of supporting an effort to annex the land to the neighboring city of Livonia, rather than to continue negotiations

with township planners about needed infrastructure improvements necessary to support his development project. The annexation effort resulted in a conflict between neighboring communities, and ultimately stalled the development of the land.

In addition, citizens living in a city have, on occasion, petitioned to detach their property from the city, and attach it to the neighboring charter township. For example, a movement to detach several neighborhoods divided the City of East Lansing (located in Ingham County) in 1993 when a small minority of citizens--angry about a new (and soon overturned) one dollar per bag waste disposal fee--led an attempt to detach nearly one-quarter of the city's tax base and 5,500 of its citizens, in order to join with Meridian Charter Township.

Legislation has been introduced that would exempt charter townships from annexations to cities, and cities from detachments to charter townships.

THE CONTENT OF THE BILLS:

The bills would exempt townships having more than 20,000 people and offering a full range of services from both annexing and detaching territory. House Bill 6072 (H-1) is tie-barred to House Bill 6071, meaning that it could not go into effect unless House Bill 6071 also is enacted into law. A more complete explanation of each bill follows.

House Bill 6071 would amend the Charter Township Act (MCL 42.34) to provide that, beginning on the bill's effective date, a charter township that has a population of more than 20,000, and meets certain other requirements would be exempt from annexation and could not detach territory. The bill would apply to any annexation or detachment pending on or initiated after its effective date.

Under the act, a charter township that meets the following criteria is exempt from annexation to any contiguous city or village, except as otherwise provided:

- Has a state equalized valuation of at least \$25 million.
- Has a population density of at least 150 people per square mile.
- Provides fire protection service by contract or otherwise.
- Is governed by a comprehensive zoning ordinance or master plan.
- Provides solid waste disposal services to township residents.
- Provides water and/or sewer services by contract or otherwise.
- Provides police protection through contract with the sheriff in addition to normal sheriff patrol, through an intergovernmental contract, or through its own police department.

The act specifies several procedures by which a portion of a charter township may be annexed by a city or village, regardless of this exemption.

Under the bill, a charter township with a population of more than 20,000 that met all of the criteria listed above would be exempt from annexation and could not detach territory.

The township would not be subject to the provisions under which a portion of a charter township may be annexed despite the current exemption.

The bill also would amend the criteria to refer to solid waste disposal services or recycling services.

House Bill 6072 (H-1) would amend the Home Rule City Act (MCL 117.9b) to specify that no territory could be detached from a city to a charter township with a population of more than 20,000 that met all of the requirements of Section 34(1)(a) through (g) of the Charter Township Act.

BACKGROUND INFORMATION:

Substantially similar bills--House Bill 5779 and 5859--passed the House of Representatives on March 19, 2008 during the last session, by a vote of 100 to 9. The bills were referred to the Senate Committee on Government Operations and Reform where they died at the end of the two-year legislative session.

ARGUMENTS:

For:

Currently under the Charter Township law, there are exceptions to the protection from annexation. One exception allows the State Boundary Commission to order portions of a charter township to be annexed to eliminate free standing islands of the township completely surrounded by an annexing city. Another exception allows a vote on annexation, if a petition is filed with the county clerk signed by 20 percent of the registered voters in a portion of the township requesting annexation.

Proponents of these bills say that this latter exception has proven problematic. It would allow, for example, a property developer frustrated by zoning or planning standards in a township to move a handful of residents onto its property with the intention of having those residents petition for annexation. This could provoke an annexation election that would involve the voters of the adjoining city and the voters in the portion of the township proposed for annexation, but not the voters of the entire township. Thus, a developer could force the annexation of property from a township to avoid meeting the zoning and planning standards of the township, standards that township residents consider essential to maintaining the character of the community.

There are charges that such actions have been taken in recent annexation attempts that have grown out of a dispute between Northville Township and the firm that sought to redevelop the 400-acre site of the former state psychiatric hospital that it purchased from the state. This kind of behavior exploits a "loophole" in violation of the intent of current law and is destructive to the cause of intergovernmental cooperation, say proponents of the bills. House Bills 6071 and 6072 would provide charter townships over 20,000 in population providing extensive services with immunity from annexation and, at the same

time, would prevent the township from detaching property from a contiguous city. This would close the current "loophole" in the act.

Against:

Historically, opponents of these bills have argued that the legislation is, in general, anti-development and anti-jobs because it would, in 37 charter townships in the state, remove from developers the option of annexation when faced with an uncooperative and intransigent charter township government. Annexation has traditionally been used to address the problem of the unavailability of infrastructure or where townships cannot or will not provide services to a new development. Charter townships, for example, do not build, upgrade, or maintain roads--a county function in townships. Township land use planners could, then, require developers to pay the full cost of upgrades to the road system, and impose similar cost-prohibitive requirements on development projects.

POSITIONS:

The Michigan Townships Association supports the bills. (5-11-10)

Canton Township supports the bills. (5-11-10)

Northville Township supports House Bill 6071. (5-11-10)

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