

1 AN ACT relating to annexation.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 81A.420 is amended to read as follows:

4 (1) When a city desires to annex unincorporated territory, the legislative body of the  
5 city proposing to annex shall enact an ordinance stating the intention of the city to  
6 annex. The ordinance shall accurately define the boundary of the unincorporated  
7 territory proposed to be annexed, and declare it desirable to annex the  
8 unincorporated territory.

9 (2) If following the publication of the annexation ordinance pursuant to subsection (1)  
10 of this section and within sixty (60) days thereof, or if in any annexation proceeding  
11 where the annexing city has not adopted a final annexation ordinance, within sixty  
12 (60) days of February 12, 1988, fifty percent (50%) of the resident voters or owners  
13 of real property within the limits of the territory proposed to be annexed petition the  
14 mayor in opposition to the proposal, an election shall be held at the next regular  
15 election if the petition is presented to the county clerk and certified by the county  
16 clerk as sufficient not later than the second Tuesday in August preceding the regular  
17 election:

18 (a) The mayor of the city shall deliver a certified copy of the ordinance to the  
19 county clerk of the county in which the territory proposed to be annexed is  
20 located, who shall have prepared to be placed before the voters in each  
21 precinct embraced in whole or in part within the territory proposed to be  
22 annexed the question: "Are you in favor of being annexed to the City of  
23 \_\_\_\_\_?" If only a part of any precinct is embraced within the territory  
24 proposed to be annexed only persons who reside within the territory proposed  
25 to be annexed shall be permitted to vote. The clerk shall cause the sheriff or  
26 sheriffs to deliver to the election officers in each precinct in the appropriate  
27 counties copies of the ordinance proposing to annex;

1 (b) If less than fifty-five percent (55%) of those persons voting oppose  
2 annexation, the unincorporated territory shall become a part of the city; and

3 (c) If fifty-five percent (55%) or more of those persons voting oppose annexation,  
4 the ordinance proposing annexation shall become ineffectual for any purpose.

5 (3) In not less than sixty (60) days after the enactment of the ordinance, if no petition  
6 has been received by the mayor as set out herein, or within sixty (60) days of the  
7 certification of election results in which less than ~~fifty~~[~~fifty-five~~] percent  
8 ~~(50%)~~[~~(55%)~~] of those persons voting opposed annexation, the legislative body may  
9 enact an ordinance annexing to the city the territory described in the ordinance. If  
10 the city has elected to establish the zoning for the new territory prior to the  
11 completion of the annexation pursuant to KRS 100.209, the ordinance shall include  
12 a map showing the zoning. Upon the enactment of this ordinance, the territory shall  
13 become part of the city for all purposes.

14 ➔Section 2. KRS 81A.425 is amended to read as follows:

15 (1) Notwithstanding the provisions of KRS 83A.060(7) and except as otherwise  
16 provided in this section, a city which proposes to annex unincorporated territory  
17 shall send notice of the proposed annexation to each property owner whose property  
18 is proposed to be annexed into the city.

19 (2) The notice shall be sent to each:

20 (a) Property owner listed on the records of the county property valuation  
21 administrator as of January 1 of the year in which the ordinance proposing to  
22 annex property is to be enacted;

23 (b) *The county judge/executive of the county containing the territory to be*  
24 *annexed; and*

25 (c) *The secretary of the Transportation Cabinet in the event that any of the*  
26 *property to be annexed is a state-maintained road or highway.*

27 (3) The notice shall be sent by first-class mail no later than fourteen (14) days prior to

1 the meeting at which the ordinance proposing the annexation shall receive its  
2 second reading. The city clerk shall certify the list of property owners to whom the  
3 notice was sent and the certified list shall be made a part of the official record of the  
4 meeting at which the ordinance proposing the annexation receives its second  
5 reading.

6 (4) The notice shall include the time, date, and location of the meeting at which the  
7 proposed ordinance shall receive its second reading, and a copy of the proposed  
8 ordinance.

9 (5) The provisions of this section shall not apply in any case in which the property  
10 owners of record have consented in writing to the proposed annexation as provided  
11 in KRS 81A.412.

12 (6) Notwithstanding the provisions of KRS 424.130, following the second reading and  
13 enactment of an ordinance proposing to annex property, a city shall be required to  
14 publish the ordinance only once in accordance with KRS 83A.060(9).

15 (7) The ordinance which effectuates an annexation shall be voidable in an action  
16 brought in the Circuit Court of competent jurisdiction, if the court determines that  
17 the city failed to substantially comply with the requirements of this section, and the  
18 failure resulted in material prejudice to the substantial rights of affected property  
19 owners **to include property owners not subject to the annexation ordinance, but**  
20 **who are adjacent to the territory being annexed.**

21 ➔Section 3. KRS 81A.427 is amended to read as follows:

22 (1) As used in this section, "utility infrastructure" means physical property existing in  
23 rights-of-way or easements that are used for any of the following:

24 (a) The generation, production, transmission, or distribution of electricity to or for  
25 the public for compensation, light, heat, power, or other uses;

26 (b) The production, manufacture, storage, distribution, sale, or furnishing of  
27 natural or manufactured gas, or a mixture of same, to or for the public for

- 1 compensation, light, heat, power, or other uses;
- 2 (c) The transporting or conveying of gas, crude oil, or other fluid substance by
- 3 pipeline to or for the public for compensation;
- 4 (d) The diverting, developing, pumping, impounding, distributing, or furnishing
- 5 of water to or for the public for compensation;~~and~~
- 6 (e) The collection, transmission, or treatment of sewage for the public for
- 7 compensation; **and**
- 8 **(f) Public roads.**

9 (2) In addition to the other requirements of this chapter, a city annexing or proposing to

10 annex any area that includes the utility infrastructure owned by another city, **county,**

11 **or the Commonwealth** shall comply with the provisions of this section.

12 (3) A city which proposes to annex any unincorporated area under the provisions of

13 KRS 81A.420 shall send notice of the proposed annexation to the mayor of each

14 city government **and the county judge/executive of the county containing the**

15 **territory to be annexed** owning utility infrastructure within the area proposed to be

16 annexed. The notice shall be sent by certified mail, return receipt requested, no later

17 than fourteen (14) days prior to the meeting at which the ordinance proposing the

18 annexation will receive its second reading. The notice shall:

- 19 (a) Include the time, date, and location of the meeting at which the proposed
- 20 ordinance will receive its second reading;
- 21 (b) Include a copy of the proposed ordinance; and
- 22 (c) Inform the city **or county** of its right under this section to object to the
- 23 annexation.

24 The city clerk shall certify the list of cities **or counties** to whom the notice was sent,

25 and the certified list shall be made a part of the official record of the meeting at

26 which the proposed ordinance receives its second reading.

27 (4) A city annexing territory by consent of property owners pursuant to KRS 81A.412

1 shall comply with subsection (3) of this section by sending the notice at least  
2 fourteen (14) days prior to the meeting at which the ordinance annexing the territory  
3 will receive its second reading.

4 (5) Any city or county receiving notice under this section and owning utility  
5 infrastructure in an area to be annexed or proposed to be annexed shall have the  
6 right to object and prevent the annexation by sending a certified copy of a municipal  
7 order enacted pursuant to KRS 83A.060. The municipal order shall include a  
8 statement describing the utility infrastructure owned by the city and its location  
9 within the area to be annexed or proposed to be annexed. The objecting city or  
10 county may incorporate maps or other drawings into the municipal order to clearly  
11 identify utility infrastructure within the area. The certified copy of the municipal  
12 order shall be received by the city or county acting under KRS 81A.412 or 81A.420  
13 at any time before or at the meeting where the ordinance is scheduled to receive its  
14 second reading. The municipal order shall be either delivered personally by a  
15 designated agent of the city or the county judge/executive in the case of a county  
16 or sent by certified mail, return receipt requested.

17 (6) The city acting under KRS 81A.412 or 81A.420 shall not annex any area that  
18 includes utility infrastructure owned by a city or county objecting under subsection  
19 (5) of this section; provided, however, that the cities in interest may agree otherwise  
20 through an interlocal agreement established pursuant to KRS 65.210 to 65.300. If  
21 the city annexing or proposing to annex does not receive a municipal order or a  
22 resolution in the case of a county objecting prior to or at the meeting where the  
23 ordinance is to receive its second reading, the city may proceed to enact an  
24 ordinance proposing to annex or annexing the area, and the city owning utility  
25 infrastructure shall forfeit its right to object and shall be deemed to have consented  
26 to the annexation.

27 (7) If a city annexes any area containing utility infrastructure owned by another city or

1        county without following the provisions of this section, the ordinance which  
2        effectuates an annexation shall be voidable in an action brought in the Circuit Court  
3        of competent jurisdiction, if the court determines that the annexing city failed to  
4        substantially comply with the requirements of this section and the failure resulted in  
5        material prejudice to the substantial rights of the affected city or county. Such an  
6        action shall be commenced no later than one (1) year following the date the final  
7        annexation ordinance becomes effective.

8        ➔Section 4. KRS 81A.510 is amended to read as follows:

9        (1) The General Assembly, recognizing that the general welfare and prosperity of the  
10       Commonwealth of Kentucky is very greatly dependent upon continued industrial  
11       development and expansion; and, further recognizing that reasonable assurances of  
12       fair treatment will greatly increase industrial development and expansion in  
13       Kentucky, it hereby is declared to be the public policy of the Commonwealth of  
14       Kentucky to encourage the location of new industries and the expansion of existing  
15       industries in Kentucky by prohibiting unfair and unreasonable annexation by  
16       municipal corporations of industries now or hereafter located in unincorporated  
17       areas. However, it is not the intent of the General Assembly to prohibit, restrict or  
18       hamper normal expansion of municipal boundaries if such normal development and  
19       expansion extends to and embraces such industrial properties.

20       (2) No unincorporated territory in which is located an industrial plant or plants shall be  
21       annexed by any municipality unless such territory is embraced within a broad,  
22       comprehensive plan of annexation. The territory to be annexed shall be contiguous  
23       to the boundary line or lines of such municipality, and the territory or area to be  
24       annexed shall be both compact and contiguous. The number of registered voters  
25       duly qualified to vote in the territory proposed to be annexed shall equal or exceed  
26       fifty percent (50%) of the average number of persons employed by industrial plants  
27       within such territory during the next preceding calendar year, the number of such

1 registered voters to be determined by taking the total of such voters from the last  
2 closed registration books in the county clerk's office.

3 (3) Nothing herein shall be construed as prohibiting any municipality from annexing  
4 any industrial plant or plants or its properties if the duly authorized representatives  
5 of such industrial plant or plants consent to or request such action.

6 (4) Any person or persons within the area proposed to be annexed shall have the right  
7 to file a protest and to have the protest heard and determined as now provided by  
8 existing statutes to include property owners not subject to the annexation  
9 ordinance, but who are adjacent to the territory being annexed or any mayor or  
10 county judge/executive having city or county utility infrastructure annexed.