

House Bill 57

In The House

January 6, 1981	Introduced and referred to Committee on Local Government.
	On motion by Chief Sponsor Representatives Brown and Fabrega were added as authors to the pre-filed bill.
February 12, 1981	Committee recommend bill do pass as amended.
February 13, 1981	Bill printed and placed on members' desks.
February 16, 1981	Motion pass consideration until 39th Legislative day.
February 18, 1981	Motion pass consideration until 41st Legislative day.
February 21, 1981	Second reading do pass as amended.
February 23, 1981	Considered correctly engrossed.
February 24, 1981	Third reading passed.

In The Senate

March 2, 1981	Introduced and referred to Committee on Local Government.
March 30, 1981	Committee recommend bill not concurred.

In The House

March 31, 1981	Returned from Senate not concurred.
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1 HOUSE BILL NO. 57

2 INTRODUCED BY AZZARA

3 BY REQUEST OF THE STUDY COMMITTEE ON ANNEXATION LAWS

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE CERTAIN
6 RESTRICTIONS ON THE ANNEXATION OF WHOLLY SURROUNDED LAND; TO
7 PROHIBIT STRIP ANNEXATION; AMENDING SECTIONS 7-2-4301,
8 7-2-4401, 7-2-4503, 7-2-4504, AND 7-2-4734, MCA."

9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 7-2-4301, MCA, is amended to read:
12 "7-2-4301. What constitutes contiguous lands ==
13 prohibition against strip annexation. (1) Tracts or parcels
14 of land proposed to be annexed to a city or town under the
15 provisions of this part shall be deemed contiguous to such
16 city or town even though such tracts or parcels of land may
17 be separated from such city or town by the lateral section
18 of a street or other roadway, irrigation ditch, drainage
19 ditch, stream, river, or a strip of unplatte~~d~~ land too
20 narrow or too small to be platted.

21 (2) A city or town may annex only those areas that can
22 be reasonably assumed to be used for orderly development of
23 the city or town; the city or town may not annex these areas
24 if they will be connected to the city or town only by a
25 strip of land less than 20 feet wide or by a strip of land

1 containing only land within the right-of-way of a public
2 highway or street considered longitudinally."

3 Section 2. Section 7-2-4401, MCA, is amended to read:
4 "7-2-4401. What constitutes contiguous land for purpose
5 of part == prohibition against strip annexation. (1) The
6 land proposed to be annexed to a municipality under the
7 provisions of this part shall be deemed contiguous to such
8 municipality even though such land may be separated from
9 such municipality by the lateral section of a street or
10 other roadway, a sidewalk, a public way of any kind, an
11 irrigation ditch or drainage ditch, or some other strip too
12 small for the erection of houses.

13 (2) A municipality may annex only those areas that can
14 be reasonably assumed to be used for orderly development of
15 the municipality; the municipality may not annex these areas
16 if they will be connected to the municipality only by a
17 strip of land less than 20 feet wide or by a strip of land
18 containing only land within the right-of-way of a public
19 highway or street considered longitudinally."

20 Section 3. Section 7-2-4503, MCA, is amended to read:
21 "7-2-4503. Restrictions on annexation power. Land shall
22 not be annexed under this part whenever the land is used
23 for bona fide agricultural--mining--smelting--
24 refining--transportation--or--any--industrial--or--manufacturing
25 purposes--or

1 {27--for-the-purpose-of-maintaining-or-operating-a--golf
 2 or--country--club--an--athletic--field--or--aircraft--tanding
 3 field--a--cemetery--or--a--place--for--public--or--private--outdoor
 4 entertainment--or--any--purpose--incident--thereto purposes."}

5 Section 4. Section 7-2-4504, MCA, is amended to read:
 6 "7-2-4504. What constitutes contiguous lands =
 7 prohibition against strip annexation. (1) Tracts or parcels
 8 of land proposed to be annexed to a city or town under the
 9 provisions of this part shall be deemed contiguous to such
 10 city or town even though such tracts or parcels of land may
 11 be separated from such city or town by the lateral section
 12 of a street or other roadway, irrigation ditch, drainage
 13 ditch, stream, river, or a strip of unplatteed land too
 14 narrow or too small to be platted.

15 (2) A city or town may annex only those areas that can
 16 be reasonably assumed to be used for orderly development of
 17 the city or town; the city or town may not annex these areas
 18 if they will be connected to the city or town only by a
 19 strip of land less than 20 feet wide or by a strip of land
 20 containing only land within the right-of-way of a public
 21 highway or street considered longitudinally."

22 Section 5. Section 7-2-4734, MCA, is amended to read:
 23 "7-2-4734. Standards to be met before annexation can
 24 occur. A municipal governing body may extend the municipal
 25 corporate limits to include any area which meets the

1 Following standards:

2 (1) It must be contiguous to the municipality's
 3 boundaries at the time the annexation proceeding is begun.
 4 (2) The annexation of the area must be reasonably
 5 assumed to be used for orderly development of the
 6 municipality; the municipality may not annex an area if it
 7 will be connected to the municipality only by a strip of
 8 land less than 20 feet wide or by a strip of land containing
 9 only land within the right-of-way of a public highway or
 10 street.

11 {27131} No part of the area may be included within the
 12 boundary of another incorporated municipality.

13 {37141} It must be included within and the proposed
 14 annexation must conform to a comprehensive plan as
 15 prescribed in Title 76, chapter 1.

16 {47151} No part of the area may be included within the
 17 boundary, as existing at the inception of such attempted
 18 annexation, of any fire district organized under any of the
 19 provisions of part 21, chapter 33, if the fire district was
 20 originally organized at least 10 years prior to the
 21 inception of such attempted annexation. However, a
 22 single-ownership piece of land may be transferred from a
 23 fire district to a municipality by annexation as provided in
 24 7-33-2127."

-End-

Approved by Comm.
on Local Government

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 7-2-4301, MCA, is amended to read:

12 ~~"7-2-4301. What constitutes contiguous lands --~~

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14 ~~of land proposed to be annexed to a city or town under the~~

15 ~~provisions of this part shall be deemed contiguous to such~~

16 ~~city or town even though such tracts or parcels of land may~~

17 ~~be separated from such city or town by the lateral section~~

18 ~~of a street or other roadway, irrigation ditch, drainage~~

19 ~~ditch, stream, river, or a strip of unplatted land too~~

20 ~~narrow or too small to be platted.~~

21 (2) A city or town may annex only those areas that can
22 be reasonably assumed to be used for orderly development of
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1 containing only land within the right-of-way of a public
2 highway or street considered longitudinally."

3 Section 2. Section 7-2-4401, MCA, is amended to read:

4 "7-2-4401. What constitutes contiguous land for
5 purpose of part -- prohibition against strip annexation.

6 (1) The land proposed to be annexed to a municipality under
7 the provisions of this part shall be deemed contiguous to
8 such municipality even though such land may be separated
9 from such municipality by the lateral section of a street or
10 other roadway, a sidewalk, a public way of any kind, an
11 irrigation ditch or drainage ditch, or some other strip too
12 small for the erection of houses.

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19 highway or street considered longitudinally."

20 Section 3. Section 7-2-4503, MCA, is amended to read:

21 "7-2-4503. Restrictions on annexation power. Land
22 shall not be annexed under this part whenever the land is
23 used for
24 (1) for bona fide agricultural--mining--smelting--
25 refining--transportation, or any industrial or manufacturing

1 purpose or

2 ~~for the purpose of maintaining or operating a golf~~
 3 ~~or country club, an athletic field or aircraft landing~~
 4 ~~field, a cemetery or a place for public or private outdoor~~
 5 ~~entertainment or any purpose incident thereto purposes, OR~~
 6 PUBLIC UTILITY ELECTRIC GENERATING PLANTS AND THEIR
 7 ASSOCIATED FACILITIES."

8 Section 4. Section 7-2-4504, MCA, is amended to read:
 9 "7-2-4504. What constitutes contiguous lands --
 10 prohibition against strip annexation. (1) Tracts or parcels
 11 of land proposed to be annexed to a city or town under the
 12 provisions of this part shall be deemed contiguous to such
 13 city or town even though such tracts or parcels of land may
 14 be separated from such city or town by the lateral section
 15 of a street or other roadway, irrigation ditch, drainage
 16 ditch, stream, river, or a strip of unplatted land too
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 20 the city or town; the city or town may not annex these areas
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 22 strip of land less than 20 feet wide or by a strip of land
 23 containing only land within the right-of-way of a public
 24 highway or street considered longitudinally."

25 Section 5. Section 7-2-4734, MCA, is amended to read:

1 "7-2-4734. Standards to be met before annexation can
 2 occur. A municipal governing body may extend the municipal
 3 corporate limits to include any area which meets the
 4 following standards:

5 (1) It must be contiguous to the municipality's
 6 boundaries at the time the annexation proceeding is begun.

7 (2) The annexation of the area must be reasonably
 8 assumed to be used for orderly development of the
 9 municipality; the municipality may not annex an area if it
 10 will be connected to the municipality only by a strip of
 11 land less than 20 feet wide or by a strip of land containing
 12 only land within the right-of-way of a public highway or
 13 street.

14 (3) No part of the area may be included within the
 15 boundary of another incorporated municipality.

16 (4) It must be included within and the proposed
 17 annexation must conform to a comprehensive plan as
 18 prescribed in Title 76, chapter 1.

19 (5) No part of the area may be included within the
 20 boundary, as existing at the inception of such attempted
 21 annexation, of any fire district organized under any of the
 22 provisions of part 21, chapter 33, if the fire district was
 23 originally organized at least 10 years prior to the
 24 inception of such attempted annexation. However, a
 25 single-ownership piece of land may be transferred from a

1 fire district to a municipality by annexation as provided in
2 7-33-2127."

-End-

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INTRODUCED BY AZZARA, S. BROWN, FABREGA

BY REQUEST OF THE STUDY COMMITTEE ON ANNEXATION LAWS

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16 city or town even though such tracts or parcels of land may

17 be separated from such city or town by the lateral section

18 of a street or other roadway, irrigation ditch, drainage

19 ditch, stream, river, or a strip of unplatted land too

20 narrow or too small to be platted.

21 121. A city or town may annex only those areas that can
22 be reasonably assumed to be used for orderly development of
23 the city or town; the city or town may not annex these areas
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22 shall not be annexed under this part whenever the land is

23 used:

24 (i) for bona fide agriculturally--mining--smelting--

25 refining--transportation--or--any--industrial--or--manufacturing

1 purpose or
 2 (2) for the purpose of maintaining or operating a golf
 3 or country club or an athletic field or aircraft landing
 4 field, a cemetery, or a place for public or private outdoor
 5 entertainment or any purpose incident thereto purposes, or
 6 PUBLIC UTILITY ELECTRIC GENERATING PLANTS AND THEIR
 7 ASSOCIATED FACILITIES."

8 NEW SECTION. SECTION 4. SERVICE CONTINUATION --
 9 INDUSTRIAL ANNEXATION. (1) IF AN INDUSTRIAL, MANUFACTURING,
 10 MINING, SMELTING, REFINING, OR TRANSPORTATION FACILITY OR A
 11 GOLF OR COUNTRY CLUB, ATHLETIC FIELD OR AIRCRAFT LANDING
 12 FIELD, CEMETERY, OR PLACE FOR PUBLIC OR PRIVATE OUTDOOR
 13 ENTERTAINMENT IS TO BE ANNEXED UNDER THE PROVISIONS OF THIS
 14 PART AND PRIOR TO ANNEXATION THE FACILITY HAS SELF-PROVIDED
 15 SERVICES THAT WOULD OTHERWISE BE PROVIDED BY THE
 16 MUNICIPALITY THE FACILITY MAY CONTINUE TO PROVIDE SUCH
 17 SERVICES AS PROVIDED IN THIS SECTION.

18 (2) DIRECT SERVICES OR FEES FOR A SERVICE MAY INCLUDE,
 19 BUT ARE NOT LIMITED TO:
 20 (A) FIRE PROTECTION;
 21 (B) POLICE AND SECURITY PROTECTION;
 22 (C) FEES FOR BUILDING INSPECTION;
 23 (D) SOLID WASTE DISPOSAL AND RELATED FEES;
 24 (E) WATER AND SEWER AND RELATED FEES;
 25 (F) IF THE FACILITY IS TO CONTINUE TO PROVIDE SUCH

1 SERVICES IT MUST ENTER INTO A SERVICE CONTINUATION AGREEMENT
 2 WITH THE MUNICIPAL GOVERNMENT. THE SERVICE CONTINUATION
 3 AGREEMENT MUST BE MUTUALLY AGREED UPON BY BOTH THE
 4 MUNICIPALITY AND THE FACILITY TO BE ANNEXED BEFORE
 5 ANNEXATION CAN OCCUR. THE MUNICIPALITY SHALL THEREAFTER
 6 REDUCE ANY PROPERTY TAXES AND FEES LEVIED BY THE
 7 MUNICIPALITY ON THE FACILITY BY THAT AMOUNT WHICH CAN BE
 8 DIRECTLY ATTRIBUTED TO THE NON-PROVIDED MUNICIPAL SERVICE
 9 AND SHALL BE SET FORTH IN THE SERVICE CONTINUATION
 10 AGREEMENT. THE SERVICE CONTINUATION AGREEMENT:
 11 (A) SHALL DESCRIBE THE SERVICE OR SERVICES THAT SHALL
 12 BE PROVIDED BY THE FACILITY;
 13 (B) SHALL SET FORTH PROPERTY TAX AND FEE REDUCTION
 14 PROVISIONS;
 15 (C) SHALL STATE THAT THE MUNICIPALITY IS NOT TO
 16 PROVIDE THE SERVICES AT THE FACILITY AND THAT THE FACILITY
 17 ABSOLVES THE MUNICIPALITY OF ANY LIABILITY FOR NOT PROVIDING
 18 THE SERVICE AND SHALL INDEMNIFY THE MUNICIPALITY FOR ANY
 19 CIVIL DAMAGES ON BEHALF OF A THIRD PARTY BECAUSE OF THE LACK
 20 OF THE MUNICIPAL SERVICE; AND
 21 (D) MAY BE AMENDED OR REVOKED BY MUTUAL AGREEMENT OF
 22 THE FACILITY AND THE MUNICIPALITY.
 23 (E) IF THE MUNICIPALITY AND THE FACILITY FAIL TO AGREE
 24 UPON A SERVICE CONTINUATION AGREEMENT WITHIN 30 DAYS AFTER
 25 THE ANNEXATION EITHER PARTY MAY PETITION DISTRICT COURT FOR

1 A HEARING ON THOSE PROVISIONS THE PARTIES ARE UNABLE TO
 2 AGREE UPON, AFTER THE HEARING THE DISTRICT COURT SHALL BY
 3 ORDER ESTABLISH THOSE DISPUTED CONTRACTUAL PROVISIONS. THE
 4 COURT SHALL AWARD ATTORNEY AND COURT COSTS TO THE PREVAILING
 5 PARTY.

6 Section 5. Section 7-2-4504, MCA, is amended to read:
 7 "7-2-4504. What constitutes contiguous lands ==
 8 prohibition against strip annexation. (1) Tracts or parcels
 9 of land proposed to be annexed to a city or town under the
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 22 inception of such attempted annexation. However, a
 23 single-ownership piece of land may be transferred from a
 24 fire district to a municipality by annexation as provided in
 25 7-33-2127."

1 SECTION 7a. CODIFICATION INSTRUCTION. SECTION 4 IS
2 INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 7a.
3 CHAPTER 2, PART 45, AND THE PROVISIONS OF TITLE 7, CHAPTER
4 2, PART 45, APPLY TO SECTION 4a.

-End-