

Equity of Votes

Owners v. Renters

Under the bill, is it just the owners that may vote or are residents also able to vote on deannexation?

If there is a husband a wife that own a home and are registered to vote, they have two votes, correct?

If there is a husband and wife renting a house and they are registered to vote, then they also have two votes, correct?

So whether you own the land or are temporarily renting, you have the same standing and an equal effect on the outcome of the election, correct?

Why should a voter that is temporarily renting a home in the area have as much or possibly more to say about the question of deannexation as an owner who plans to remain in his home for years to come?

Quantity of land vis-à-vis total land in the territory:

Now, if a couple has a house located on an acre of land, then they have two votes, correct?

And if a husband and wife own a home on 8 acres, then they also have two votes, correct?

So everyone's vote counts the same, regardless of whether they are temporary renters or owners or whether they reside on property that amounts to 1% of the total property to be deannexed or 20% of the total property to be deannexed – their votes are equal, correct?

If I own a larger percentage of the total area to be deannexed than a neighbor, it stands to reason that I have more skin in the game. Yet, my neighbor's vote counts the same as mine. This is particularly troubling if I own the property and plan to reside in the area for years to come, while my neighbor is renting a home and could be gone as soon as his lease expires.

Dilution of votes

The only requirement to vote on deannexation is that one be a registered voter residing in the area, correct?

And there are no limitations on the number of votes per parcel, correct?

So if a husband and wife resided in the area and the wife's mother and the couples' son lived in the home as well, then that household would have as many as 4 votes provided they were registered to vote, correct.

Now, if a widower lives next door, he would only have one vote, correct?

And it wouldn't matter that the widower lived on 5 acres while the family with four voters in the household only lived on 1 acre, because the only requirement is that the individual be a registered voter, correct?

And, again, it wouldn't matter whether the widower owns his home and the family of four is renting a home, correct?

Bottom line is that under the bill the larger the household, the greater the number of votes and greater the influence that household has over the outcome of the referendum, correct?

Is the Bill Really Limited to Those Who Have Been Denied a Voice?

Last year the General Assembly changed the law to require either written consent of the owner or a referendum prior to annexation. We did so because we wanted to make sure those folks whose property was going to be affected by annexation in the future will have a voice in the matter.

Now, I would assume you are proposing voter-initiated deannexation out of a sense of fairness, and this bill is intend to afford those who were annexed since 1998 an opportunity to vote to remove themselves from the city – an opportunity they were denied when originally annexed, correct?

If the intent of the bill is to ensure that those who were annexed over the last 17 years against their will and denied a voice are, thus, afforded an opportunity to choose to remove themselves from the city, then the bill fails to achieve its intent.

It is a nice concept and is a sympathetic aim in light of recently enacted annexation requirements, however, the bill extends eligibility for deannexation to previously annexed areas without regard to who might currently reside within the area. As such, the bill would very likely allow individuals that were not present at the time of the annexation and; therefore, could not possibly have been denied a voice in the annexation to petition and to vote to remove themselves from the city.

Annexation of the consenting

I think there is a difference between those annexations that have occurred since 1998 at the request of an owner and those that occurred by ordinance without approval of the owner. In short, I don't think an owner that asks to come into the city should be able to deannex.

The bill states than any property that was annexed by ordinance at the initiative of the city is eligible to deannex. Well, prior to passage of last year's legislation, a city was only permitted to annex either by referendum or ordinance. Even those that requested or consented to annexation were annexed by ordinance. So it appears that anyone annexed by ordinance, whether with or without the consent of the owner, would be eligible to deannex.

So is it your intent to allow those properties that were annexed with the consent of the owner to be eligible to deannex? If not, can you show me where I can find the language in your bill that clearly prohibits such owners from deannexing?

If the consenting owners no longer reside within the area, would the current owners be eligible to deannex since they did not consent to the annexation? Can you show me where the bill addresses this scenario?

Again, it hardly seems fair to permit a territory that was annexed at the request or with the consent of the owners to vote to leave the city, even if the consenting owner no longer resides in the area.

Consent of the developer

Developers often request to be annexed before building a subdivision. So if property was owned by a developer, annexed by consent and subsequently sold to individual homeowners, are those homeowners able to deannex? If the answer is no, then can you show me where I can find the language precluding such homeowners from petitioning or voting to deannex?

Change in ownership / New construction

Under your bill anyone that has been annexed by ordinance over the last 17 years (by the time this bill runs its course, it will be anyone annexed within the last 22 years), may petition for a referendum to deannex. Is that correct?

Seventeen years is a good chunk of time. Surely, there are a number of areas annexed in this state over the last 17 years within which new homes have been built since the annexation occurred. I would also bet that there a number of homes in these areas annexed over the last 17 years that have been sold one or more times over this same period of time.

It seems to me that anyone who moved into the territory subsequent to the annexation could not possibly have been adversely affected by the annexation. They did not live within the area at the time. Therefore, they could not have been denied a voice and their property rights could not have been violated by any annexation that occurred prior to their purchase of a home.

Under your bill, would voters that did not reside in the area at the time of the annexation be eligible to petition for deannexation? Would they be eligible to vote in a referendum? If not, can you show me where this is expressly prohibited in the bill? Or, conversely, can you show me where deannexation is limited to only those voters that resided within the area at the time of annexation?

Whether the sponsor thinks these folks will petition and how the sponsor might theorize they will vote on such matters is irrelevant. The point is the bill does not prohibit residents and owners that moved to the area after annexation occurred to petition and vote. Why allow those who purchased a home with the full knowledge that they were buying a home in the city, choose to get out? Why allow those who are not homeowners but are temporarily renting a home in the area to petition or vote to remove the area from the city?

What Happens to City-Owned Buildings and Facilities?

While it is clear that any territory annexed after May 1, 1998 may be removed from the incorporated city limits by a majority vote of the residents at referendum, it is hardly clear what is to become of any buildings, property or facilities located within the area that are owned by city taxpayers.

If an area that is deannexed includes a fire station that was built to provide fire protection service to the area, what happens to the station? The station is now located within the county and the residents in the immediate vicinity are no longer city residents but residents of the county. Surely, the bill's sponsor does not expect the station to continue to serve the residents in the deannexed area at the expense of the taxpayer's that remain within the city. What if the deannexation results in the station being in a location from which it is no longer makes sense to serve the remainder of the city? What if the reduction in city population resulting from the deannexation means that continued operation of the station is no longer warranted or no longer cost effective? Is the city expected to donate this station to the county? Should the county be required to operate the station? Should the county be required to purchase the station and compensate the city taxpayers for the loss of their investment? The bill does not appear to contemplate such a scenario and provides no direction.

What happens if an area that is deannexed includes a city park? Is the city expected to continue to mow the grass, service the swings and play equipment, ensure any ball fields remain playable, clean the restrooms, and maintain the parking area and streets in and out of the park to ensure that the city taxpayer's that funded its construction can continue to enjoy the facility? Or, is the county required to assume operational control of the park since it is no longer part of the city? Are the residents of the deannexed area free to continue to visit the park or is the city permitted to preclude their entry into the park? – After all, the residents of the area chose to leave the city. If a city park is located within the county, which entity is responsible for insuring the park? Again, the bill does not appear to contemplate such a scenario and provides no direction.

What if a deannexed area was formerly within a city that operates its own school system and one of its schools is located within the deannexed area? Does the school become a county school? Will the city be permitted to continue to operate the school even though it is located in the county? Will the children residing within the area that formerly attended the city school be required to attend a county school? Or, will the city be required to continue to educate these children that no longer reside in the city limits at the expense of the taxpayers that remain within the city? Again, the bill does not appear to contemplate such a scenario and provides no direction.

It is important to note that the impact of deannexation on a city building and taxpayer's is not limited to only those instances in which a city building or facility is physically located within an area that is deannexed. Often, cities construct fire stations, parks or schools in areas where multiple subdivisions have developed over time. The development of these areas was quite intentional and was facilitated by annexation. If one or more of these subdivisions were to deannex from the city and alter the population the city serves, then the impact of deannexation on the school, park or fire station would be significant even though the park, school or station was not physically located within the area deannexed.

Responsibility for Debt Incurred Prior to Deannexation

"6-51-204(a) drafted by the cities 30 something years ago. This is an exact quote from that law. You all are acting like this is new or this is something to be considered. Why did I copy it verbatim? So that the city couldn't say it unfare."

Current law—6 51-204(a) – Except for responsibility for any debt contracted prior to the surrender of jurisdiction, all municipal jurisdiction shall cease over the territory excluded from the municipality's corporate limits on the effective date of the ordinance if the contraction is done by ordinance, or on the date of the certification of the results of the election if the contraction is done by election. The municipality may continue to levy and collect taxes on property in the excluded territory to pay the excluded territory's proportion of any debt contracted prior to the exclusion.

Carter amendment – Except for responsibility for any debt contracted prior to the surrender of jurisdiction, all municipal jurisdiction shall cease over the territory excluded from the municipality's corporate limits on the date of certification of the results of the election. The municipality may continue to levy and collect taxes on property in the excluded territory to pay the excluded territory's proportion of any debt contracted prior to the exclusion **upon a showing that the debt arises out of public improvements made to the deannexed territory.**

Clearly, Representative Carter's statement before subcommittee was inaccurate.

Not only was the statement inaccurate, but I suspect it significantly changes the meaning.

So, I would like the comptroller to come here and tell us if there is a difference between current law and what Representative Carter is proposing. And if there is a difference, then I would like the comptroller to tell us what this change means.

Assume a city annexed an area by ordinance and built a new fire station or a new school to serve the residents within the annexed area. Now, assume that area was subsequently deannexed with outstanding debt remaining on the station or school.

- Are the residents of the deannexed territory still responsible for their share of the debt?
- If the fire station or the school is not within the territory as delineated on the annexation map but was only built because of the addition of the new rooftops hastened by the annexation – would these residents still be responsible for their share of the outstanding debt?
- Or would residents only be responsible if the station or school were also within the footprint of the territory delineated on the annexation map?