

CHAPTER 220

GOVERNMENT - LOCAL

HOUSE BILL 06-1159

BY REPRESENTATIVE(S) Paccione, Garcia, and McCluskey;
also SENATOR(S) Johnson, Teck, Tochtrop, Boyd, and Bacon.

AN ACT**CONCERNING THE ANNEXATION OF ENCLAVE AREAS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 31-12-106 (1.1), Colorado Revised Statutes, is amended, and the said 31-12-106 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

31-12-106. Annexation of enclaves, partly surrounded land, and municipally owned land. (1.1) Exception to annexation of enclaves. (a) No enclave may be annexed pursuant to subsection (1) of this section if:

(~~a~~) (I) Any part of the municipal boundary or territory surrounding such enclave consists at the time of the annexation of the enclave of public rights-of-way, including streets and alleys, that are not immediately adjacent to the municipality on the side of the right-of-way opposite to the enclave; or

(~~b~~) (II) Any part of the territory surrounding the enclave was annexed to the municipality since December 19, 1980, without compliance with section 30 of article II of the state constitution.

(b) IN THE CASE OF AN ENCLAVE THE POPULATION OF WHICH EXCEEDS ONE HUNDRED PERSONS ACCORDING TO THE MOST RECENT UNITED STATES CENSUS AND THAT CONTAINS MORE THAN FIFTY ACRES, THE ENCLAVE SHALL NOT BE ANNEXED PURSUANT TO SUBSECTION (1) OF THIS SECTION UNLESS THE GOVERNING BODY OF THE ANNEXING MUNICIPALITY HAS:

(I) CREATED AN ANNEXATION TRANSITION COMMITTEE COMPOSED OF NINE

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

MEMBERS, FIVE OF WHOM SHALL RESIDE, OPERATE A BUSINESS, OR OWN REAL PROPERTY WITHIN THE ENCLAVE, TWO OF WHOM SHALL REPRESENT THE ANNEXING MUNICIPALITY, AND TWO OF WHOM SHALL REPRESENT ONE OR MORE COUNTIES IN WHICH THE ENCLAVE IS SITUATED; AND

(II) PUBLISHED NOTICE OF THE CREATION AND EXISTENCE OF THE COMMITTEE, TOGETHER WITH ITS REGULAR MAIL, ELECTRONIC MAIL, OR TELEPHONIC CONTACT INFORMATION, IN THE SAME MANNER AS PROVIDED BY SECTION 31-12-108 (2) FOR NOTICES OF ANNEXATION PETITIONS AND RESOLUTIONS INITIATING ANNEXATION PROCEEDINGS.

(c) THE DUTIES OF THE ANNEXATION TRANSITION COMMITTEE REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION (1.1) SHALL BE TO:

(I) SERVE AS A MEANS OF COMMUNICATION BETWEEN OR AMONG THE ANNEXING MUNICIPALITY, ONE OR MORE COUNTIES WITHIN WHICH THE ENCLAVE IS SITUATED, AND THE PERSONS WHO RESIDE, OPERATE A BUSINESS, OR OWN REAL PROPERTY WITHIN THE ENCLAVE REGARDING ANY PUBLIC MEETINGS ON THE PROPOSED ANNEXATION; AND

(II) PROVIDE A MECHANISM BY WHICH PERSONS WHO RESIDE, OPERATE A BUSINESS, OR OWN REAL PROPERTY WITHIN THE ENCLAVE MAY COMMUNICATE, WHETHER BY ELECTRONIC MAIL, TELEPHONIC COMMUNICATION, REGULAR MAIL, OR PUBLIC MEETINGS, WITH THE ANNEXING MUNICIPALITY OR ANY COUNTIES WITHIN WHICH THE ENCLAVE IS SITUATED REGARDING THE PROPOSED ANNEXATION.

(5) ANY MUNICIPALITY THAT HAS ENTERED INTO AN INTERGOVERNMENTAL AGREEMENT, ANY PORTION OF WHICH ADDRESSES ISSUES PERTAINING TO THE ANNEXATION OF ENCLAVES SHALL, PROMPTLY UPON EXECUTION OF THE AGREEMENT, RECORD THE AGREEMENT WITH THE CLERK AND RECORDER OF ANY COUNTY WITHIN WHICH ANY LAND AREA ADDRESSED IN THE AGREEMENT IS SITUATED.

SECTION 2. 31-12-116 (2) (b), Colorado Revised Statutes, is amended to read:

31-12-116. Review. (2) (b) In any action brought within the sixty-day limitation of paragraph (a) of this subsection (2) to review the annexation of an enclave pursuant to section 31-12-106 (1), the court may review the findings and determinations of the governing body in annexing any territory which, in whole or in part, resulted in the creation of the enclave. If the court finds that any such prior annexation resulted in the creation of a municipal boundary ~~which~~ THAT consists of public rights-of-way as set forth in ~~section 31-12-106 (1.1) (a)~~ SECTION 31-12-106 (1.1) (a) (I) or occurred without compliance with section 30 of article II of the state constitution as set forth in ~~section 31-12-106 (1.1) (b)~~ SECTION 31-12-106 (1.1) (a) (II), it shall declare the annexation of the enclave to be void, but no such finding or decision shall affect the validity of the prior annexation.

SECTION 3. Effective date - applicability. (1) This act shall take effect September 1, 2006.

(2) However, if a referendum petition is filed against this act or an item, section,

or part of this act during the 90-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

(3) The provisions of this act shall apply to annexation proceedings commenced on or after the applicable effective date of this act.

Approved: May 25, 2006