

40A: 7-12, 40A: 7-12.1

LEGISLATIVE HISTORY CHECKLIST

(Annexation--provides procedures for municipalities)

NJSA 40A:7-12, 40A:7-12.1

LAWS 1982 CHAPTER 182

Bill No. A398

Sponsor(s) Smith and Kavanaugh

Date Introduced Pre-filed

Committee: Assembly Municipal Government
Senate County and Municipal Government

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly June 17, 1982
Senate Oct. 18,

Date of approval Nov. 22, 1982

Following statements are attached if available:

Sponsor statement	Yes	No
Committee Statement: Assembly	Yes	No
Senate	Yes	No
Fiscal Note	Yes	No
Veto Message	Yes	No
Message on signing	Yes ^{Yes}	No
Following were printed:		
Reports	Yes	No
Hearings	Yes	No

6/22/81

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 398

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION

By Assemblymen SMITH and KAVANAUGH

AN ACT concerning annexation of land to another municipality,
amending N. J. S. 40A:7-12 and supplementing chapter 7 of
Title 40A of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 40A:7-12 is amended to read as follows:

2 40A:7-12. Annexation; petition and contents. Land in one munici-
3 pality may be annexed to another municipality to which said land is
4 contiguous. To effect such annexation, a petition in writing shall be
5 presented to the [goverinng] *governing* body of the municipal-
6 ity to which such annexation is sought to be made, specifically set-
7 ting forth the boundaries of such land, signed by at least 60% of
8 the legal voters residing thereon. If the land is vacant, the petition
9 may be signed by the person or persons owning at least 60% of
10 said land as shown by the assessor's duplicate for the preceding
11 year. The petition shall be duly verified by one of the signers, and
12 shall have attached thereto the oath of an assessor of the munici-
13 pality in which said land is located, or of some other person having
14 access to the assessor's books, setting forth the assessed value of
15 the real estate contained within the boundaries for the preceding
16 year, and the amount of real estate assessed to any of the persons
17 whose names are signed to such petition. The petition shall also
18 have attached thereto a certified copy of a resolution **adopted by*
19 *two-thirds of the full membership** of the governing body of the
20 municipality in which said land is located, consenting to said an-
21A nexation.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly amendments adopted May 20, 1982.

21 *Prior to action on a resolution to consent to or to deny the petition*
22 *for annexation, the governing body of the municipality in which the*
23 *land is located shall ~~*[immediately upon]*~~ *within 14 days of the**
24 *receipt of the petition refer the petition to its planning board which*
25 *shall, within 15 days of its receipt, report to the governing body on*
26 *the impact of the annexation upon the municipality. Action on a*
27 *resolution to consent to or deny the annexation shall be taken within*
28 *30 days of receipt of the planning board's report.*

1 2. (New section) In any judicial review of the refusal of the
2 governing body of the municipality in which the land is located or
3 the governing body of the municipality to which annexation is
4 sought to consent to the annexation, the petitioners have the burden
5 of establishing that the refusal to consent to the petition was
6 arbitrary or unreasonable, that refusal to consent to the annexa-
7 tion is detrimental to the economic and social well-being of a
8 majority of the residents of the affected land, and that the annexa-
9 tion will not cause a significant injury to the well-being of the
10 municipality in which the land is located.

1 3. This act shall take effect immediately.

ASSEMBLY, No. 398

STATE OF NEW JERSEY

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AN ACT concerning annexation of land to another municipality,
amending N. J. S. 40A:7-12 and supplementing chapter 7 of
Title 40A of the New Jersey Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 40A:7-12 is amended to read as follows:

2 40A:7-12. Annexation; petition and contents. Land in one munici-
3 pality may be annexed to another municipality to which said land is
4 contiguous. To effect such annexation, a petition in writing shall be
5 presented to the **[goverinng]** *governing* body of the municipal-
6 ity to which such annexation is sought to be made, specifically set-
7 ting forth the boundaries of such land, signed by at least 60% of
8 the legal voters residing thereon. If the land is vacant, the petition
9 may be signed by the person or persons owning at least 60% of
10 said land as shown by the assessor's duplicate for the preceding
11 year. The petition shall be duly verified by one of the signers, and
12 shall have attached thereto the oath of an assessor of the munici-
13 pality in which said land is located, or of some other person having
14 access to the assessor's books, setting forth the assessed value of
15 the real estate contained within the boundaries for the preceding
16 year, and the amount of real estate assessed to any of the persons
17 whose names are signed to such petition. The petition shall also
18 have attached thereto a certified copy of a resolution of the govern-
19 ing body of the municipality in which said land is located, con-
20 senting to said annexation.

21 *Prior to action on a resolution to consent to or to deny the petition*
22 *for annexation, the governing body of the municipality in which the*
23 *land is located shall immediately upon receipt of the petition*
24 *refer the petition to its planning board which shall, within 45 days*
25 *of its receipt, report to the governing body on the impact of the*
26 *annexation upon the municipality. Action on a resolution to consent*

EXPLANATION—Matter enclosed in bold-faced brackets **[thus]** in the above bill
is not enacted and is intended to be omitted in the law.

27 to or to deny the annexation shall be taken within 30 days of receipt
27A of the planning board's report.

1 2. (New section) In any judicial review of the refusal of the
2 governing body of the municipality in which the land is located or
3 the governing body of the municipality to which annexation is
4 sought to consent to the annexation, the petitioners have the burden
5 of establishing that the refusal to consent to the petition was
6 arbitrary or unreasonable, that refusal to consent to the annexa-
7 tion is detrimental to the economic and social well-being of a
8 majority of the residents of the affected land, and that the annexa-
9 tion will not cause a significant injury to the well-being of the
10 municipality in which the land is located.

1 3. This act shall take effect immediately.

STATEMENT

This bill amends procedures whereby one municipality annexes land from a contiguous municipality. The law currently provides that at least 60% of the voters residing in any area which is proposed for annexation must petition for annexation approval to the governing body of the municipality to which annexation is sought. The petition must include a copy of a resolution from the governing body of the municipality in which the land is located, consenting to the transfer. This bill requires (in section 1) that prior to action on the resolution, the governing body of the municipality in which the land is located shall refer the petition to its planning board which shall, within 45 days, report on the impact of the annexation upon the municipality. Within 30 days of receipt of the planning board's report, the governing body shall take action on the resolution. The intent of this amendment is to prevent the municipal governing body from thwarting annexation without cause or justification. This amendment is in accord with *West Point Island Civic Association v. Dover Township*, 93 N. J. 206, affirmed 54 N. J. 339.

Section 2 stipulates that in any judicial review of the refusal of the governing body to consent to annexation, the petitioner shall have the burden of proof to establish that the denial was arbitrary or unreasonable. The intent here is to prevent frivolous appeals and legal challenges which are costly to the municipality.

The burden of proof will be on the petitioner only after the governing body has come to a decision pursuant to section 1.

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 398

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 20, 1982

Assembly Bill No. 398 amends N. J. S. 40A:7-2 in order to establish certain procedures the governing body of the municipality in which the land is currently located must follow before adopting a resolution on a petition for annexation.

Under the provisions of the bill, the governing body of the municipality is required to refer any petition for annexation to its planning board. The planning board is required to report back to the governing body on the impact of the proposed annexation within 45 days. Upon receiving the report of the planning board, the governing body of the municipality has 30 days within which it must adopt either a resolution consenting to the proposed annexation or a resolution denying the proposed annexation.

Assembly Bill No. 398 also supplements chapter 7 of Title 40A of the New Jersey Statutes to stipulate that in any judicial review of a refusal by the governing body to consent to a petition of annexation, the petitioner shall have the burden of proof to establish that the denial was arbitrary or unreasonable.

The committee, at the sponsor's request, amended the bill to provide that the governing body of the municipality in which the land is located refer any petition for annexation it receives to the local planning board within 14 days.

The committee, also at the sponsor's request amended the bill to provide that a resolution consenting to an annexation must be adopted by two-thirds of the full membership of the governing body.

SENATE COUNTY AND MUNICIPAL GOVERNMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 398

STATE OF NEW JERSEY

DATED: SEPTEMBER 16, 1982

Assembly Bill No. 398 amends N. J. S. 40A:7-12 in order to establish certain procedures to be followed by the governing body of a municipality before adopting a resolution on a petition requesting annexation of land to another municipality.

Under the provisions of the bill, the governing body of the municipality is required to refer any petition for annexation to its planning board. The planning board is required to report back to the governing body on the impact of the proposed annexation within 45 days. Upon receiving the report of the planning board, the governing body of the municipality has 30 days within which it must adopt either a resolution consenting to the proposed annexation or a resolution denying the proposed annexation.

Assembly Bill No. 398 also supplements chapter 7 of Title 40A of the New Jersey Statutes to stipulate that in any judicial review of a refusal by the governing body to consent to a petition of annexation, the petitioner shall have the burden of proof to establish that the denial was arbitrary or unreasonable. This section is intended to avoid the burdensome legal costs a municipality might incur if the burden of proof were upon the municipality.

The Assembly committee, at the sponsor's request, amended the bill to provide that the governing body of the municipality in which the land is located refer any petition for annexation to its planning board within 14 days.

The Assembly committee, also at the sponsor's request, amended the bill to provide that a resolution consenting to an annexation must be adopted by two-thirds of the full membership of the governing body.

OFFICE OF THE GOVERNOR

RELEASE: IMMEDIATELY

CONTACT: PAUL WOLCOTT

NOVEMBER 22, 1982

Governor Thomas H. Kean today signed the following bills:

S-1557, sponsored by Senator Gerald Cardinale, (R-Bergen), which abolishes the position of Chief Examiner and Secretary within the Department of Civil Service, and creates the position of Deputy Commissioner. The bill is intended to eliminate overlapping and conflicting authority between the President of the Civil Service Commission and the Chief Examiner and Secretary. The bill requires that the newly created position of Deputy Commissioner be filled by someone qualified by training and personnel management experience. The position is to be filled from the classified civil service.

A-398, sponsored by Assemblyman Elliot F. Smith, (R-Somerset), which amends the laws pertaining to the municipal annexation of land. The bill requires that a petition of annexation be referred to the planning board of the municipality which would lose land under the annexation proposal. In a judicial review of a municipality's refusal to consent to annexation, the burden of proof would now fall on the petitioners rather than the municipality. Finally, the bill requires a two-thirds vote of the governing body to consent to annexation.

SJR-32 (identical to AJR 62), sponsored by Senator Frank E. Rodgers, (D-Hudson), which extends from September 15, 1982 to October 15, 1982, the reporting date for the Local Expenditure Limitations Technical Review Commission.

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