

An Overview of Resident-Initiated Deannexation

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- 10% of the registered voters in the area may petition for deannexation;
- Petition directed to the county election commission;
- Referendum on the question of deannexation;
- Only those registered voters in the area vote;
- Majority vote required to pass; and
- Effective within 30 days

Research

- Looked at the specifics related to resident-initiated deannexation in 28 states.
- 3 consistent categories:
 - Who can petition and the threshold
 - Limitations and conditions on land eligible for deannexation
 - Method of approval of petition

Who Has the Legal Authority to Petition for Deannexation and What are the Thresholds?

Owner(s)/Thresholds

- Arkansas (100% and can be a single owner if wetlands or annexed area)
- Colorado (100%)
- Georgia (100%)
- Indiana (owners of 51%+ of lots in an addition or subdivision or owners of 1+ blocks if platted or 1+ acres if unplatted)
- Iowa (100%)
- Kansas (100% can be a single owner if owns all land annexed)
- Minnesota (100% if area to be deannexed is less than 40 acres; 75% if more)
- Nevada (majority of owners in area to be deannexed)
- Utah (51% of the owners in area to be deannexed)
- Wisconsin (100% or majority owners of $\frac{3}{4}$ of the taxable land in the area)
- West Virginia (5% of the landowners in municipality)
- Wyoming (100%)



Voters/Thresholds

- Florida (15% of the qualified voters in area)
- Mississippi ($\frac{2}{3}$ of the qualified voters in area)
- Oklahoma ($\frac{3}{4}$ of the qualified voters representing $\frac{3}{4}$ value of assessed property in area)
- Texas (majority of qualified voters in area or at least 50 qualified voters in a general law city)
- Washington (qualified voters in city equal to 10%+ of the number of votes cast in the last general election)

Voters and Owners/Thresholds

- California (25%+ of the registered voters residing in the area or 25%+ of the number of owners of land in the area representing 25% of the assessed value of land in the area)
- Illinois (100% or owners of majority of land in area or majority of voters in area + majority of owners of land in area that represent a majority of the land in the area)
- Louisiana (majority of voters in area + majority of resident property owners in area representing 25% value of all property in the area)
- Michigan (100% or qualified voters who own land equal to 1%+ of the affected areas with not less than 100 signatures and 10 signatures from each affected area)
- Montana (majority of votes cast in last city election or owners of $\frac{3}{4}$ value of territory in the area)

Voters and Owners/Thresholds (cont.)

- Nebraska (100% of owners in the area or majority of legal voters in area)
- North Dakota ($\frac{3}{4}$ of the qualified voters and $\frac{3}{4}$ of the owners of assessed property in the area)
- Ohio (100% or majority of landowning voters but if none, majority of owners or landowning voters equal to 15%+ of total votes cast in the last general election)
- South Dakota (100% single landowner if $\frac{1}{2}$ mile from platted area of municipality or $\frac{3}{4}$ of the legal voters and owners of $\frac{3}{4}$ of the value of property in area)

Miscellaneous/Thresholds

- Missouri (lawsuit can be filed by any resident who was residing in the area at the time of the annexation)
- South Carolina (majority of resident landowners of the municipality)

Threshold of 51% or Greater

19 states ALWAYS- (Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Nebraska, Nevada, North Dakota, Oklahoma, South Carolina, South Dakota, Utah, Wisconsin, Wyoming)

4 states in certain cases- (Ohio, Texas, Michigan, Montana)

6 states also require voters/owners to represent a percentage of the total value of assessed land in the area- (Louisiana, Illinois, North Dakota, Oklahoma, South Dakota, and Wisconsin)

Threshold Other Than 51% or Greater

5 states ALWAYS- (California, Florida, Missouri, Washington, West Virginia)

4 states in certain cases- (Ohio, Texas, Michigan, Montana)

What Are the Limitations and Conditions on Land Eligible for Deannexation?

Limits and Conditions: On the Boundary and/or No Donut Hole

11 states ALWAYS limit eligibility to only those areas on the boundary of the city and/or those areas that, if deannexed, do not create a donut hole in the city. (Colorado, Georgia, Illinois, Iowa, Kansas, Minnesota, Mississippi, Montana, Nebraska, South Dakota, Utah)

2 states in all cases with one exception (Oklahoma and Wyoming)

4 states in certain cases (Arkansas, Indiana, Michigan, North Dakota)



Limits and Conditions: No Services or Failure to Provide Services

7 states limit eligibility to certain areas where there are no public improvements. (Arkansas, Michigan, Minnesota, Nebraska, North Dakota, Oklahoma, Wisconsin)

3 states limit eligibility in certain cases on failure to provide services and 2 states limit eligibility solely on a city's failure to provide services (Colorado, Indiana, Texas, *Kansas, *Missouri,)

Failure to Provide Services

-Colorado-(1 method)(on the border, 5+ acres, 3 years after annexation)

-Indiana-(1 method)(no services provided after 1 year expiration of 1 year implantation period for non-capital services and 3 year period for capital services)

-Texas-(1 method)(no services 4½ years after annexation)

Failure to Provide Services (cont.)

-Kansas-(only method)(18 months since hearing related to services being provided or end of litigation on services)

-Missouri-(only method)(lawsuit can be filed for failure to provide services within 3 years of annexation; deannexation is relief the court can grant)

Limits and Conditions: Characteristics and/or Use of Property

- Arkansas (both methods)(unimproved, uninhibited, without utilities)
- Illinois (1 method)(zoned residential)
- Indiana (1 method)(platted and unplatted)
- Michigan (1 method)(no water or sewer services provided, not subdivided, for agricultural use only)
- Minnesota (only method)(rural and undeveloped)
- Nebraska (both methods, unless on the border in 1) (unoccupied land)



Limits and Conditions: Characteristics and/or Use of Property (cont.)

- North Dakota (both methods)(not platted, no improvements)
- Ohio (1 method)(unplatted farmland)
- Oklahoma (unplatted)
- Wisconsin (2 methods)(used for agricultural purposes, unplatted, no public improvements)



Limits and Conditions: Size and Acreage of Property

- Colorado (2 methods)(20+ acres)
(1 method)(5+ acres)
- Illinois (2 methods)(20+ acres)
(1 method)(less than 20 acres)
- Michigan (1 method)(10+ acres)
- Nebraska (1 method)(20+ acres)
- Ohio (1 method)(1500+ acres)
- Wisconsin (2 methods)(200+ acres)

Limits and Conditions: A Specific Amount of Time Has Elapsed

- Arkansas (within 8 years of annexation)
- Colorado (3+ years after annexation)
- Illinois (after 1 year of municipal organization)
- Kansas (18 months since hearing on plan of services or litigation over plan)
- Michigan (at least 3 years since annexation)
- Mississippi (within 2 years of annexation)
- Missouri (No more than 5 years from effective date of annexation)
- Ohio (within 5 years of annexation)
- North Dakota (10+ years within the corporate limits of the city)
- Wisconsin (20+ years within the corporate limits of the city)

Limits and Conditions: Joining An Adjacent City

Wisconsin

Limits and Conditions

-22 of the 28 states impose some type of limit or condition on land that is eligible for resident-initiated deannexation (Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Utah, Wisconsin, Wyoming)

-At least 14 of those states place multiple limits and conditions on eligible land



Where Are Petitions Submitted for Approval?



Petition to City for Approval

- Arkansas (1 method)
- Colorado (1 method)
- Florida
- Illinois (1 method)
- Indiana (w/appeal to ct.) (1 method)
- Iowa
- Louisiana
- Michigan (1 method)
- Montana
- Nebraska (1 method)
- Nevada (w/appeal to ct.)
- North Dakota (2 methods)
- Oklahoma (w/appeal to ct.)
- South Dakota (w/appeal to ct.)
- Texas (2 methods)
- Utah (w/appeal to ct.)
- Wisconsin (1 method)
- Wyoming

Total=18

Total for Exclusively=9



Petition to Court for Approval

- Colorado (3 methods)
- Illinois (3 methods)
- Indiana (1 method)
- Michigan (1 method)
- Mississippi*
- Missouri (for failure to provide services)(requires a lawsuit; relief court can grant)*
- Nebraska (1 method)
- Ohio (1 method)

Total=8

Total for Exclusively=2



Referendum Exclusively

South Carolina (all city voters voting)(majority)

Washington (all city voters voting)($\frac{3}{5}$)

West Virginia (all city voters voting)(majority)



Referendum In Limited Circumstances

- Michigan (Home Rule cities and villages)(to county for referendum)(all city and township voters voting)(majority)
- Ohio (1500 acres or more)(all landowning voters in area vote and if none, all owners)(majority)
- Texas (cities with less than 5,000 residents)
(citywide)(majority)
- Wisconsin (only to appeal city decision to approve deannexation petition)(citywide)(majority)



Miscellaneous

-Petition to City with Court Deciding

Arkansas (1 method)

-Petition to City with County Approval

Georgia

-Petition to Chief ALJ for Approval

Minnesota

-Petition to Local Agency Formation Commission for Approval

California

-Petition to County for Approval

Kansas (w/appeal to court)

-Petition to County with City Approval

Ohio

Who Makes the Decision

-In 23 of the 28 states, either the city, county, court or an ALJ determine whether resident-initiated deannexation proceeds regardless of the method used (Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, South Dakota, Texas, Utah, Wisconsin, Wyoming)

-In 12 of those states, the city governing body is always directly involved in the decision-making process (California, Florida, Georgia, Iowa, Louisiana, Montana, Nevada, Oklahoma, South Dakota, Utah, Wyoming, Wisconsin)



Who Makes the Decision (cont.)

-In 6 of the 7 states where referendum may be used to decide resident-initiated deannexation, the question is put to qualified voters in the city and it must pass by a majority of those voting in the referendum

-Ohio is the only state that uses a method where the issue is decided through a referendum where only those qualified voters in the area proposed for deannexation vote. This is limited to the instance when 1500 acres or more is being considered for deannexation.

Summary

- 19 of the 28 states require a threshold of 51% or more to petition;
- 22 of the 28 states place some limits and conditions on the land that is eligible; and
- In 21 of the 28 states, a governmental entity is directly involved in the approval or disapproval of a petition in all cases.

Questions?