

INTERIM REPORT  
OF THE  
MUNICIPAL BOUNDARY ADJUSTMENT  
ADVISORY TASK FORCE

Laws 2006 c 270 art. 2 s 1, as amended by  
Laws 2007 Minnesota Laws c 90 s 4

February 2008

**MEMBERS**

Bruce Johnson  
Assistant Chief Administrative Law Judge  
Office of Administrative Hearings  
**Chair**

**Senate Members**

Senator Rick Olseen (DFL)  
District 17

Senator Betsy Wergin (Rep)  
District 16

**City Representatives**

Susan Arntz  
City Administrator  
City of Waconia

Patti Gartland  
City Administrator  
City of Sartell

Gary Neumann  
Assistant City Administrator  
City of Rochester

**House Members**

Representative Paul Marquart (DFL)  
District 9B

Representative Doug Magnus (Rep)  
District 22A

**Township Representatives**

Gary Pederson  
Supervisor, Elmira Township  
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Supervisor, Livonia Township  
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February 2008

The Honorable Margaret Anderson Kelliher  
Speaker  
Minnesota House of Representatives

The Honorable Lawrence J. Pogemiller  
Majority Leader  
Minnesota Senate

The Honorable Debra Hillstrom, Chair  
House Local Government and Metropolitan  
Affairs Committee

The Honorable Ann Rest, Chair  
Senate State and Local Government  
Operations and Oversight Committee

Re: Municipal Boundary Adjustment Advisory Task Force

Dear Representatives Kelliher and Hillstrom and Senators Pogemiller and Rest:

This interim report of the Municipal Boundary Adjustment Advisory Task Force includes: a summary of the Task Force's activities from September 24, 2007 through February 29, 2008; a legislative proposal for technical changes to Chapter 414; and a summary of issues that the Task Force intends to address before it expires.

The Task Force determined at the outset that it would focus initially on less controversial aspects of Chapter 414 in an effort to craft a consensus bill in time to meet the legislative deadlines of the 2008 Legislative Session. The statutory changes that we have recommended in House File No. 3357 and Senate File No. 3208 are items on which the members of the Task Force were able to reach complete consensus during the early stages of our process. Even though most of the recommended changes may be technical in nature, some of those changes do have substantive impacts on boundary adjustment processes, and, more important, they reflect an ongoing commitment by Task Force members to find common ground through a mutual exchange of ideas.

Respectfully submitted on behalf of  
Municipal Boundary Adjustment  
Advisory Task Force

Bruce H. Johnson  
Assistant Chief Administrative Law Judge  
Chair, MBA Advisory Task Force

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## **I. EXECUTIVE SUMMARY**

The legislation authorizing the Municipal Boundary Adjustment Task Force (Appendix A) contemplated that the first meeting would be convened by August 1, 2007 and that a report to the chairs and members of the house and senate committees having jurisdiction over local government issues would be completed by January 15, 2008.

The Task Force, however, was unable to begin its work on August 1, 2007, because a Chair had not yet been appointed. That was done about two months later on September 24, 2007, when the Speaker and the Senate Majority Leader appointed Assistant Chief Administrative Law Judge Bruce H. Johnson as Chair. Thereafter, the first Task Force meeting was scheduled for November 5, 2007. In advance of that meeting, the Chair requested members to exchange with one another the expectations they had for the Task Force, their view on issues and topics that should be discussed, and specific changes to Chapter 414 that they wanted the Task Force to consider.

The Task Force's first two meetings were devoted to a general discussion of members' expectations, view on the issues, and proposed changes to Chapter 414. During those discussions, it became clear that it would be difficult for the Task Force to have anything meaningful to report to the Legislature by January 15, 2008, as the enabling legislation required. On the other hand, members believed that they could report some meaningful progress to Legislative leadership by the end of February 2008. More specifically, members believed that it would be possible to achieve consensus on a bill proposal containing a number of necessary technical changes, as well as some substantive changes in time for the Legislature to consider such a bill during its 2008 Session. This, then, became the Task Force's immediate goal, and this interim report incorporates the results of those efforts. However, Task Force members agreed that accomplishing that immediate goal still left much work undone. There remained discussion of a number of boundary adjustment issues on which achieving consensus would be more difficult and consideration of a number of changes to Chapter 414 that members had proposed but that required more extended discussion than was possible if the Task Force were to meet legislative deadlines set for the 2008 session.

At its most recent meeting on February 19, 2008, which included a member of the Revisor's Office, the Task Force members agreed on the provisions of a proposed bill that reflected members' consensus on several technical changes, and some substantive changes, that needed to be made to Chapter 414. That proposed bill has subsequently been introduced as H.F. 3357 and S.F. 3208. Task Force members agreed on the importance of continuing to discuss more controversial issues and proposed changes to Chapter 414, but also agree that it might be difficult for members, particularly legislative members, to attend additional meetings while the 2008 Legislative Session was in progress. The legislation creating the Task Force provides for its expiration on June 30, 2008. Members therefore are proposing to extend the sunset date until December 31, 2008, to allow sufficient time after the 2008 session for the Task Force to complete its work.

## **II. TASK FORCE ACTIVITIES**

The Task Force has met for three hours on the following six occasions since September 24, 2007:

November 5, 2007  
December 20, 2007  
January 15, 2008  
January 28, 2008  
February 5, 2008  
February 19, 2008

During the Task Force's first meeting in November, members agreed to a twofold process for developing recommendations to the Legislature. First, members agreed to discuss the policy issues and choices that are implicit in the legislative findings and goals set forth Minn. Stat. §414.01. There were differing opinions among members about whether those findings and goals adequately reflect such things as realities of current urban growth trends, the appropriate roles of municipal and township governance, and what the public policies underlying Chapter 414 are, or should be. As an entry point into those public policy discussion, city and township members both agreed to draft and circulate alternative versions of Minn. Stat. § 414.01 that reflected city and township beliefs about what the findings and goals Chapter 414 should be.

Second, members also agreed that it would be helpful for all of them to identify other, more specific and less 'value-laden' sections of Chapter 414 that required clarification or technical changes and that might form the basis for a bill proposal for the 2008 Legislative Session. In that regard, members were invited to draft and circulate proposed amendments to Chapter 414 for inclusion in such a bill. The Task Force members agreed that future meetings would first address a combined list of proposed changes to provisions other than Minn. Stat. § 414.01, looking for common ground in the respective proposals and setting aside for future discussion those proposals that appeared likely to provoke disagreement. The members agreed that more controversial proposed changes to Chapter 414, along with proposed changes to existing legislative findings and goals in Minn. Stat. § 414.01, would be set aside temporarily to allow members to focus on proposed changes that lent themselves more easily to agreement.

The Task Force also has a legislative charge to develop recommendations for best practices annexation training for city and township officials. Members agreed that those recommendations would be more easily identified and developed after the Task Force has completed its other work. Members also agreed that development of best practices annexation training would be delegated to a subcommittee whose members would be: Kent Sulem from the Minnesota Association of Townships, Craig Johnson from the League of Minnesota Cities, and Christine Scotillo from the Office of Administrative Hearings Municipal Boundary Adjustment Unit.

Prior to the second meeting of the Task Force on December 20, 2007 city members submitted a critique of Chapter 414 legislative findings and goals; a listing of proposed technical and housekeeping changes to Chapter 414 and, a listing of areas, which in their belief, required more substantive revision. (Appendix D) The township members submitted seven proposed changes to Chapter 414, all of which were more substantive in nature and therefore potentially more

controversial. (Appendix E) Finally, the Office of Administrative Hearings (OAH) submitted a list of proposed technical changes reflecting transfers previously made by executive reorganization order of municipal boundary adjustment responsibilities and functions from the former Office of Strategic and Long Term Planning to the Office of Administrative Hearings. At the Task Force's second meeting, members reviewed and discussed those three sets of proposed changes to Chapter 414. Township members identified seven issues that needed to be addressed, three of which appeared to be most prominent—namely, changes to Minn. Stat. §414.01 legislative findings and goals; changes to the process for annexation by order under Minn. Stat. §414.031; and issues relating to annexations that result in “string and balloon” configurations. Members concluded that the more technical proposals fell into three groups: items upon which members would likely agree; items for which there would likely be consensus with minor modifications; and items on which greater specificity was needed, or agreement was withheld pending review of specific language. There were also one or two items where agreement was not possible. During the December 20<sup>th</sup> discussions, members agreed to redraft some of their proposals, and city and township members agreed to exchange drafts of provisions on differential taxation (Minn. Stat. §414.035) and municipal reimbursement for annexed taxable property (Minn. Stat. §414.036) prior to the next meeting.

At the January 15, 2008 meeting, the Task Force began to discuss the formats for both its interim and final reports to Legislature. There was discussion that the interim report should revolve around a proposed bill for the 2008 session that incorporated consensus changes to Chapter 414. There was also discussion that final report might include also a draft bill incorporating additional revisions to Chapter 414 that the Task Force later agreed upon. The final report should also identify all the issues on which consensus could not be achieved and set forth the differing views and positions of township and city members. Members believed that this would provide a context for understanding competing views of what municipal boundary adjustment policy should be. On January 15<sup>th</sup>, members were able to reach consensus on proposed changes to eleven sections of Chapter 414. Those consensus items included Revisor recommendations on changes necessary to reflect the transfer of municipal boundary adjustment functions from the former Office of Strategic and Long Term Planning to the Office of Administrative Hearings. The Task Force members identified ten other possible consensus items for discussion at future meetings.

During the January 28, 2008 meeting, members agreed that the Task Force should submit an interim report to the Legislature in February, focusing on the draft bill of items agreed to up to this point. Members agreed that they should then continue to meet periodically thereafter, focusing on the more substantive and controversial issues of law and policy which there had not yet been an opportunity to discuss and seek consensus. Members also agreed that the final report to the Legislature will: (1) summarize all consensus changes to Chapter 414, including any proposed changes that were agreed upon too late to be included in the consensus bill; (2) make recommendations regarding best practices annexation training for city and township officials; and (3) identify all major issues of municipal boundary adjustment law or policy that the Task Force had been unable to resolve, along with a thorough discussion of opposing views on unresolved issues. On January 28<sup>th</sup>, members discussed the mechanics of getting a consensus bill ready for introduction during the 2008 legislative session. To achieve that objective, members agreed that items that could not be agreed upon during the next meeting would not be included in the draft bill.

At the February 5, 2008 meeting, members discussed six proposals that had previously been identified for possible inclusion in the consensus bill. Members reached consensus on three proposals; two items were ruled out, and the members concluded that there was insufficient information available to allow them to arrive at a consensus on one item. Based on discussions with the Revisor's Office, the Chair indicated that a Revisor's draft of the consensus bill would be circulated to members for their review prior to the next meeting. The agenda for the next meeting, members would include reviewing the Revisor's draft for possible corrections and then beginning discussions of substantive and disputed issues that had been set aside during earlier meetings. The Task Force agreed that a list of topics previously submitted by town and city members would be circulated to members and would form the basis for that discussion.

Since there was general agreement that a full and complete discussion of members' views on disputed issues would likely require several additional meetings, members agreed to keep meeting during the session notwithstanding the difficulties in doing so. There was a high probability that some of those additional meeting would have be scheduled during the summer and fall. Therefore, members agreed that a provision extending the Task Force until December 31, 2008 would be included in the consensus bill.

At the most recent meeting of the Task Force on February 19, 2008 Task Force members reviewed the bill draft from the Revisor's Office and made some minor corrections. The Task Force then began its discussion of 'balloon and string' and 'island' annexations with a presentation from township members. That discussion was impeded by some members having to leave to attend or testify in ongoing legislative committees. Members therefore agreed to temporarily suspend meetings on substantive issues until after the legislature took action on the Task Force's proposed legislation.

### **III. REMAINING WORK**

When the Task Force is able to resume its activities, the next meeting will be entirely devoted to the town members presenting their views and positions on issues they've identified as priority topics. The following meeting would be reserved for city members to do the same. Subsequent meetings will be devoted to determining whether, and to what extent, opposing views can be reconciled. If they cannot, members will try to frame the areas of disagreement, underlying issues, and the poles of debate with clarity. We believe this kind of discussion will provide a valuable context for legislative consideration of the unresolved issues affecting municipal boundary adjustments and the policy choices, if any, that need to be made.

Some of the areas left to be discussed are listed in Appendix C. They include, for example, examining the legislative goals and findings expressed at the beginning of Chapter 414; addressing issues relating to the creation of 'string and balloon' or 'island' annexation configurations; revisiting the hearing procedures for contested annexations, including a discussion of referendum issues, and discussing the policy considerations that come into play in extraterritorial planning and zoning for developing areas just outside city limits.

#### **IV. PROPOSED LEGISLATION**

The proposed legislation is divided into two Articles. Article One of the bill contains all the changes proposed for affected sections of Chapter 414. Article Two of the legislation changes the references from “director” and “office of strategic and long range planning” to “chief administrative law judge” and “office of administrative hearings” in other statutory references where the functions of Chapter 414 are either required or implicated.

The references in Chapter 414 to “director” are changed to “chief administrative law judge” and the references to “office of strategic and long range planning” are changed to “office of administrative hearings”. Other changes include adding some new language to the legislative findings section of Minn. Stat. §414.01; clarifying procedures directing parties into local discussions prior to hearing and for obtaining subpoenas for hearings; adding a definition for “chief administrative law judge”; adding language to the sections that require publication of notices before filing certain procedures to account for property owner initiated petitions; adding a new section to Minn. Stat. §414.031 requiring that the presiding judge tour the subject area; clarifying the distinction between areas designated for orderly annexation and the actual annexation of those areas; expanding planning options for orderly annexation agreements; limiting differential tax provisions to contested annexations and defines municipal services as property tax supported services; and, deleting language made obsolete by the transfer of municipal boundary adjustment functions to the OAH which placed the decision-making authority in the chief administration law judge.

#### **V. CONCLUSION**

Although House File No. 3357 and Senate File No. 3208 primarily make technical changes to Chapter 414, many of those changes have a constructive substantive impact on the municipal boundary adjustment process.

Perhaps more important, the Task Force process has provided a forum in which members with often differing views have committed themselves to helping make Chapter 414 the best possible and most effective vehicle for making municipal boundary adjustments. Those efforts will continue through the next phase of the Task Force’s work.

#### **VI. AFFECTED STATUTORY PROVISIONS**

An outline of the affected provisions follows:

##### **ARTICLE I**

##### **414.01 Enabling Provisions For Municipal Boundary Adjustments**

**414.01 Subd. 1. A duty of the Planning Director.** Changes the references to “director” and “office of strategic and long range planning” to “chief administrative law judge” and “office of administrative hearings” throughout Chapter 414.

**414.01 Subd. 1a. Legislative findings.** Adds language to the legislative findings to include joint agreements for annexation, consolidation of cities and mergers of towns and cities as part of encouraged cooperative activities.

**414.01 Subd. 8a. Powers of conductor of proceedings.** Adds language describing the process for obtaining subpoenas during r hearings making the process consistent with the existing subpoena procedures within Chapter 14 administered by the office of administrative hearings.

**414.01 Subd. 16. Compelled meetings; report.** Adds petitioning property owner as participant in local discussions that may be required; adds authority for chief administrative law judge to determine which parties are required to participate in local discussions; codifies current practice of granting additional meeting time at discretion of chief administrative law judge; adds language to clarify procedures to be followed if a contested issue is resolved.

#### **414.011 Definitions**

**414.011 Subd. 12. Chief administrative law judge.** Adds new subdivision defining ‘chief administrative law judge.’

#### **414.02 Exclusive Method Of Incorporation**

**414.02 Subd. 1a. Notice of intent to incorporate.** Adds language to require petitioning property owners to serve a notice of intent to incorporate on town board and contiguous entities when petition is initiated by property owners.

#### **414.031 Annexing Unincorporated Property By Director’s Order**

**414.031 Subd. 1a. Notice of intent to annex.** Adds language to require property owners or supporting municipality to serve notice of intent to annex on appropriate entities when petition is initiated by property owners.

**414.031 Subd. 3a. Presiding administrative law judge; tour.** Adds new subdivision requiring a presiding administrative law judge to tour the subject area; specifies eligible participants and how disputes regarding the tour are to be resolved.

**414.031 Subd 4. Relevant factors, order.** Adds new factor to be considered by the presiding administrative law judge regarding information received as a result of a tour of the subject area.

#### **414.0325 Orderly Annexation Within Designated Unincorporated Area**

**414.0325 Subd. 1. Initiating the proceedings.** Adds language distinguishing between area designated for orderly annexation and the actual annexation of any part of a designated area.

**414.0325 Subd. 1b. Notice of intent to designate an area.** Repeals drafting error from 2006 session requiring a public informational meeting prior to adopting an orderly annexation agreement.

**414.0325 Subd. 5. Planning in orderly annexation area.** Expands the authority for joint planning required for orderly annexation agreements by including additional planning options that may be agreed to by the signatories to the orderly annexation agreement.

#### **414.0333 Joint Information Meeting**

**414. 0333:** Clarifies publication requirements for notice of joint information meeting; co-chairs may establish time limits for speakers; clarifies the type of information that may be submitted at meeting.

#### **414.035 Differential Taxation For Up To Six Years**

**414.035:** Limits the differential tax provisions to contested annexation proceedings and further clarifies municipal services as “property-tax-supported” services; allows differential tax provisions to be negotiated in orderly annexation agreements.

#### **414.067 Apportioned Assets And Obligations**

**414.067. Subd. 1. Township or municipality divided.** Authorizes the chief administrative law judge, in consultation with the parties, to designate a qualified person to assist in the apportionment and division of property and obligations when existing governmental unit is divided.

#### **414.12 Director’s Powers**

**414.12. Subd. 1. Alternative dispute resolution.** Deletes language made unnecessary by the transfer of the municipal boundary adjustment function to the office of administrative hearings; chief judge authorized to make final decisions.

**414.12 Subd. 3. Cost of proceedings.** Substitutes ‘administrative hearings’ for ‘strategic and long range planning.’

**414.12 Subd. 4. Parties.** Presiding administrative law judge to determine other appropriate parties to a proceeding.

**414.12 Subd. 5.** Adds new subdivision describing procedures for finalizing matters resolved prior to hearing.

**414.12 Subd. 6.** Adds new subdivision limiting authority for actions not authorized by Chapter 414.

Laws 2006, chapter 270, article 2, section 1, as amended by Laws 2007, chapter 90, section 4: **Extends the life of the Task Force from June 30, 2008 until December 31, 2008.**

## ARTICLE 2

Changes the references to “director” and “office of strategic and long range planning” to “chief administrative law judge” and “office of administrative hearings” throughout other statutes as indicated.

### **4A.02 State Demographer**

**4A.02(b)(10):** Reference to chief administrative law judge in description of duties of the state demographer

### **40A.121 Annexation Proceedings**

**40A.121 Subd. 1. Annexation prohibited.** Prohibits annexation of ag preserve lands in townships unless certain findings by chief administrative law judge

### **272.67 Division Of Lands In Cities Into Rural and Urban Districts**

**272.67 Subd. 1. City powers.** Chief administrative law judge may divide a municipality into an urban service district or into a rural service district for annexations, incorporations or consolidations.

### **276A.09 Changes In Status Of Municipality**

**276A.09:** Secretary of State to certify population to commissioner of revenue as determined by chief administrative law judge if city is dissolved, consolidated, annexed.

### **365.46 Notice To Secretary Of State, Others; Recording**

**365.46 Subd.2. Copies.** Chief administrative law judge to receive copy of report of dissolution of town from county auditor

### **379.05 Auditor To Sum Up Report For State, Make Town Record**

**379.05:** When town is organized, chief administrative law judge to receive a copy of abstract report of record.

### **412.021 Officers**

**412.021 Subd. 1. Election.** Chief administrative law judge to appoint election judges following incorporation of city

### **412.091 Dissolution**

**412.091:** Upon petition for an election on city dissolution, chief administrative law judge to schedule hearing on the question prior to election.

#### **462.3535 Community-Based Planning**

**462.3535 Subd. 5. Urban growth area boundary adjustment process.** Orderly annexation agreements negotiated as a part of an urban growth boundary area identified in a county or city comprehensive plan to be filed with chief administrative law judge.

#### **475F.13 Change In Status Of Municipality**

**475F.13 Subd.1. Certification of change in status.** Secretary of State to certify population to commissioner of revenue as determined by chief administrative law judge if city is dissolved, consolidated, annexed.

#### **473H.14 Annexation Proceedings**

**473H.14:** Prohibits annexation of ag preserve lands in townships unless certain findings by chief administrative law judge

#### **572A.01 Comprehensive Planning Disputes, Mediation**

**572A.01 Subd.2. Mediation.** Office of Administrative Hearings to maintain a list of neutrals qualified in land use planning issues.

#### **572A.015 Chapter 414 Disputes, Mediation**

**572A.015 Subd. 2. Mediation.** Chief administrative law judge to provide list of experienced neutrals upon request.

#### **572A.02 Arbitration**

**572A.02 Subd. 6. Decision.** Requires arbitrator to transmit order to chief administrative law judge if for a Chapter 414 dispute.

## Appendix A

### MUNICIPAL BOUNDARY ADJUSTMENT ADVISORY TASK FORCE ESTABLISHED.

**Subdivision 1. Membership.** An advisory task force on municipal boundary adjustments is established to study and make recommendations on what, if any, changes should be made to the law governing municipal boundary adjustments. The task force shall develop recommendations regarding best practices annexation training for city and township officials to better communicate and jointly plan potential annexations. The task force is comprised of the following members:

(1) two members of the senate, one appointed by the majority leader and one appointed by the minority leader;

(2) two members of the house of representatives, one appointed by the speaker of the house and one appointed by the minority leader;

(3) three representatives of city interests, appointed by the League of Minnesota Cities in consultation with the Association of Metropolitan Municipalities, the Coalition of Greater Minnesota Cities, and the Minnesota Association of Small Cities;

(4) three representatives of township interests, appointed by the Minnesota Association of Townships; and

(5) one person appointed jointly by the senate majority leader and the speaker of the house of representatives to serve as chair of the task force, selected based on knowledge and experience in municipal boundary adjustment issues and who could serve without bias towards either side of the issue of annexation. The chair must convene the first meeting of the task force no later than August 1, 2007.

All appointing authorities must make the appointments to the task force within 30 days of the effective date of this section and shall provide for balance of geographic areas of the state and city and town interests.

**Subd. 2. Report by January 2007 2008.** The task force shall report its recommendations to the chairs and members of the house of representatives and senate committees with jurisdiction over municipal boundary adjustments by January 4 15, 2007 2008. The task force shall also provide a copy of its recommendations to the Legislative Reference Library.

**Subd. 3. ~~Funds available.~~ Expenses.** ~~Any funds remaining in the committee budgets for the house local government committee or the senate state and local government operations committee as of the 2006 adjournment of the legislature will be available to pay for the administrative expenses of the task force, including per diems and expenses of members and the services of a facilitator from the management analysis division of the Department of Administration.~~ The cost of preparing the report must be divided among the League of Minnesota Cities, the Coalition of Greater Minnesota Cities, and the Minnesota Association of Townships.

**EFFECTIVE DATE.** This section is effective the day following final enactment. The Municipal Boundary Adjustment Advisory Task Force expires on June 30, 2008.

**HIST:** 2006 c 270 art. 2 s 1; 2007 c 90 s 4

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# State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **3357**

February 25, 2008

Authored by Marquart and Magnus

The bill was read for the first time and referred to the Committee on Local Government and Metropolitan Affairs

A bill for an act

relating to municipal boundary adjustments; providing for changes in municipal boundaries; imposing powers and duties on the chief administrative law judge; amending Minnesota Statutes 2006, sections 4A.02; 40A.121, subdivision 1; 272.67, subdivision 1; 276A.09; 365.46, subdivision 2; 379.05; 412.021, subdivision 1; 412.091; 414.01, subdivisions 1, 1a, 8a, 16; 414.011, by adding a subdivision; 414.02, subdivision 1a; 414.031, subdivisions 1a, 4, by adding a subdivision; 414.0325, subdivisions 1, 5; 414.0333; 414.035; 414.067, subdivision 1; 414.12, subdivisions 1, 3, 4, by adding subdivisions; 462.3535, subdivision 5; 473F.13, subdivision 1; 473H.14; 572A.01, subdivision 2; 572A.015, subdivision 2; 572A.02, subdivision 6; Minnesota Statutes 2007 Supplement, section 414.0325, subdivision 1b; Laws 2006, chapter 270, article 2, section 1, as amended; repealing Minnesota Statutes 2006, sections 414.01, subdivision 7a; 414.011, subdivision 11; 414.12, subdivision 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

## ARTICLE 1

### MUNICIPAL BOUNDARIES ADJUSTMENTS

Section 1. Minnesota Statutes 2006, section 414.01, subdivision 1, is amended to read:

Subdivision 1. **A duty of ~~planning director~~ chief administrative law judge.**

~~Among the duties of the director of the Office of Strategic and Long-Range Planning is the duty to~~ The chief administrative law judge shall conduct proceedings, make

determinations, and issue orders for the creation of a municipality, the combination of two or more governmental units, or the alteration of a municipal boundary.

Sec. 2. Minnesota Statutes 2006, section 414.01, subdivision 1a, is amended to read:

Subd. 1a. **Legislative findings.** The legislature finds that:

(1) sound urban development and preservation of agricultural land and open spaces through land use planning is essential to the continued economic growth of this state;

(2) municipal government most efficiently provides governmental services in areas intensively developed for residential, commercial, industrial, and governmental purposes; and township government most efficiently provides governmental services in areas used or developed for agricultural, open space, and rural residential purposes;

(3) the public interest requires that municipalities be formed when there exists or will likely exist the necessary resources to provide for their economical and efficient operation;

(4) annexation to existing municipalities of unincorporated areas unable to supply municipal services should be facilitated; and

(5) joint resolutions for orderly annexation, consolidation of municipalities, mergers of towns and municipalities, long-range joint powers planning or other cooperative efforts among counties, cities, and towns should be encouraged.

Sec. 3. Minnesota Statutes 2006, section 414.01, subdivision 8a, is amended to read:

Subd. 8a. **Powers of conductor of proceedings.** Any person conducting a proceeding under this chapter may administer oaths and affirmations; ~~issue subpoenas; compel the attendance and~~ receive testimony of witnesses, and the production of papers, books, and documents; examine witnesses; and receive and report evidence. Upon the written request of a presiding administrative law judge or a party, the chief administrative law judge may issue a subpoena for the attendance of a witness or the production of books, papers, records, or other documents material to any proceeding under this chapter. The subpoenas shall be enforceable through the district court in the district in which the subpoena is issued.

Sec. 4. Minnesota Statutes 2006, section 414.01, subdivision 16, is amended to read:

Subd. 16. **Compelled meetings; report.** In any proceeding under this chapter, the ~~director~~ chief administrative law judge or conductor of the proceeding may at any time in the process require representatives from ~~the~~ any petitioning property owner or involved city, town, county, political subdivision, or other governmental entity to meet together to discuss resolution of issues raised by the petition or order that confers jurisdiction on the ~~director~~ chief administrative law judge and other issues of mutual concern. The chief administrative law judge or conductor of the proceeding may determine which entities are required to participate in these discussions. The ~~director~~ chief administrative law judge or conductor of the proceeding may require that the parties meet at least three times during a 60-day period. The parties shall designate a person to report to the ~~director~~ chief administrative law judge or conductor of the proceeding on the results of the meetings

3.1 immediately after the last meeting. The parties may be granted additional time at the  
3.2 discretion of the chief administrative law judge or conductor of the proceedings.

3.3 Any proposed resolution or settlement of contested issues that results in a municipal  
3.4 boundary change, places conditions on any future municipal boundary change, or results  
3.5 in the withdrawal of an objection to a pending proceeding or the withdrawal of a pending  
3.6 proceeding must be filed with the chief administrative law judge and is subject to the  
3.7 applicable procedures and statutory criteria of this chapter.

3.8 Sec. 5. Minnesota Statutes 2006, section 414.011, is amended by adding a subdivision  
3.9 to read:

3.10 Subd. 12. **Chief administrative law judge.** "Chief administrative law judge" means  
3.11 the chief administrative law judge of the state Office of Administrative Hearings or the  
3.12 delegate of the chief administrative law judge under section 14.48.

3.13 Sec. 6. Minnesota Statutes 2006, section 414.02, subdivision 1a, is amended to read:

3.14 Subd. 1a. **Notice of intent to incorporate.** (a) At least 30 days before submitting  
3.15 to the director the petition or resolution to the chief administrative law judge under this  
3.16 section, the township must serve the clerk of each municipality and each township that is  
3.17 contiguous to the township by certified mail a notice of the township's intent to incorporate.

3.18 (b) If the proceedings for incorporation are initiated by the requisite number of  
3.19 property owners, the notice of intent to incorporate must be served by the property owner  
3.20 or owners or designee in the manner required under this paragraph. The property owner  
3.21 or owners or designee must serve a notice of intent to incorporate on the town board of  
3.22 the township containing the area proposed for incorporation. The property owner or  
3.23 owners or designee must also serve the clerk of each municipality and each township that  
3.24 is contiguous to the area proposed for incorporation by certified mail a notice of intent  
3.25 to incorporate.

3.26 Sec. 7. Minnesota Statutes 2006, section 414.031, subdivision 1a, is amended to read:

3.27 Subd. 1a. **Notice of intent to annex.** At least 30 days before submitting to the  
3.28 director a petition or resolution to the chief administrative law judge under this section,  
3.29 the petitioning municipality or petitioning property owner or supporting municipality  
3.30 must serve the township clerk of the affected township by certified mail a notice of the  
3.31 petitioning municipality's or the petitioning property owner's intent to annex property  
3.32 within the township. The notice must clearly identify the boundaries of the area proposed  
3.33 to be annexed.

Sec. 8. Minnesota Statutes 2006, section 414.031, is amended by adding a subdivision to read:

Subd. 3a. **Presiding administrative law judge; tour.** During the evidentiary hearing process, the presiding administrative law judge shall tour the proposed annexation area along with at least one representative of each of the affected towns and municipalities. Prior to the tour of the proposed annexation area, the affected towns and municipalities shall agree on the route or the administrative law judge shall determine the route for the affected towns and municipalities and resolve all disputes regarding the tour.

Sec. 9. Minnesota Statutes 2006, section 414.031, subdivision 4, is amended to read:

Subd. 4. **Relevant factors, order.** (a) In arriving at a decision, the ~~director~~ presiding administrative law judge shall consider the following sources and factors:

(1) recordings and public documents from joint informational meetings under section 414.0333 relevant to other factors listed in this subdivision;

(2) present population and number of households, past population and projected population growth of the annexing municipality and subject area and adjacent units of local government;

(3) quantity of land within the subject area and adjacent units of local government; and natural terrain including recognizable physical features, general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;

(4) degree of contiguity of the boundaries between the annexing municipality and the subject area;

(5) present pattern of physical development, planning, and intended land uses in the subject area and the annexing municipality including residential, industrial, commercial, agricultural and institutional land uses and the impact of the proposed action on those land uses;

(6) the present transportation network and potential transportation issues, including proposed highway development;

(7) land use controls and planning presently being utilized in the annexing municipality and the subject area, including comprehensive plans for development in the area and plans and policies of the Metropolitan Council, and whether there are inconsistencies between proposed development and existing land use controls and the reasons therefore;

(8) existing levels of governmental services being provided in the annexing municipality and the subject area, including water and sewer service, fire rating and protection, law enforcement, street improvements and maintenance, administrative

5.1 services, and recreational facilities and the impact of the proposed action on the delivery  
5.2 of said services;

5.3 (9) the implementation of previous annexation agreements and orders;

5.4 (10) existing or potential environmental problems and whether the proposed action  
5.5 is likely to improve or resolve these problems;

5.6 (11) plans and programs by the annexing municipality for providing needed and  
5.7 enhanced governmental services to the subject area in a cost-effective and feasible manner  
5.8 within a reasonable time from the date of the annexation;

5.9 (12) an analysis of the fiscal impact on the annexing municipality, the subject area,  
5.10 and adjacent units of local government, including net tax capacity and the present bonded  
5.11 indebtedness, and the local tax rates of the county, school district, and township;

5.12 (13) relationship and effect of the proposed action on affected and adjacent school  
5.13 districts and communities;

5.14 (14) adequacy of town government to deliver services to the subject area;

5.15 (15) analysis of whether necessary governmental services can best be provided  
5.16 through the proposed action or another type of boundary adjustment; ~~and~~

5.17 (16) if only a part of a township is annexed, the ability of the remainder of the  
5.18 township to continue or the feasibility of it being incorporated separately or being annexed  
5.19 to another municipality; and

5.20 (17) information received by the presiding administrative law judge from the tour  
5.21 required under subdivision 3a.

5.22 (b) Based upon the factors, the ~~director~~ presiding administrative law judge may  
5.23 order the annexation on finding:

5.24 (1) that the subject area is now, or is about to become, urban or suburban in character;

5.25 (2) that municipal government in the area proposed for annexation is required to  
5.26 protect the public health, safety, and welfare; or

5.27 (3) that the annexation would be in the best interest of the subject area.

5.28 (c) If only a part of a township is to be annexed, the ~~director~~ presiding administrative  
5.29 law judge shall consider whether the remainder of the township can continue to carry on  
5.30 the functions of government without undue hardship.

5.31 (d) The ~~director~~ presiding administrative law judge shall deny the annexation on  
5.32 finding that the increase in revenues for the annexing municipality bears no reasonable  
5.33 relation to the monetary value of benefits conferred upon the annexed area.

5.34 (e) The ~~director~~ presiding administrative law judge may deny the annexation on  
5.35 finding:

(1) that annexation of all or a part of the property to an adjacent municipality would better serve the interests of the residents of the property; or

(2) that the remainder of the township would suffer undue hardship.

(f) The ~~director~~ presiding administrative law judge may alter the boundaries of the area to be annexed by increasing or decreasing the area so as to include only that property which is now or is about to become urban or suburban in character or to add property of such character abutting the area proposed for annexation in order to preserve or improve the symmetry of the area, or to exclude property that may better be served by another unit of government.

(g) The ~~director~~ presiding administrative law judge may also alter the boundaries of the proposed annexation so as to follow visible, clearly recognizable physical features.

(h) If the ~~director~~ presiding administrative law judge determines that part of the area would be better served by another municipality or township, the ~~director~~ presiding administrative law judge may initiate and approve annexation by conducting further hearings and issuing orders pursuant to subdivisions 3 and 4.

(i) In all cases, the ~~director~~ presiding administrative law judge shall set forth the factors which are the basis for the decision.

Sec. 10. Minnesota Statutes 2006, section 414.0325, subdivision 1, is amended to read:

Subdivision 1. **Initiating the proceeding.** (a) One or more townships and one or more municipalities, by joint resolution, may designate an unincorporated area as in need of orderly annexation. One or more municipalities, by joint resolution with the county, may designate an unincorporated area in which there is no organized township government as in need of orderly annexation.

(b) A designated area is any area which the signatories to a joint resolution for orderly annexation have identified as being appropriate for annexation, either currently or at some point in the future, pursuant to the negotiated terms and conditions set forth in the joint resolution. Land described as a designated area is not, by virtue of being so described, considered also to be annexed for purposes of this chapter.

(c) The joint resolution will confer jurisdiction on the ~~director~~ chief administrative law judge over annexations in the designated area and over the various provisions in said agreement by submission of said joint resolution to the ~~director~~ chief administrative law judge.

~~(c)~~ (d) The resolution shall include a description of the designated area and the reasons for designation.

7.1 ~~(d)~~ (e) Thereafter, an annexation of any part of the designated area may be initiated  
 7.2 by:

7.3 (1) submitting to the ~~director~~ chief administrative law judge a resolution of any  
 7.4 signatory to the joint resolution; or

7.5 (2) the ~~director~~ chief administrative law judge.

7.6 ~~(e)~~ (f) Whenever a state agency, other than the pollution control agency, orders a  
 7.7 municipality to extend a municipal service to an area, the order confers jurisdiction on  
 7.8 the ~~director~~ chief administrative law judge to consider designation of the area for orderly  
 7.9 annexation.

7.10 ~~(f)~~ (g) If a joint resolution designates an area as in need of orderly annexation  
 7.11 and states that no alteration of its stated boundaries is appropriate, the ~~director~~ chief  
 7.12 administrative law judge may review and comment, but may not alter the boundaries.

7.13 ~~(g)~~ (h) If a joint resolution designates an area as in need of orderly annexation,  
 7.14 provides for the conditions for its annexation, and states that no consideration by the  
 7.15 ~~director~~ chief administrative law judge is necessary, the ~~director~~ chief administrative  
 7.16 law judge may review and comment, but shall, within 30 days, order the annexation in  
 7.17 accordance with the terms of the resolution.

7.18 Sec. 11. Minnesota Statutes 2007 Supplement, section 414.0325, subdivision 1b,  
 7.19 is amended to read:

7.20 Subd. 1b. **Notice of intent to designate an area.** At least ten days before the  
 7.21 municipality or township adopts an orderly annexation agreement, a notice of the intent  
 7.22 to include property in an orderly annexation area must be published in a newspaper of  
 7.23 general circulation in both the township and municipality. The notice must clearly identify  
 7.24 the boundaries of the area proposed to be included in the orderly annexation agreement  
 7.25 ~~and the date, time, and place of the public informational meeting to be held as provided~~  
 7.26 ~~in section 414.0333.~~ The cost of providing notice must be equally divided between the  
 7.27 municipality and the township, unless otherwise agreed upon by the municipality and the  
 7.28 township. This subdivision applies only to the initial designation to include property in an  
 7.29 orderly annexation area subject to the orderly annexation agreement, or any expansion of  
 7.30 the orderly annexation area subject to the agreement, and not to any subsequent annexation  
 7.31 of any property from within the designated ~~orderly annexation~~ area. This subdivision also  
 7.32 does not apply when the orderly annexation agreement only designates for immediate  
 7.33 annexation property for which all of the property owners have petitioned to be annexed.

7.34 Sec. 12. Minnesota Statutes 2006, section 414.0325, subdivision 5, is amended to read:

8.1 Subd. 5. **Planning in orderly annexation area.** (a) ~~A joint resolution~~ An orderly  
8.2 annexation agreement may provide for the establishment of a board to exercise planning  
8.3 and land use control authority within any area designated as an orderly annexation area  
8.4 pursuant to this section, in the manner prescribed by section 471.59, ~~subdivisions 2 to~~  
8.5 ~~8, inclusive.~~ The orderly annexation agreement may also delegate planning and land  
8.6 use authority to the municipalities or towns or may establish some other process within  
8.7 the orderly annexation agreement to accomplish planning and land use control of the  
8.8 designated area.

8.9 (b) A board or other planning authority designated or established pursuant to ~~a joint~~  
8.10 ~~resolution~~ an orderly annexation agreement shall have all of the powers contained in  
8.11 sections 462.351 to 462.364, and shall have the authority to adopt and enforce the State  
8.12 Fire Code promulgated pursuant to section 299F.011.

8.13 (c) ~~The joint resolution~~ orderly annexation agreement may provide that joint  
8.14 planning and land use controls shall apply to any or all parts of the area designated  
8.15 for orderly annexation as well as to any adjacent unincorporated or incorporated area,  
8.16 provided that the area to be included shall be described in the joint resolution.

8.17 (d) If the ~~joint resolution~~ orderly annexation agreement does not provide for joint  
8.18 planning and land use control, delegate planning and land use control to the municipalities  
8.19 or towns, or establish some other process for planning and land use authority, the  
8.20 following procedures shall govern:

8.21 (1) if the county and townships agree to exclude the area from their zoning  
8.22 and subdivision ordinances, the municipality may extend its zoning and subdivision  
8.23 regulations to include the entire orderly annexation area as provided in section 462.357,  
8.24 subdivision 1, and section 462.358, subdivision 1; or

8.25 (2) if the county and township do not agree to such extraterritorial zoning and  
8.26 subdivision regulation by the municipality, zoning and subdivision regulation within  
8.27 the orderly annexation area shall be controlled by a three-member committee with one  
8.28 member appointed from each of the municipal, town, and county governing bodies.

8.29 (e) The committee under paragraph (d), clause (2), shall:

8.30 (1) serve as the "governing body" and "board of appeals and adjustments," for  
8.31 purposes of sections 462.357 and 462.358, within the orderly annexation area; and

8.32 (2) have all of the powers contained in sections 462.351 to 462.364, and the authority  
8.33 to adopt and enforce the State Fire Code promulgated pursuant to section 299F.011.

8.34 Sec. 13. Minnesota Statutes 2006, section 414.0333, is amended to read:

8.35 **414.0333 JOINT INFORMATIONAL MEETING.**

9.1 There must be a joint informational meeting of the municipal council of the annexing  
9.2 municipality and the town board of supervisors of the township containing the land  
9.3 proposed to be annexed or included in annexation proceedings under section 414.031.  
9.4 For an annexation under section 414.031, the joint informational meeting must be held  
9.5 after the final mediation meeting or the final meeting held pursuant to section 414.01,  
9.6 subdivision 16, if any, and before the hearing on the matter is held. If no mediation  
9.7 meetings are held, the joint informational meeting must be held after the initiating  
9.8 documents have been filed and before the hearing on the matter. The time, date, and  
9.9 place of the public informational meeting must be determined jointly by the chair of the  
9.10 town board of supervisors and the mayor of the annexing municipality. The chair of the  
9.11 town board of supervisors and the mayor must serve as the cochairs for the informational  
9.12 meeting. Notice of the time, date, place, and purpose of the informational meeting must be  
9.13 posted by the town clerk in the township's designated place for posting notices, and by the  
9.14 municipal clerk in the municipality's designated place for posting notices. ~~A joint notice~~  
9.15 ~~shall be published in a newspaper of general circulation within both the municipality and~~  
9.16 ~~the township.~~ In addition, both the city and town shall publish, at their own expense,  
9.17 notice in their respective official newspapers. If the city and town use the same official  
9.18 newspaper, a joint notice may be published and the costs evenly divided. All notice  
9.19 required by this section must be provided at least ten days before the date for the public  
9.20 informational meeting. At the public informational meeting, all persons appearing must  
9.21 have an opportunity to be heard, but the co-chairs may, by mutual agreement, establish  
9.22 the amount of time allowed for each speaker. The municipal council, the town board of  
9.23 supervisors, and any resident or affected property owner may be represented by counsel  
9.24 and ~~introduce evidence including, but not limited to, expert testimony into the record~~  
9.25 ~~of the informational meeting~~ may place into the record of the informational meeting  
9.26 documents, expert opinions, or other materials supporting their positions on issues raised  
9.27 by the proposed annexation proceeding. The clerk of the township must record minutes  
9.28 of the proceedings of the informational meeting and the municipal clerk must make an  
9.29 audio recording of the informational meeting. The township must provide the ~~director~~  
9.30 chief administrative law judge and the municipality with a copy of the printed minutes  
9.31 and the municipality must provide the ~~director~~ chief administrative law judge and the  
9.32 township with a copy of the audio recording. The record of the informational meeting for  
9.33 a proceeding under section 414.031 is admissible in any proceeding under this chapter  
9.34 and shall be taken into consideration by the ~~director~~ chief administrative law judge or the  
9.35 ~~director's~~ chief administrative law judge's designee.

10.1 Sec. 14. Minnesota Statutes 2006, section 414.035, is amended to read:

10.2 **414.035 DIFFERENTIAL TAXATION FOR UP TO SIX YEARS.**

10.3 Whenever an order, under section 414.031, ~~414.0325, or 414.033,~~ annexes part or all  
 10.4 of a township to a municipality, the order may provide that the tax rate of the annexing  
 10.5 municipality on the area annexed shall be increased in substantially equal proportions  
 10.6 over not more than six years to equality with the tax rate on the property already within  
 10.7 the municipality. The appropriate period, if any, shall be based on the time reasonably  
 10.8 required to effectively provide ~~full~~ property-tax-supported municipal services to the  
 10.9 annexed area. Nothing in this section prohibits a differential tax provision from being  
 10.10 included in an orderly annexation agreement.

10.11 Sec. 15. Minnesota Statutes 2006, section 414.067, subdivision 1, is amended to read:

10.12 Subdivision 1. **Township or municipality divided.** Whenever the ~~director~~ chief  
 10.13 administrative law judge divides an existing governmental unit, the ~~director~~ chief  
 10.14 administrative law judge, or other qualified person designated by the chief administrative  
 10.15 law judge with the concurrence of the parties, may apportion the property and obligations  
 10.16 between the governmental unit adding territory and the governmental unit from which  
 10.17 the territory was obtained. The apportionment shall be made in a just and equitable  
 10.18 manner having in view the value of the existing township or municipal property located  
 10.19 in the area to be added; the assets, value, and location of all the taxable property in the  
 10.20 existing township or municipality; the indebtedness, the taxes due and delinquent, other  
 10.21 revenue accrued but not paid to the existing township or municipality; and the ability of  
 10.22 any remainder of the township or municipality to function as an effective governmental  
 10.23 unit. The order shall not relieve any property from any tax liability for payment for  
 10.24 any bonded obligation, but the taxable property in the new municipality may be made  
 10.25 primarily liable thereon.

10.26 Sec. 16. Minnesota Statutes 2006, section 414.12, subdivision 1, is amended to read:

10.27 Subdivision 1. **Alternative dispute resolution.** (a) Notwithstanding anything to  
 10.28 the contrary in sections 414.01 to 414.09, before assigning a matter to an administrative  
 10.29 law judge for hearing, the ~~director~~ chief administrative law judge, upon consultation with  
 10.30 affected parties and considering the procedures and principles established in sections  
 10.31 414.01 to 414.09, ~~and Laws 1997, chapter 202, article 4, sections 1 to 13,~~ may require that  
 10.32 disputes over proposed boundary adjustments be ~~resolved~~ addressed in whole or in part  
 10.33 by means of alternative dispute resolution processes in place of, or in connection with,

11.1 hearings that would otherwise be required pursuant to sections 414.01 to 414.09, including  
 11.2 those provided in chapter 14, ~~in the execution of the director's duties under this chapter.~~

11.3 ~~(b) Alternative dispute resolution processes that may be required include:~~

11.4 ~~(1) the contested case procedures provided by sections 14.57 to 14.62;~~

11.5 ~~(2) the mediation and arbitration process provided by sections 572A.015 to 572A.03;~~

11.6 ~~or~~

11.7 ~~(3) another mediation and arbitration process ordered by the director.~~

11.8 (b) In all proceedings, the chief administrative law judge has the authority and  
 11.9 responsibility to conduct hearings and issue final orders related to the hearings under  
 11.10 sections 414.01 to 414.09.

11.11 Sec. 17. Minnesota Statutes 2006, section 414.12, subdivision 3, is amended to read:

11.12 Subd. 3. **Cost of proceedings.** (a) The parties to any matter directed to alternative  
 11.13 dispute resolution under subdivision 1 ~~or delegated to the Office of Administrative~~  
 11.14 ~~Hearings under subdivision 2~~ must pay the costs of the alternative dispute resolution  
 11.15 process or hearing in the proportions that they agree to.

11.16 (b) Notwithstanding section 14.53 or other law, the Office of ~~strategic and long-range~~  
 11.17 ~~planning~~ Administrative Hearings is not liable for the costs.

11.18 (c) If the parties do not agree to a division of the costs before the commencement of  
 11.19 mediation, arbitration, or hearing, the costs must be allocated on an equitable basis by  
 11.20 the mediator, arbitrator, or chief administrative law judge.

11.21 (d) The chief administrative law judge may contract with the parties to a matter  
 11.22 ~~directed or delegated to the Office of Administrative Hearings under subdivisions 1 and 2~~  
 11.23 for the purpose of providing administrative law judges and reporters for an administrative  
 11.24 proceeding or alternative dispute resolution.

11.25 (e) The chief administrative law judge shall assess the cost of services rendered by  
 11.26 the Office of Administrative Hearings as provided by section 14.53.

11.27 Sec. 18. Minnesota Statutes 2006, section 414.12, subdivision 4, is amended to read:

11.28 Subd. 4. **Parties.** In this section, "party" means:

11.29 (1) a property owner, group of property owners, municipality, or township that files  
 11.30 an initiating document or timely objection under this chapter;

11.31 (2) the municipality or township within which the subject area is located;

11.32 (3) a municipality abutting the subject area; and

11.33 (4) any other person, group of persons, or governmental agency residing in, owning  
 11.34 property in, or exercising jurisdiction over the subject area that ~~files with the director~~

12.1 ~~a notice of appearance within 14 days of publication of the notice required by section~~  
 12.2 ~~414.09~~, submits a timely request, and is determined by the presiding administrative law  
 12.3 judge to have a direct legal interest that will be affected by the outcome of the proceeding.

12.4 Sec. 19. Minnesota Statutes 2006, section 414.12, is amended by adding a subdivision  
 12.5 to read:

12.6 Subd. 5. **Effectuation of agreements.** Matters resolved or agreed to by the parties  
 12.7 as a result of an alternative dispute resolution process, or otherwise, may be incorporated  
 12.8 into a joint resolution adopted pursuant to section 414.0325, subdivision 1, or into one or  
 12.9 more stipulations for purposes of further proceedings in accordance with the applicable  
 12.10 procedures and statutory criteria of this chapter.

12.11 Sec. 20. Minnesota Statutes 2006, section 414.12, is amended by adding a subdivision  
 12.12 to read:

12.13 Subd. 6. **Limitations on authority.** Nothing in this section shall be construed to  
 12.14 permit any municipality, town, or other political subdivision to take, or agree to take, any  
 12.15 action that is not otherwise authorized by this chapter.

12.16 Sec. 21. Laws 2006, chapter 270, article 2, section 1, as amended by Laws 2007,  
 12.17 chapter 90, section 4, is amended to read:

12.18 Section 1. **MUNICIPAL BOUNDARY ADJUSTMENT ADVISORY TASK**  
 12.19 **FORCE ESTABLISHED.**

12.20 Subdivision 1. **Membership.** An advisory task force on municipal boundary  
 12.21 adjustments is established to study and make recommendations on what, if any, changes  
 12.22 should be made to the law governing municipal boundary adjustments. The task force  
 12.23 shall develop recommendations regarding best practices annexation training for city and  
 12.24 township officials to better communicate and jointly plan potential annexations. The task  
 12.25 force is comprised of the following members:

12.26 (1) two members of the senate, one appointed by the majority leader and one  
 12.27 appointed by the minority leader;

12.28 (2) two members of the house of representatives, one appointed by the speaker of the  
 12.29 house and one appointed by the minority leader;

12.30 (3) three representatives of city interests, appointed by the League of Minnesota  
 12.31 Cities in consultation with the Association of Metropolitan Municipalities, the Coalition  
 12.32 of Greater Minnesota Cities, and the Minnesota Association of Small Cities;

13.1 (4) three representatives of township interests, appointed by the Minnesota  
13.2 Association of Townships; and

13.3 (5) one person appointed jointly by the senate majority leader and the speaker of the  
13.4 house of representatives to serve as chair of the task force, selected based on knowledge  
13.5 and experience in municipal boundary adjustment issues and who could serve without bias  
13.6 towards either side of the issue of annexation. The chair must convene the first meeting of  
13.7 the task force no later than August 1, 2007.

13.8 All appointing authorities must make the appointments to the task force within 30 days of  
13.9 the effective date of this section and shall provide for balance of geographic areas of the  
13.10 state and city and town interests.

13.11 Subd. 2. **Report by ~~January~~ December 31, 2008.** The task force shall report its  
13.12 interim recommendations to the chairs and members of the house of representatives and  
13.13 senate committees with jurisdiction over municipal boundary adjustments by ~~January 15~~  
13.14 March 1, 2008, and its final recommendations by December 31, 2008. The task force shall  
13.15 also provide a copy of its recommendations to the Legislative Reference Library.

13.16 Subd. 3. **Expenses.** The cost of preparing the report must be divided among the  
13.17 League of Minnesota Cities, the Coalition of Greater Minnesota Cities, and the Minnesota  
13.18 Association of Townships.

13.19 **EFFECTIVE DATE.** This section is effective the day following final enactment.  
13.20 The Municipal Boundary Adjustment Advisory Task Force expires on ~~June 30~~ December  
13.21 31, 2008.

13.22 Sec. 22. **REPEALER.**

13.23 Minnesota Statutes 2006, sections 414.01, subdivision 7a; 414.011, subdivision 11;  
13.24 and 414.12, subdivision 2, are repealed.

13.25 Sec. 23. **EFFECTIVE DATE.**

13.26 This article is effective the day following final enactment.

## 13.27 ARTICLE 2

### 13.28 CONFORMING CHANGES

13.29 Section 1. Minnesota Statutes 2006, section 4A.02, is amended to read:

13.30 **4A.02 STATE DEMOGRAPHER.**

- 14.1 (a) The director shall appoint a state demographer. The demographer must be  
14.2 professionally competent in demography and must possess demonstrated ability based  
14.3 upon past performance.
- 14.4 (b) The demographer shall:
- 14.5 (1) continuously gather and develop demographic data relevant to the state;
- 14.6 (2) design and test methods of research and data collection;
- 14.7 (3) periodically prepare population projections for the state and designated regions  
14.8 and periodically prepare projections for each county or other political subdivision of the  
14.9 state as necessary to carry out the purposes of this section;
- 14.10 (4) review, comment on, and prepare analysis of population estimates and  
14.11 projections made by state agencies, political subdivisions, other states, federal agencies, or  
14.12 nongovernmental persons, institutions, or commissions;
- 14.13 (5) serve as the state liaison with the United States Bureau of the Census, coordinate  
14.14 state and federal demographic activities to the fullest extent possible, and aid the  
14.15 legislature in preparing a census data plan and form for each decennial census;
- 14.16 (6) compile an annual study of population estimates on the basis of county, regional,  
14.17 or other political or geographical subdivisions as necessary to carry out the purposes of  
14.18 this section and section 4A.03;
- 14.19 (7) by January 1 of each year, issue a report to the legislature containing an analysis  
14.20 of the demographic implications of the annual population study and population projections;
- 14.21 (8) prepare maps for all counties in the state, all municipalities with a population  
14.22 of 10,000 or more, and other municipalities as needed for census purposes, according to  
14.23 scale and detail recommended by the United States Bureau of the Census, with the maps  
14.24 of cities showing precinct boundaries;
- 14.25 (9) prepare an estimate of population and of the number of households for each  
14.26 governmental subdivision for which the Metropolitan Council does not prepare an annual  
14.27 estimate, and convey the estimates to the governing body of each political subdivision  
14.28 by June 1 of each year;
- 14.29 (10) direct, under section 414.01, subdivision 14, and certify population and  
14.30 household estimates of annexed or detached areas of municipalities or towns after being  
14.31 notified of the order or letter of approval by the ~~director~~ chief administrative law judge of  
14.32 the State Office of Administrative Hearings;
- 14.33 (11) prepare, for any purpose for which a population estimate is required by law  
14.34 or needed to implement a law, a population estimate of a municipality or town whose  
14.35 population is affected by action under section 379.02 or 414.01, subdivision 14; and

15.1 (12) prepare an estimate of average household size for each statutory or home rule  
15.2 charter city with a population of 2,500 or more by June 1 of each year.

15.3 (c) A governing body may challenge an estimate made under paragraph (b) by filing  
15.4 their specific objections in writing with the state demographer by June 24. If the challenge  
15.5 does not result in an acceptable estimate, the governing body may have a special census  
15.6 conducted by the United States Bureau of the Census. The political subdivision must  
15.7 notify the state demographer by July 1 of its intent to have the special census conducted.  
15.8 The political subdivision must bear all costs of the special census. Results of the special  
15.9 census must be received by the state demographer by the next April 15 to be used in that  
15.10 year's June 1 estimate to the political subdivision under paragraph (b).

15.11 (d) The state demographer shall certify the estimates of population and household  
15.12 size to the commissioner of revenue by July 15 each year, including any estimates still  
15.13 under objection.

15.14 Sec. 2. Minnesota Statutes 2006, section 40A.121, subdivision 1, is amended to read:

15.15 Subdivision 1. **Annexation prohibited.** Land within an agricultural preserve that is  
15.16 within a township may not be annexed to a municipality under chapter 414, unless the  
15.17 ~~director of the Office of Strategic and Long-Range Planning~~ chief administrative law  
15.18 judge of the state Office of Administrative Hearings finds that either:

15.19 (1) the owner or the county has initiated termination of the zone under section  
15.20 40A.11;

15.21 (2) because of size, tax base, population or other relevant factors, the township  
15.22 would not be able to provide normal governmental functions and services; or

15.23 (3) the zone would be completely surrounded by lands within a municipality.

15.24 Sec. 3. Minnesota Statutes 2006, section 272.67, subdivision 1, is amended to read:

15.25 Subdivision 1. **City powers.** Any city however organized, except in those counties  
15.26 situated in a metropolitan area as defined in Minnesota Statutes 1961, Section 473.02,  
15.27 Subdivision 5, which contain cities of the first class, may by ordinance adopted in the  
15.28 manner provided in this section divide its area into an urban service district and a rural  
15.29 service district, constituting separate taxing districts for the purpose of all municipal  
15.30 property taxes except those levied for the payment of bonds and judgments and interest  
15.31 thereon. In proceedings for annexation, incorporation, or consolidation being conducted  
15.32 pursuant to chapter 414, the ~~director of the Office of Strategic and Long-Range Planning~~  
15.33 chief administrative law judge of the state Office of Administrative Hearings may divide a  
15.34 municipality into an urban service district and a rural service district, such districts to be

16.1 designated in accordance with the criteria set out in subdivision 2. Thereafter, said urban  
16.2 service district and rural service district may be changed in the same manner that an  
16.3 ordinance or amendment is changed in accordance with this section.

16.4 Sec. 4. Minnesota Statutes 2006, section 276A.09, is amended to read:

16.5 **276A.09 CHANGE IN STATUS OF MUNICIPALITY.**

16.6 If a municipality is dissolved, is consolidated with all or part of another municipality,  
16.7 annexes territory, has a portion of its territory detached from it, or is newly incorporated,  
16.8 the secretary of state shall immediately certify that fact to the commissioner of revenue.  
16.9 The secretary of state shall also certify to the commissioner of revenue the current  
16.10 population of the new, enlarged, or successor municipality, if determined by the ~~director of~~  
16.11 ~~the Office of Strategic and Long-Range Planning~~ chief administrative law judge of the state  
16.12 Office of Administrative Hearings incident to consolidation, annexation, or incorporation  
16.13 proceedings. The population so certified shall govern for purposes of sections 276A.01 to  
16.14 276A.09 until the state demographer files the first population estimate as of a later date  
16.15 with the commissioner of revenue. If an annexation of unincorporated land occurs without  
16.16 proceedings before the ~~director of the Office of Strategic and Long-Range Planning~~ chief  
16.17 administrative law judge of the state Office of Administrative Hearings, the population of  
16.18 the annexing municipality as previously determined shall continue to govern for purposes  
16.19 of sections 276A.01 to 276A.09 until the state demographer files the first population  
16.20 estimate as of a later date with the commissioner of revenue.

16.21 Sec. 5. Minnesota Statutes 2006, section 365.46, subdivision 2, is amended to read:

16.22 Subd. 2. **Copies.** The county auditor shall also send a copy of the notice of the  
16.23 dissolution to: (1) the state demographer, (2) the Land Management Information Center,  
16.24 (3) the ~~director of the Office of Strategic and Long-Range Planning~~ chief administrative  
16.25 law judge of the state Office of Administrative Hearings, and (4) the commissioner of  
16.26 transportation.

16.27 Sec. 6. Minnesota Statutes 2006, section 379.05, is amended to read:

16.28 **379.05 AUDITOR TO SUM UP REPORT FOR STATE, MAKE TOWN**  
16.29 **RECORD.**

16.30 Each county auditor shall within 30 days after any such town is organized transmit  
16.31 by mail to the commissioner of revenue, the secretary of state, the state demographer,  
16.32 the Land Management Information Center, the ~~director of the Office of Strategic and~~  
16.33 ~~Long-Range Planning~~ chief administrative law judge of the state Office of Administrative

17.1 Hearings, and the commissioner of transportation an abstract of such report, giving the  
17.2 name and boundaries of such town and record in a book kept for that purpose a full  
17.3 description of each such town.

17.4 Sec. 7. Minnesota Statutes 2006, section 412.021, subdivision 1, is amended to read:

17.5 Subdivision 1. **Election.** Upon the filing of the certificate with the secretary of state,  
17.6 if the vote is in favor of incorporation, the judges of election appointed by the ~~director of~~  
17.7 ~~the Office of Strategic and Long-Range Planning~~ chief administrative law judge of the state  
17.8 Office of Administrative Hearings or the county board as the case may be, shall fix a day at  
17.9 least 15 and not more than 30 days thereafter and a place for the holding of an election for  
17.10 officers. The judges shall also fix the time, not less than three hours, during which the polls  
17.11 shall remain open at the election and shall post a notice setting forth the time and place of  
17.12 such election in three public places in the city for at least ten days preceding the election.

17.13 Sec. 8. Minnesota Statutes 2006, section 412.091, is amended to read:

17.14 **412.091 DISSOLUTION.**

17.15 Whenever a number of voters equal to one-third of those voting at the last preceding  
17.16 city election petition the ~~director of the Office of Strategic and Long-Range Planning~~  
17.17 ~~therefor~~ chief administrative law judge of the state Office of Administrative Hearings to  
17.18 dissolve the city, a special election shall be called to vote upon the question of ~~dissolving~~  
17.19 ~~the city~~. Before the election, the ~~director~~ chief administrative law judge shall designate  
17.20 a time and place for a hearing in accordance with section 414.09. After the hearing, the  
17.21 ~~director~~ chief administrative law judge shall issue an order which shall include a date for  
17.22 the election, a determination of what town or towns the territory of the city shall belong to  
17.23 if the voters favor dissolution, and other necessary provisions. The ballots used at such  
17.24 election shall bear the printed words, "For Dissolution" and "Against Dissolution," with a  
17.25 square before each phrase in which the voter may express a preference by a cross. If a  
17.26 majority of those voting on the question favor dissolution, the clerk shall file a certificate  
17.27 of the result with the ~~director~~ chief administrative law judge, the secretary of state, and the  
17.28 county auditor of the county in which the city is situated. Six months after the date of  
17.29 such election, the city shall cease to exist. Within such six months, the council shall audit  
17.30 all claims against the city, settle with the treasurer, and other city officers, and apply the  
17.31 assets of the city to the payment of its debts. If any debts remain unpaid, other than bonds,  
17.32 the city clerk shall file a schedule of such debts with the county treasurer and the council  
17.33 shall levy a tax sufficient for their payment, the proceeds of which, when collected, shall  
17.34 be paid by the county treasurer to the creditors in proportion to their several claims until

18.1 all are discharged. The principal and interest on outstanding bonds shall be paid when due  
18.2 by the county treasurer from a tax annually spread by the county auditor against property  
18.3 formerly included within the city until the bonds are fully paid. All city property and all  
18.4 rights of the city shall, upon dissolution, inure in the town or towns designated as the legal  
18.5 successor to the city. If the city territory goes to more than one town, surplus cash assets  
18.6 and unsold city property shall be distributed as provided by the order for the election.

18.7 Sec. 9. Minnesota Statutes 2006, section 462.3535, subdivision 5, is amended to read:

18.8 Subd. 5. **Urban growth area boundary adjustment process.** (a) After an urban  
18.9 growth area has been identified in a county or city plan, a city shall negotiate, as part of  
18.10 the comprehensive planning process and in coordination with the county, an orderly  
18.11 annexation agreement with the townships containing the affected unincorporated areas  
18.12 located within the identified urban growth area. The agreement shall contain a boundary  
18.13 adjustment staging plan that establishes a sequencing plan over the subsequent 20-year  
18.14 period for the orderly growth of the city based on its reasonably anticipated development  
18.15 pattern and ability to extend municipal services into designated unincorporated areas  
18.16 located within the identified urban growth area. The city shall include the staging plan  
18.17 agreed upon in the orderly annexation agreement in its comprehensive plan. Upon  
18.18 agreement by the city and town, prior adopted orderly annexation agreements may be  
18.19 included as part of the boundary adjustment plan and comprehensive plan without regard  
18.20 to whether the prior adopted agreement is consistent with this section. When either the city  
18.21 or town requests that an existing orderly annexation agreement affecting unincorporated  
18.22 areas located within an identified or proposed urban growth area be renegotiated, the  
18.23 renegotiated plan shall be consistent with this section.

18.24 (b) After a city's community-based comprehensive plan is approved under this  
18.25 section, the orderly annexation agreement shall be filed with the ~~municipal board~~ chief  
18.26 administrative law judge of the state Office of Administrative Hearings or ~~its~~ any  
18.27 successor agency. Thereafter, the city may orderly annex the part or parts of the designated  
18.28 unincorporated area according to the sequencing plan and conditions contained in the  
18.29 negotiated orderly annexation agreement by submitting a resolution to the ~~municipal~~  
18.30 ~~board or its successor agency~~ chief administrative law judge. The resolution shall specify  
18.31 the legal description of the area designated pursuant to the staging plan contained in  
18.32 the agreement, a map showing the new boundary and its relation to the existing city  
18.33 boundary, a description of and schedule for extending municipal services to the area, and a  
18.34 determination that all applicable conditions in the agreement have been satisfied. Within 30  
18.35 days of receipt of the resolution, the ~~municipal board or its successor~~ chief administrative

19.1 law judge shall review the resolution and if it finds that the terms and conditions of the  
 19.2 orderly annexation agreement have been met, shall order the annexation. The boundary  
 19.3 adjustment shall become effective upon issuance of an order by the ~~municipal board or~~  
 19.4 ~~its successor~~ chief administrative law judge. The ~~municipal board or its successor~~ chief  
 19.5 administrative law judge shall cause copies of the boundary adjustment order to be mailed  
 19.6 to the secretary of state, Department of Revenue, state demographer, and Department of  
 19.7 Transportation. No further proceedings under chapter 414 or 572A shall be required to  
 19.8 accomplish the boundary adjustment. This section provides the sole method for annexing  
 19.9 unincorporated land within an urban growth area, unless the parties agree otherwise.

19.10 (c) If a community-based comprehensive plan is updated, the parties shall renegotiate  
 19.11 the orderly annexation agreement as needed to incorporate the adjustments and shall refile  
 19.12 the agreement with the ~~municipal board or its successor~~ chief administrative law judge.

19.13 Sec. 10. Minnesota Statutes 2006, section 473F.13, subdivision 1, is amended to read:

19.14 Subdivision 1. **Certification of change in status.** If a municipality is dissolved, is  
 19.15 consolidated with all or part of another municipality, annexes territory, has a portion of its  
 19.16 territory detached from it, or is newly incorporated, the secretary of state shall immediately  
 19.17 certify that fact to the commissioner of revenue. The secretary of state shall also certify to  
 19.18 the commissioner of revenue the current population of the new, enlarged, or successor  
 19.19 municipality, if determined by the ~~director of the Office of Strategic and Long-Range~~  
 19.20 ~~Planning~~ chief administrative law judge of the state Office of Administrative Hearings  
 19.21 incident to consolidation, annexation, or incorporation proceedings. The population so  
 19.22 certified shall govern for purposes of sections 473F.01 to 473F.13 until the Metropolitan  
 19.23 Council files its first population estimate as of a later date with the commissioner of  
 19.24 revenue. If an annexation of unincorporated land occurs without proceedings before  
 19.25 the ~~director~~ chief administrative law judge, the population of the annexing municipality  
 19.26 as previously determined shall continue to govern for purposes of sections 473F.01 to  
 19.27 473F.13 until the Metropolitan Council files its first population estimate as of a later  
 19.28 date with the commissioner of revenue.

19.29 Sec. 11. Minnesota Statutes 2006, section 473H.14, is amended to read:

19.30 **473H.14 ANNEXATION PROCEEDINGS.**

19.31 Agricultural preserve land within a township shall not be annexed to a municipality  
 19.32 pursuant to chapter 414, without a specific finding by the ~~director of the Office of~~  
 19.33 ~~Strategic and Long-Range Planning~~ chief administrative law judge of the state Office of  
 19.34 Administrative Hearings that either (a) the expiration period as provided for in section

20.1 473H.08 has begun; (b) the township due to size, tax base, population or other relevant  
 20.2 factors would not be able to provide normal governmental functions and services; or (c)  
 20.3 the agricultural preserve would be completely surrounded by lands within a municipality.

20.4 This section shall not apply to annexation agreements approved under proceedings  
 20.5 authorized by chapter 414 prior to creation of the preserve.

20.6 Sec. 12. Minnesota Statutes 2006, section 572A.01, subdivision 2, is amended to read:

20.7 Subd. 2. **Mediation.** Within ten days of receiving a request for mediation in  
 20.8 subdivision 1, the Bureau of Mediation Services shall provide written notice of the request  
 20.9 for mediation to the parties and provide a list of neutrals experienced in land use planning  
 20.10 or local government issues obtained from the Supreme Court, ~~Minnesota Municipal Board~~  
 20.11 chief administrative law judge of the state Office of Administrative Hearings, Bureau of  
 20.12 Mediation Services, Minnesota State Bar Association, Hennepin County Bar Association,  
 20.13 Office of Dispute Resolution, and others. Within 30 days thereafter, the affected parties  
 20.14 shall select a mediator from the list of neutrals or someone else acceptable to the parties  
 20.15 and submit to mediation for a period of 30 days facilitated by the bureau. If the dispute  
 20.16 remains unresolved after the close of the 30-day mediation period, the bureau shall  
 20.17 prepare a report of its recommendations and transmit the report within 30 days to the  
 20.18 parties. Within 60 days after the date of issuance of the mediator's report, the dispute shall  
 20.19 be submitted to binding arbitration as provided in this chapter. The mediator's report  
 20.20 submitted to the parties is informational only and is not admissible in arbitration.

20.21 Sec. 13. Minnesota Statutes 2006, section 572A.015, subdivision 2, is amended to read:

20.22 Subd. 2. **Mediation.** Within ten days of receiving a request for mediation that the  
 20.23 ~~director of the Office of Strategic and Long-Range Planning~~ chief administrative law  
 20.24 judge of the state Office of Administrative Hearings has required under section 414.12,  
 20.25 subdivision 1, the bureau shall provide written notice of the request for mediation to  
 20.26 the parties and provide a list of neutrals experienced in land use planning and local  
 20.27 government issues obtained from the Supreme Court, Bureau of Mediation Services,  
 20.28 Minnesota State Bar Association, Hennepin County Bar Association, Office of Dispute  
 20.29 Resolution, and others. Within 30 days thereafter, the affected parties, shall select a  
 20.30 mediator from the list of neutrals or someone else acceptable to the parties and submit  
 20.31 to mediation for a period of 30 days facilitated by the bureau. If the dispute remains  
 20.32 unresolved after the close of the 30-day mediation period, the bureau shall prepare a report  
 20.33 of its recommendations and transmit the report within 30 days to the parties. Within 60  
 20.34 days after the date of issuance of the mediator's report, the dispute shall be submitted to

21.1 binding arbitration as provided in this chapter. The mediator's report submitted to the  
21.2 parties is informational only and is not admissible in arbitration.

21.3 Sec. 14. Minnesota Statutes 2006, section 572A.02, subdivision 6, is amended to read:

21.4 Subd. 6. **Decision.** The arbitrators, after a hearing on the matter, shall make a  
21.5 decision regarding the dispute within 60 days and transmit an order to the parties and  
21.6 to the Office of Strategic and Long-Range Planning in comprehensive planning disputes  
21.7 or to the chief administrative law judge in chapter 414 disputes. Unless appealed by an  
21.8 aggrieved party within 30 days of receipt of the arbitration panel's order by the office, the  
21.9 office shall execute an order in accordance with the arbitration panel's order and shall  
21.10 cause copies of the same to be mailed to all parties entitled to mailed notice, the secretary  
21.11 of state, the Department of Revenue, the state demographer, individual property owners if  
21.12 initiated in that manner, the affected county auditor, and any other party of record. The  
21.13 affected county auditor shall record the order against the affected property.

21.14 Sec. 15. **REVISOR INSTRUCTION.**

21.15 The revisor of statutes shall change the word "director" or "director's" to "chief  
21.16 administrative law judge" or "chief administrative law judge's," as appropriate, wherever  
21.17 the words appear in the following sections of Minnesota Statutes: 414.01, subdivisions  
21.18 1b, 5, 8, 10, 11, 12, 14, and 17; 414.012; 414.02, subdivisions 1, 2, and 3; 414.031,  
21.19 subdivisions 1, 3, 4a, and 7; 414.0325, subdivisions 2, 3, 4, and 4a; 414.033, subdivisions  
21.20 3, 5, 6, 7, and 10; 414.0335, subdivisions 1 and 2; 414.041, subdivisions 1, 2, 3, 4, 5,  
21.21 6, and 7; 414.051; 414.06, subdivisions 1, 2, 3, and 5; 414.061, subdivisions 1, 2, 3a,  
21.22 4, and 5; 414.063; 414.067, subdivision 3; 414.07, subdivision 2; 414.08; and 414.09,  
21.23 subdivisions 1, 2, and 3.

21.24 Sec. 16. **EFFECTIVE DATE.**

21.25 This article is effective the day following final enactment.

APPENDIX  
Article/Section location for 08-5099

ARTICLE 1 Page.Ln 1.16

MUNICIPAL BOUNDARIES ADJUSTMENTS

Section 1. .... 1.18	Sec. 6. .... 3.13	Sec. 11. .... 7.18	Sec. 16. .... 10.26	Sec. 21. .... 12.16
Sec. 2. .... 1.24	Sec. 7. .... 3.26	Sec. 12. .... 7.34	Sec. 17. .... 11.11	Sec. 22. .... 13.22
Sec. 3. .... 2.12	Sec. 8. .... 4.1	Sec. 13. .... 8.34	Sec. 18. .... 11.27	Sec. 23. .... 13.25
Sec. 4. .... 2.22	Sec. 9. .... 4.9	Sec. 14. .... 10.1	Sec. 19. .... 12.4	
Sec. 5. .... 3.8	Sec. 10. .... 6.18	Sec. 15. .... 10.11	Sec. 20. .... 12.11	

ARTICLE 2 Page.Ln 13.27

CONFORMING CHANGES

Section 1. .... 13.29	Sec. 5. .... 16.21	Sec. 9. .... 18.7	Sec. 13. .... 20.21
Sec. 2. .... 15.14	Sec. 6. .... 16.27	Sec. 10. .... 19.13	Sec. 14. .... 21.3
Sec. 3. .... 15.24	Sec. 7. .... 17.4	Sec. 11. .... 19.29	Sec. 15. .... 21.14
Sec. 4. .... 16.4	Sec. 8. .... 17.13	Sec. 12. .... 20.6	Sec. 16. .... 21.24

A bill for an act

relating to municipal boundary adjustments; providing for changes in municipal boundaries; imposing powers and duties on the chief administrative law judge; amending Minnesota Statutes 2006, sections 4A.02; 40A.121, subdivision 1; 272.67, subdivision 1; 276A.09; 365.46, subdivision 2; 379.05; 412.021, subdivision 1; 412.091; 414.01, subdivisions 1, 1a, 8a, 16; 414.011, by adding a subdivision; 414.02, subdivision 1a; 414.031, subdivisions 1a, 4, by adding a subdivision; 414.0325, subdivisions 1, 5; 414.0333; 414.035; 414.067, subdivision 1; 414.12, subdivisions 1, 3, 4, by adding subdivisions; 462.3535, subdivision 5; 473F.13, subdivision 1; 473H.14; 572A.01, subdivision 2; 572A.015, subdivision 2; 572A.02, subdivision 6; Minnesota Statutes 2007 Supplement, section 414.0325, subdivision 1b; Laws 2006, chapter 270, article 2, section 1, as amended; repealing Minnesota Statutes 2006, sections 414.01, subdivision 7a; 414.011, subdivision 11; 414.12, subdivision 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

## ARTICLE 1

### MUNICIPAL BOUNDARIES ADJUSTMENTS

Section 1. Minnesota Statutes 2006, section 414.01, subdivision 1, is amended to read:

Subdivision 1. **A duty of ~~planning director~~ chief administrative law judge.**

~~Among the duties of the director of the Office of Strategic and Long-Range Planning is the duty to~~ The chief administrative law judge shall conduct proceedings, make determinations, and issue orders for the creation of a municipality, the combination of two or more governmental units, or the alteration of a municipal boundary.

Sec. 2. Minnesota Statutes 2006, section 414.01, subdivision 1a, is amended to read:

Subd. 1a. **Legislative findings.** The legislature finds that:

(1) sound urban development and preservation of agricultural land and open spaces through land use planning is essential to the continued economic growth of this state;

(2) municipal government most efficiently provides governmental services in areas intensively developed for residential, commercial, industrial, and governmental purposes; and township government most efficiently provides governmental services in areas used or developed for agricultural, open space, and rural residential purposes;

(3) the public interest requires that municipalities be formed when there exists or will likely exist the necessary resources to provide for their economical and efficient operation;

(4) annexation to existing municipalities of unincorporated areas unable to supply municipal services should be facilitated; and

(5) joint resolutions for orderly annexation, consolidation of municipalities, mergers of towns and municipalities, long-range joint powers planning or other cooperative efforts among counties, cities, and towns should be encouraged.

Sec. 3. Minnesota Statutes 2006, section 414.01, subdivision 8a, is amended to read:

Subd. 8a. **Powers of conductor of proceedings.** Any person conducting a proceeding under this chapter may administer oaths and affirmations; ~~issue subpoenas; compel the attendance and~~ receive testimony of witnesses, and the production of papers, books, and documents; examine witnesses; and receive and report evidence. Upon the written request of a presiding administrative law judge or a party, the chief administrative law judge may issue a subpoena for the attendance of a witness or the production of books, papers, records, or other documents material to any proceeding under this chapter. The subpoenas shall be enforceable through the district court in the district in which the subpoena is issued.

Sec. 4. Minnesota Statutes 2006, section 414.01, subdivision 16, is amended to read:

Subd. 16. **Compelled meetings; report.** In any proceeding under this chapter, the ~~director~~ chief administrative law judge or conductor of the proceeding may at any time in the process require representatives from ~~the~~ any petitioning property owner or involved city, town, county, political subdivision, or other governmental entity to meet together to discuss resolution of issues raised by the petition or order that confers jurisdiction on the ~~director~~ chief administrative law judge and other issues of mutual concern. The chief administrative law judge or conductor of the proceeding may determine which entities are required to participate in these discussions. The ~~director~~ chief administrative law judge or conductor of the proceeding may require that the parties meet at least three times during a 60-day period. The parties shall designate a person to report to the ~~director~~ chief administrative law judge or conductor of the proceeding on the results of the meetings

immediately after the last meeting. The parties may be granted additional time at the discretion of the chief administrative law judge or conductor of the proceedings.

Any proposed resolution or settlement of contested issues that results in a municipal boundary change, places conditions on any future municipal boundary change, or results in the withdrawal of an objection to a pending proceeding or the withdrawal of a pending proceeding must be filed with the chief administrative law judge and is subject to the applicable procedures and statutory criteria of this chapter.

Sec. 5. Minnesota Statutes 2006, section 414.011, is amended by adding a subdivision to read:

Subd. 12. **Chief administrative law judge.** "Chief administrative law judge" means the chief administrative law judge of the state Office of Administrative Hearings or the delegate of the chief administrative law judge under section 14.48.

Sec. 6. Minnesota Statutes 2006, section 414.02, subdivision 1a, is amended to read:

Subd. 1a. **Notice of intent to incorporate.** (a) At least 30 days before submitting to the chief administrative law judge under this section, the township must serve the clerk of each municipality and each township that is contiguous to the township by certified mail a notice of the township's intent to incorporate.

(b) If the proceedings for incorporation are initiated by the requisite number of property owners, the notice of intent to incorporate must be served by the property owner or owners or designee in the manner required under this paragraph. The property owner or owners or designee must serve a notice of intent to incorporate on the town board of the township containing the area proposed for incorporation. The property owner or owners or designee must also serve the clerk of each municipality and each township that is contiguous to the area proposed for incorporation by certified mail a notice of intent to incorporate.

Sec. 7. Minnesota Statutes 2006, section 414.031, subdivision 1a, is amended to read:

Subd. 1a. **Notice of intent to annex.** At least 30 days before submitting to the director a petition or resolution to the chief administrative law judge under this section, the petitioning municipality or petitioning property owner or supporting municipality must serve the township clerk of the affected township by certified mail a notice of the petitioning municipality's or the petitioning property owner's intent to annex property within the township. The notice must clearly identify the boundaries of the area proposed to be annexed.

Sec. 8. Minnesota Statutes 2006, section 414.031, is amended by adding a subdivision to read:

Subd. 3a. **Presiding administrative law judge; tour.** During the evidentiary hearing process, the presiding administrative law judge shall tour the proposed annexation area along with at least one representative of each of the affected towns and municipalities. Prior to the tour of the proposed annexation area, the affected towns and municipalities shall agree on the route or the administrative law judge shall determine the route for the affected towns and municipalities and resolve all disputes regarding the tour.

Sec. 9. Minnesota Statutes 2006, section 414.031, subdivision 4, is amended to read:

Subd. 4. **Relevant factors, order.** (a) In arriving at a decision, the ~~director~~ presiding administrative law judge shall consider the following sources and factors:

(1) recordings and public documents from joint informational meetings under section 414.0333 relevant to other factors listed in this subdivision;

(2) present population and number of households, past population and projected population growth of the annexing municipality and subject area and adjacent units of local government;

(3) quantity of land within the subject area and adjacent units of local government; and natural terrain including recognizable physical features, general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;

(4) degree of contiguity of the boundaries between the annexing municipality and the subject area;

(5) present pattern of physical development, planning, and intended land uses in the subject area and the annexing municipality including residential, industrial, commercial, agricultural and institutional land uses and the impact of the proposed action on those land uses;

(6) the present transportation network and potential transportation issues, including proposed highway development;

(7) land use controls and planning presently being utilized in the annexing municipality and the subject area, including comprehensive plans for development in the area and plans and policies of the Metropolitan Council, and whether there are inconsistencies between proposed development and existing land use controls and the reasons therefore;

(8) existing levels of governmental services being provided in the annexing municipality and the subject area, including water and sewer service, fire rating and protection, law enforcement, street improvements and maintenance, administrative

services, and recreational facilities and the impact of the proposed action on the delivery of said services;

(9) the implementation of previous annexation agreements and orders;

(10) existing or potential environmental problems and whether the proposed action is likely to improve or resolve these problems;

(11) plans and programs by the annexing municipality for providing needed and enhanced governmental services to the subject area in a cost-effective and feasible manner within a reasonable time from the date of the annexation;

(12) an analysis of the fiscal impact on the annexing municipality, the subject area, and adjacent units of local government, including net tax capacity and the present bonded indebtedness, and the local tax rates of the county, school district, and township;

(13) relationship and effect of the proposed action on affected and adjacent school districts and communities;

(14) adequacy of town government to deliver services to the subject area;

(15) analysis of whether necessary governmental services can best be provided through the proposed action or another type of boundary adjustment; ~~and~~

(16) if only a part of a township is annexed, the ability of the remainder of the township to continue or the feasibility of it being incorporated separately or being annexed to another municipality; and

(17) information received by the presiding administrative law judge from the tour required under subdivision 3a.

(b) Based upon the factors, the ~~director~~ presiding administrative law judge may order the annexation on finding:

(1) that the subject area is now, or is about to become, urban or suburban in character;

(2) that municipal government in the area proposed for annexation is required to protect the public health, safety, and welfare; or

(3) that the annexation would be in the best interest of the subject area.

(c) If only a part of a township is to be annexed, the ~~director~~ presiding administrative law judge shall consider whether the remainder of the township can continue to carry on the functions of government without undue hardship.

(d) The ~~director~~ presiding administrative law judge shall deny the annexation on finding that the increase in revenues for the annexing municipality bears no reasonable relation to the monetary value of benefits conferred upon the annexed area.

(e) The ~~director~~ presiding administrative law judge may deny the annexation on finding:

(1) that annexation of all or a part of the property to an adjacent municipality would better serve the interests of the residents of the property; or

(2) that the remainder of the township would suffer undue hardship.

(f) The ~~director~~ presiding administrative law judge may alter the boundaries of the area to be annexed by increasing or decreasing the area so as to include only that property which is now or is about to become urban or suburban in character or to add property of such character abutting the area proposed for annexation in order to preserve or improve the symmetry of the area, or to exclude property that may better be served by another unit of government.

(g) The ~~director~~ presiding administrative law judge may also alter the boundaries of the proposed annexation so as to follow visible, clearly recognizable physical features.

(h) If the ~~director~~ presiding administrative law judge determines that part of the area would be better served by another municipality or township, the ~~director~~ presiding administrative law judge may initiate and approve annexation by conducting further hearings and issuing orders pursuant to subdivisions 3 and 4.

(i) In all cases, the ~~director~~ presiding administrative law judge shall set forth the factors which are the basis for the decision.

Sec. 10. Minnesota Statutes 2006, section 414.0325, subdivision 1, is amended to read:

Subdivision 1. **Initiating the proceeding.** (a) One or more townships and one or more municipalities, by joint resolution, may designate an unincorporated area as in need of orderly annexation. One or more municipalities, by joint resolution with the county, may designate an unincorporated area in which there is no organized township government as in need of orderly annexation.

(b) A designated area is any area which the signatories to a joint resolution for orderly annexation have identified as being appropriate for annexation, either currently or at some point in the future, pursuant to the negotiated terms and conditions set forth in the joint resolution. Land described as a designated area is not, by virtue of being so described, considered also to be annexed for purposes of this chapter.

(c) The joint resolution will confer jurisdiction on the ~~director~~ chief administrative law judge over annexations in the designated area and over the various provisions in said agreement by submission of said joint resolution to the ~~director~~ chief administrative law judge.

~~(c)~~ (d) The resolution shall include a description of the designated area and the reasons for designation.

~~(d)~~ (e) Thereafter, an annexation of any part of the designated area may be initiated by:

(1) submitting to the ~~director~~ chief administrative law judge a resolution of any signatory to the joint resolution; or

(2) the ~~director~~ chief administrative law judge.

~~(e)~~ (f) Whenever a state agency, other than the pollution control agency, orders a municipality to extend a municipal service to an area, the order confers jurisdiction on the ~~director~~ chief administrative law judge to consider designation of the area for orderly annexation.

~~(f)~~ (g) If a joint resolution designates an area as in need of orderly annexation and states that no alteration of its stated boundaries is appropriate, the ~~director~~ chief administrative law judge may review and comment, but may not alter the boundaries.

~~(g)~~ (h) If a joint resolution designates an area as in need of orderly annexation, provides for the conditions for its annexation, and states that no consideration by the ~~director~~ chief administrative law judge is necessary, the ~~director~~ chief administrative law judge may review and comment, but shall, within 30 days, order the annexation in accordance with the terms of the resolution.

Sec. 11. Minnesota Statutes 2007 Supplement, section 414.0325, subdivision 1b, is amended to read:

Subd. 1b. **Notice of intent to designate an area.** At least ten days before the municipality or township adopts an orderly annexation agreement, a notice of the intent to include property in an orderly annexation area must be published in a newspaper of general circulation in both the township and municipality. The notice must clearly identify the boundaries of the area proposed to be included in the orderly annexation agreement ~~and the date, time, and place of the public informational meeting to be held as provided in section 414.0333.~~ The cost of providing notice must be equally divided between the municipality and the township, unless otherwise agreed upon by the municipality and the township. This subdivision applies only to the initial designation to include property in an orderly annexation area subject to the orderly annexation agreement, or any expansion of the orderly annexation area subject to the agreement, and not to any subsequent annexation of any property from within the designated ~~orderly annexation~~ area. This subdivision also does not apply when the orderly annexation agreement only designates for immediate annexation property for which all of the property owners have petitioned to be annexed.

Sec. 12. Minnesota Statutes 2006, section 414.0325, subdivision 5, is amended to read:

Subd. 5. **Planning in orderly annexation area.** (a) ~~A joint resolution~~ An orderly annexation agreement may provide for the establishment of a board to exercise planning and land use control authority within any area designated as an orderly annexation area pursuant to this section, in the manner prescribed by section 471.59, ~~subdivisions 2 to 8, inclusive.~~ The orderly annexation agreement may also delegate planning and land use authority to the municipalities or towns or may establish some other process within the orderly annexation agreement to accomplish planning and land use control of the designated area.

(b) A board or other planning authority designated or established pursuant to a joint resolution ~~an orderly annexation agreement~~ shall have all of the powers contained in sections 462.351 to 462.364, and shall have the authority to adopt and enforce the State Fire Code promulgated pursuant to section 299F.011.

(c) ~~The joint resolution~~ orderly annexation agreement may provide that joint planning and land use controls shall apply to any or all parts of the area designated for orderly annexation as well as to any adjacent unincorporated or incorporated area, provided that the area to be included shall be described in the joint resolution.

(d) If the ~~joint resolution~~ orderly annexation agreement does not provide for joint planning and land use control, delegate planning and land use control to the municipalities or towns, or establish some other process for planning and land use authority, the following procedures shall govern:

(1) if the county and townships agree to exclude the area from their zoning and subdivision ordinances, the municipality may extend its zoning and subdivision regulations to include the entire orderly annexation area as provided in section 462.357, subdivision 1, and section 462.358, subdivision 1; or

(2) if the county and township do not agree to such extraterritorial zoning and subdivision regulation by the municipality, zoning and subdivision regulation within the orderly annexation area shall be controlled by a three-member committee with one member appointed from each of the municipal, town, and county governing bodies.

(e) The committee under paragraph (d), clause (2), shall:

(1) serve as the "governing body" and "board of appeals and adjustments," for purposes of sections 462.357 and 462.358, within the orderly annexation area; and

(2) have all of the powers contained in sections 462.351 to 462.364, and the authority to adopt and enforce the State Fire Code promulgated pursuant to section 299F.011.

Sec. 13. Minnesota Statutes 2006, section 414.0333, is amended to read:

**414.0333 JOINT INFORMATIONAL MEETING.**

9.1           There must be a joint informational meeting of the municipal council of the annexing  
9.2 municipality and the town board of supervisors of the township containing the land  
9.3 proposed to be annexed or included in annexation proceedings under section 414.031.  
9.4 For an annexation under section 414.031, the joint informational meeting must be held  
9.5 after the final mediation meeting or the final meeting held pursuant to section 414.01,  
9.6 subdivision 16, if any, and before the hearing on the matter is held. If no mediation  
9.7 meetings are held, the joint informational meeting must be held after the initiating  
9.8 documents have been filed and before the hearing on the matter. The time, date, and  
9.9 place of the public informational meeting must be determined jointly by the chair of the  
9.10 town board of supervisors and the mayor of the annexing municipality. The chair of the  
9.11 town board of supervisors and the mayor must serve as the cochairs for the informational  
9.12 meeting. Notice of the time, date, place, and purpose of the informational meeting must be  
9.13 posted by the town clerk in the township's designated place for posting notices, and by the  
9.14 municipal clerk in the municipality's designated place for posting notices. ~~A joint notice~~  
9.15 ~~shall be published in a newspaper of general circulation within both the municipality and~~  
9.16 ~~the township. In addition, both the city and town shall publish, at their own expense,~~  
9.17 notice in their respective official newspapers. If the city and town use the same official  
9.18 newspaper, a joint notice may be published and the costs evenly divided. All notice  
9.19 required by this section must be provided at least ten days before the date for the public  
9.20 informational meeting. At the public informational meeting, all persons appearing must  
9.21 have an opportunity to be heard, but the co-chairs may, by mutual agreement, establish  
9.22 the amount of time allowed for each speaker. The municipal council, the town board of  
9.23 supervisors, and any resident or affected property owner may be represented by counsel  
9.24 ~~and introduce evidence including, but not limited to, expert testimony into the record~~  
9.25 ~~of the informational meeting~~ may place into the record of the informational meeting  
9.26 documents, expert opinions, or other materials supporting their positions on issues raised  
9.27 by the proposed annexation proceeding. The clerk of the township must record minutes  
9.28 of the proceedings of the informational meeting and the municipal clerk must make an  
9.29 audio recording of the informational meeting. The township must provide the ~~director~~  
9.30 chief administrative law judge and the municipality with a copy of the printed minutes  
9.31 and the municipality must provide the ~~director~~ chief administrative law judge and the  
9.32 township with a copy of the audio recording. The record of the informational meeting for  
9.33 a proceeding under section 414.031 is admissible in any proceeding under this chapter  
9.34 and shall be taken into consideration by the ~~director~~ chief administrative law judge or the  
9.35 ~~director's~~ chief administrative law judge's designee.

Sec. 14. Minnesota Statutes 2006, section 414.035, is amended to read:

**414.035 DIFFERENTIAL TAXATION FOR UP TO SIX YEARS.**

Whenever an order, under section 414.031, ~~414.0325, or 414.033~~, annexes part or all of a township to a municipality, the order may provide that the tax rate of the annexing municipality on the area annexed shall be increased in substantially equal proportions over not more than six years to equality with the tax rate on the property already within the municipality. The appropriate period, if any, shall be based on the time reasonably required to effectively provide full property-tax-supported municipal services to the annexed area. Nothing in this section prohibits a differential tax provision from being included in an orderly annexation agreement.

Sec. 15. Minnesota Statutes 2006, section 414.067, subdivision 1, is amended to read:

Subdivision 1. **Township or municipality divided.** Whenever the ~~director~~ chief administrative law judge divides an existing governmental unit, the ~~director~~ chief administrative law judge, or other qualified person designated by the chief administrative law judge with the concurrence of the parties, may apportion the property and obligations between the governmental unit adding territory and the governmental unit from which the territory was obtained. The apportionment shall be made in a just and equitable manner having in view the value of the existing township or municipal property located in the area to be added; the assets, value, and location of all the taxable property in the existing township or municipality; the indebtedness, the taxes due and delinquent, other revenue accrued but not paid to the existing township or municipality; and the ability of any remainder of the township or municipality to function as an effective governmental unit. The order shall not relieve any property from any tax liability for payment for any bonded obligation, but the taxable property in the new municipality may be made primarily liable thereon.

Sec. 16. Minnesota Statutes 2006, section 414.12, subdivision 1, is amended to read:

Subdivision 1. **Alternative dispute resolution.** (a) Notwithstanding anything to the contrary in sections 414.01 to 414.09, before assigning a matter to an administrative law judge for hearing, the ~~director~~ chief administrative law judge, upon consultation with affected parties and considering the procedures and principles established in sections 414.01 to 414.09, ~~and Laws 1997, chapter 202, article 4, sections 1 to 13,~~ may require that disputes over proposed boundary adjustments be ~~resolved~~ addressed in whole or in part by means of alternative dispute resolution processes in place of, or in connection with,

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hearings that would otherwise be required pursuant to sections 414.01 to 414.09, including those provided in chapter 14, ~~in the execution of the director's duties under this chapter.~~

~~(b) Alternative dispute resolution processes that may be required include:~~  
~~(1) the contested case procedures provided by sections 14.57 to 14.62;~~  
~~(2) the mediation and arbitration process provided by sections 572A.015 to 572A.03;~~  
~~or~~  
~~(3) another mediation and arbitration process ordered by the director.~~

(b) In all proceedings, the chief administrative law judge has the authority and responsibility to conduct hearings and issue final orders related to the hearings under sections 414.01 to 414.09.

Sec. 17. Minnesota Statutes 2006, section 414.12, subdivision 3, is amended to read:

Subd. 3. **Cost of proceedings.** (a) The parties to any matter directed to alternative dispute resolution under subdivision 1 ~~or delegated to the Office of Administrative Hearings under subdivision 2~~ must pay the costs of the alternative dispute resolution process or hearing in the proportions that they agree to.

(b) Notwithstanding section 14.53 or other law, the Office of ~~strategic and long-range planning~~ Administrative Hearings is not liable for the costs.

(c) If the parties do not agree to a division of the costs before the commencement of mediation, arbitration, or hearing, the costs must be allocated on an equitable basis by the mediator, arbitrator, or chief administrative law judge.

(d) The chief administrative law judge may contract with the parties to a matter ~~directed or delegated to the Office of Administrative Hearings under subdivisions 1 and 2~~ for the purpose of providing administrative law judges and reporters for an administrative proceeding or alternative dispute resolution.

(e) The chief administrative law judge shall assess the cost of services rendered by the Office of Administrative Hearings as provided by section 14.53.

Sec. 18. Minnesota Statutes 2006, section 414.12, subdivision 4, is amended to read:

Subd. 4. **Parties.** In this section, "party" means:

(1) a property owner, group of property owners, municipality, or township that files an initiating document or timely objection under this chapter;

(2) the municipality or township within which the subject area is located;

(3) a municipality abutting the subject area; and

(4) any other person, group of persons, or governmental agency residing in, owning property in, or exercising jurisdiction over the subject area that ~~files with the director~~

12.1 ~~a notice of appearance within 14 days of publication of the notice required by section~~  
12.2 ~~414.09.~~ submits a timely request, and is determined by the presiding administrative law  
12.3 judge to have a direct legal interest that will be affected by the outcome of the proceeding.

12.4 Sec. 19. Minnesota Statutes 2006, section 414.12, is amended by adding a subdivision  
12.5 to read:

12.6 Subd. 5. **Effectuation of agreements.** Matters resolved or agreed to by the parties  
12.7 as a result of an alternative dispute resolution process, or otherwise, may be incorporated  
12.8 into a joint resolution adopted pursuant to section 414.0325, subdivision 1, or into one or  
12.9 more stipulations for purposes of further proceedings in accordance with the applicable  
12.10 procedures and statutory criteria of this chapter.

12.11 Sec. 20. Minnesota Statutes 2006, section 414.12, is amended by adding a subdivision  
12.12 to read:

12.13 Subd. 6. **Limitations on authority.** Nothing in this section shall be construed to  
12.14 permit any municipality, town, or other political subdivision to take, or agree to take, any  
12.15 action that is not otherwise authorized by this chapter.

12.16 Sec. 21. Laws 2006, chapter 270, article 2, section 1, as amended by Laws 2007,  
12.17 chapter 90, section 4, is amended to read:

12.18 Section 1. **MUNICIPAL BOUNDARY ADJUSTMENT ADVISORY TASK**  
12.19 **FORCE ESTABLISHED.**

12.20 Subdivision 1. **Membership.** An advisory task force on municipal boundary  
12.21 adjustments is established to study and make recommendations on what, if any, changes  
12.22 should be made to the law governing municipal boundary adjustments. The task force  
12.23 shall develop recommendations regarding best practices annexation training for city and  
12.24 township officials to better communicate and jointly plan potential annexations. The task  
12.25 force is comprised of the following members:

12.26 (1) two members of the senate, one appointed by the majority leader and one  
12.27 appointed by the minority leader;

12.28 (2) two members of the house of representatives, one appointed by the speaker of the  
12.29 house and one appointed by the minority leader;

12.30 (3) three representatives of city interests, appointed by the League of Minnesota  
12.31 Cities in consultation with the Association of Metropolitan Municipalities, the Coalition  
12.32 of Greater Minnesota Cities, and the Minnesota Association of Small Cities;

(4) three representatives of township interests, appointed by the Minnesota Association of Townships; and

(5) one person appointed jointly by the senate majority leader and the speaker of the house of representatives to serve as chair of the task force, selected based on knowledge and experience in municipal boundary adjustment issues and who could serve without bias towards either side of the issue of annexation. The chair must convene the first meeting of the task force no later than August 1, 2007.

All appointing authorities must make the appointments to the task force within 30 days of the effective date of this section and shall provide for balance of geographic areas of the state and city and town interests.

Subd. 2. **Report by ~~January~~ December 31, 2008.** The task force shall report its interim recommendations to the chairs and members of the house of representatives and senate committees with jurisdiction over municipal boundary adjustments by ~~January 15 March 1, 2008,~~ and its final recommendations by December 31, 2008. The task force shall also provide a copy of its recommendations to the Legislative Reference Library.

Subd. 3. **Expenses.** The cost of preparing the report must be divided among the League of Minnesota Cities, the Coalition of Greater Minnesota Cities, and the Minnesota Association of Townships.

**EFFECTIVE DATE.** This section is effective the day following final enactment. The Municipal Boundary Adjustment Advisory Task Force expires on ~~June 30~~ December 31, 2008.

Sec. 22. **REPEALER.**  
Minnesota Statutes 2006, sections 414.01, subdivision 7a; 414.011, subdivision 11; and 414.12, subdivision 2, are repealed.

Sec. 23. **EFFECTIVE DATE.**  
This article is effective the day following final enactment.

## **ARTICLE 2**

### **CONFORMING CHANGES**

Section 1. Minnesota Statutes 2006, section 4A.02, is amended to read:

#### **4A.02 STATE DEMOGRAPHER.**

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- 14.1 (a) The director shall appoint a state demographer. The demographer must be  
14.2 professionally competent in demography and must possess demonstrated ability based  
14.3 upon past performance.
- 14.4 (b) The demographer shall:
- 14.5 (1) continuously gather and develop demographic data relevant to the state;
- 14.6 (2) design and test methods of research and data collection;
- 14.7 (3) periodically prepare population projections for the state and designated regions  
14.8 and periodically prepare projections for each county or other political subdivision of the  
14.9 state as necessary to carry out the purposes of this section;
- 14.10 (4) review, comment on, and prepare analysis of population estimates and  
14.11 projections made by state agencies, political subdivisions, other states, federal agencies, or  
14.12 nongovernmental persons, institutions, or commissions;
- 14.13 (5) serve as the state liaison with the United States Bureau of the Census, coordinate  
14.14 state and federal demographic activities to the fullest extent possible, and aid the  
14.15 legislature in preparing a census data plan and form for each decennial census;
- 14.16 (6) compile an annual study of population estimates on the basis of county, regional,  
14.17 or other political or geographical subdivisions as necessary to carry out the purposes of  
14.18 this section and section 4A.03;
- 14.19 (7) by January 1 of each year, issue a report to the legislature containing an analysis  
14.20 of the demographic implications of the annual population study and population projections;
- 14.21 (8) prepare maps for all counties in the state, all municipalities with a population  
14.22 of 10,000 or more, and other municipalities as needed for census purposes, according to  
14.23 scale and detail recommended by the United States Bureau of the Census, with the maps  
14.24 of cities showing precinct boundaries;
- 14.25 (9) prepare an estimate of population and of the number of households for each  
14.26 governmental subdivision for which the Metropolitan Council does not prepare an annual  
14.27 estimate, and convey the estimates to the governing body of each political subdivision  
14.28 by June 1 of each year;
- 14.29 (10) direct, under section 414.01, subdivision 14, and certify population and  
14.30 household estimates of annexed or detached areas of municipalities or towns after being  
14.31 notified of the order or letter of approval by the ~~director~~ chief administrative law judge of  
14.32 the State Office of Administrative Hearings;
- 14.33 (11) prepare, for any purpose for which a population estimate is required by law  
14.34 or needed to implement a law, a population estimate of a municipality or town whose  
14.35 population is affected by action under section 379.02 or 414.01, subdivision 14; and

(12) prepare an estimate of average household size for each statutory or home rule charter city with a population of 2,500 or more by June 1 of each year.

(c) A governing body may challenge an estimate made under paragraph (b) by filing their specific objections in writing with the state demographer by June 24. If the challenge does not result in an acceptable estimate, the governing body may have a special census conducted by the United States Bureau of the Census. The political subdivision must notify the state demographer by July 1 of its intent to have the special census conducted. The political subdivision must bear all costs of the special census. Results of the special census must be received by the state demographer by the next April 15 to be used in that year's June 1 estimate to the political subdivision under paragraph (b).

(d) The state demographer shall certify the estimates of population and household size to the commissioner of revenue by July 15 each year, including any estimates still under objection.

Sec. 2. Minnesota Statutes 2006, section 40A.121, subdivision 1, is amended to read:

Subdivision 1. **Annexation prohibited.** Land within an agricultural preserve that is within a township may not be annexed to a municipality under chapter 414, unless the ~~director of the Office of Strategic and Long-Range Planning~~ chief administrative law judge of the state Office of Administrative Hearings finds that either:

(1) the owner or the county has initiated termination of the zone under section 40A.11;

(2) because of size, tax base, population or other relevant factors, the township would not be able to provide normal governmental functions and services; or

(3) the zone would be completely surrounded by lands within a municipality.

Sec. 3. Minnesota Statutes 2006, section 272.67, subdivision 1, is amended to read:

Subdivision 1. **City powers.** Any city however organized, except in those counties situated in a metropolitan area as defined in Minnesota Statutes 1961, Section 473.02, Subdivision 5, which contain cities of the first class, may by ordinance adopted in the manner provided in this section divide its area into an urban service district and a rural service district, constituting separate taxing districts for the purpose of all municipal property taxes except those levied for the payment of bonds and judgments and interest thereon. In proceedings for annexation, incorporation, or consolidation being conducted pursuant to chapter 414, the ~~director of the Office of Strategic and Long-Range Planning~~ chief administrative law judge of the state Office of Administrative Hearings may divide a municipality into an urban service district and a rural service district, such districts to be

designated in accordance with the criteria set out in subdivision 2. Thereafter, said urban service district and rural service district may be changed in the same manner that an ordinance or amendment is changed in accordance with this section.

Sec. 4. Minnesota Statutes 2006, section 276A.09, is amended to read:

**276A.09 CHANGE IN STATUS OF MUNICIPALITY.**

If a municipality is dissolved, is consolidated with all or part of another municipality, annexes territory, has a portion of its territory detached from it, or is newly incorporated, the secretary of state shall immediately certify that fact to the commissioner of revenue. The secretary of state shall also certify to the commissioner of revenue the current population of the new, enlarged, or successor municipality, if determined by the ~~director of the Office of Strategic and Long-Range Planning~~ chief administrative law judge of the state Office of Administrative Hearings incident to consolidation, annexation, or incorporation proceedings. The population so certified shall govern for purposes of sections 276A.01 to 276A.09 until the state demographer files the first population estimate as of a later date with the commissioner of revenue. If an annexation of unincorporated land occurs without proceedings before the ~~director of the Office of Strategic and Long-Range Planning~~ chief administrative law judge of the state Office of Administrative Hearings, the population of the annexing municipality as previously determined shall continue to govern for purposes of sections 276A.01 to 276A.09 until the state demographer files the first population estimate as of a later date with the commissioner of revenue.

Sec. 5. Minnesota Statutes 2006, section 365.46, subdivision 2, is amended to read:

Subd. 2. **Copies.** The county auditor shall also send a copy of the notice of the dissolution to: (1) the state demographer, (2) the Land Management Information Center, (3) the ~~director of the Office of Strategic and Long-Range Planning~~ chief administrative law judge of the state Office of Administrative Hearings, and (4) the commissioner of transportation.

Sec. 6. Minnesota Statutes 2006, section 379.05, is amended to read:

**379.05 AUDITOR TO SUM UP REPORT FOR STATE, MAKE TOWN RECORD.**

Each county auditor shall within 30 days after any such town is organized transmit by mail to the commissioner of revenue, the secretary of state, the state demographer, the Land Management Information Center, the ~~director of the Office of Strategic and Long-Range Planning~~ chief administrative law judge of the state Office of Administrative

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17.1 Hearings, and the commissioner of transportation an abstract of such report, giving the  
17.2 name and boundaries of such town and record in a book kept for that purpose a full  
17.3 description of each such town.

17.4 Sec. 7. Minnesota Statutes 2006, section 412.021, subdivision 1, is amended to read:

17.5 Subdivision 1. **Election.** Upon the filing of the certificate with the secretary of state,  
17.6 if the vote is in favor of incorporation, the judges of election appointed by the ~~director of~~  
17.7 ~~the Office of Strategic and Long-Range Planning~~ chief administrative law judge of the state  
17.8 Office of Administrative Hearings or the county board as the case may be, shall fix a day at  
17.9 least 15 and not more than 30 days thereafter and a place for the holding of an election for  
17.10 officers. The judges shall also fix the time, not less than three hours, during which the polls  
17.11 shall remain open at the election and shall post a notice setting forth the time and place of  
17.12 such election in three public places in the city for at least ten days preceding the election.

17.13 Sec. 8. Minnesota Statutes 2006, section 412.091, is amended to read:

17.14 **412.091 DISSOLUTION.**

17.15 Whenever a number of voters equal to one-third of those voting at the last preceding  
17.16 city election petition the ~~director of the Office of Strategic and Long-Range Planning~~  
17.17 ~~therefor~~ chief administrative law judge of the state Office of Administrative Hearings to  
17.18 dissolve the city, a special election shall be called to vote upon the question of ~~dissolving~~  
17.19 ~~the city~~. Before the election, the ~~director~~ chief administrative law judge shall designate  
17.20 a time and place for a hearing in accordance with section 414.09. After the hearing, the  
17.21 ~~director~~ chief administrative law judge shall issue an order which shall include a date for  
17.22 the election, a determination of what town or towns the territory of the city shall belong to  
17.23 if the voters favor dissolution, and other necessary provisions. The ballots used at such  
17.24 election shall bear the printed words, "For Dissolution" and "Against Dissolution," with a  
17.25 square before each phrase in which the voter may express a preference by a cross. If a  
17.26 majority of those voting on the question favor dissolution, the clerk shall file a certificate  
17.27 of the result with the ~~director~~ chief administrative law judge, the secretary of state, and the  
17.28 county auditor of the county in which the city is situated. Six months after the date of  
17.29 such election, the city shall cease to exist. Within such six months, the council shall audit  
17.30 all claims against the city, settle with the treasurer, and other city officers, and apply the  
17.31 assets of the city to the payment of its debts. If any debts remain unpaid, other than bonds,  
17.32 the city clerk shall file a schedule of such debts with the county treasurer and the council  
17.33 shall levy a tax sufficient for their payment, the proceeds of which, when collected, shall  
17.34 be paid by the county treasurer to the creditors in proportion to their several claims until

18.1 all are discharged. The principal and interest on outstanding bonds shall be paid when due  
18.2 by the county treasurer from a tax annually spread by the county auditor against property  
18.3 formerly included within the city until the bonds are fully paid. All city property and all  
18.4 rights of the city shall, upon dissolution, inure in the town or towns designated as the legal  
18.5 successor to the city. If the city territory goes to more than one town, surplus cash assets  
18.6 and unsold city property shall be distributed as provided by the order for the election.

18.7 Sec. 9. Minnesota Statutes 2006, section 462.3535, subdivision 5, is amended to read:

18.8 Subd. 5. **Urban growth area boundary adjustment process.** (a) After an urban  
18.9 growth area has been identified in a county or city plan, a city shall negotiate, as part of  
18.10 the comprehensive planning process and in coordination with the county, an orderly  
18.11 annexation agreement with the townships containing the affected unincorporated areas  
18.12 located within the identified urban growth area. The agreement shall contain a boundary  
18.13 adjustment staging plan that establishes a sequencing plan over the subsequent 20-year  
18.14 period for the orderly growth of the city based on its reasonably anticipated development  
18.15 pattern and ability to extend municipal services into designated unincorporated areas  
18.16 located within the identified urban growth area. The city shall include the staging plan  
18.17 agreed upon in the orderly annexation agreement in its comprehensive plan. Upon  
18.18 agreement by the city and town, prior adopted orderly annexation agreements may be  
18.19 included as part of the boundary adjustment plan and comprehensive plan without regard  
18.20 to whether the prior adopted agreement is consistent with this section. When either the city  
18.21 or town requests that an existing orderly annexation agreement affecting unincorporated  
18.22 areas located within an identified or proposed urban growth area be renegotiated, the  
18.23 renegotiated plan shall be consistent with this section.

18.24 (b) After a city's community-based comprehensive plan is approved under this  
18.25 section, the orderly annexation agreement shall be filed with the ~~municipal board~~ chief  
18.26 administrative law judge of the state Office of Administrative Hearings or its any  
18.27 successor agency. Thereafter, the city may orderly annex the part or parts of the designated  
18.28 unincorporated area according to the sequencing plan and conditions contained in the  
18.29 negotiated orderly annexation agreement by submitting a resolution to the ~~municipal~~  
18.30 ~~board or its successor agency~~ chief administrative law judge. The resolution shall specify  
18.31 the legal description of the area designated pursuant to the staging plan contained in  
18.32 the agreement, a map showing the new boundary and its relation to the existing city  
18.33 boundary, a description of and schedule for extending municipal services to the area, and a  
18.34 determination that all applicable conditions in the agreement have been satisfied. Within 30  
18.35 days of receipt of the resolution, the ~~municipal board or its successor~~ chief administrative

law judge shall review the resolution and if it finds that the terms and conditions of the orderly annexation agreement have been met, shall order the annexation. The boundary adjustment shall become effective upon issuance of an order by the ~~municipal board or its successor~~ chief administrative law judge. The ~~municipal board or its successor~~ chief administrative law judge shall cause copies of the boundary adjustment order to be mailed to the secretary of state, Department of Revenue, state demographer, and Department of Transportation. No further proceedings under chapter 414 or 572A shall be required to accomplish the boundary adjustment. This section provides the sole method for annexing unincorporated land within an urban growth area, unless the parties agree otherwise.

(c) If a community-based comprehensive plan is updated, the parties shall renegotiate the orderly annexation agreement as needed to incorporate the adjustments and shall refile the agreement with the ~~municipal board or its successor~~ chief administrative law judge.

Sec. 10. Minnesota Statutes 2006, section 473F.13, subdivision 1, is amended to read:

Subdivision 1. **Certification of change in status.** If a municipality is dissolved, is consolidated with all or part of another municipality, annexes territory, has a portion of its territory detached from it, or is newly incorporated, the secretary of state shall immediately certify that fact to the commissioner of revenue. The secretary of state shall also certify to the commissioner of revenue the current population of the new, enlarged, or successor municipality, if determined by the ~~director of the Office of Strategic and Long-Range Planning~~ chief administrative law judge of the state Office of Administrative Hearings incident to consolidation, annexation, or incorporation proceedings. The population so certified shall govern for purposes of sections 473F.01 to 473F.13 until the Metropolitan Council files its first population estimate as of a later date with the commissioner of revenue. If an annexation of unincorporated land occurs without proceedings before the ~~director~~ chief administrative law judge, the population of the annexing municipality as previously determined shall continue to govern for purposes of sections 473F.01 to 473F.13 until the Metropolitan Council files its first population estimate as of a later date with the commissioner of revenue.

Sec. 11. Minnesota Statutes 2006, section 473H.14, is amended to read:

**473H.14 ANNEXATION PROCEEDINGS.**

Agricultural preserve land within a township shall not be annexed to a municipality pursuant to chapter 414, without a specific finding by the ~~director of the Office of Strategic and Long-Range Planning~~ chief administrative law judge of the state Office of Administrative Hearings that either (a) the expiration period as provided for in section

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473H.08 has begun; (b) the township due to size, tax base, population or other relevant factors would not be able to provide normal governmental functions and services; or (c) the agricultural preserve would be completely surrounded by lands within a municipality.

This section shall not apply to annexation agreements approved under proceedings authorized by chapter 414 prior to creation of the preserve.

Sec. 12. Minnesota Statutes 2006, section 572A.01, subdivision 2, is amended to read:

Subd. 2. **Mediation.** Within ten days of receiving a request for mediation in subdivision 1, the Bureau of Mediation Services shall provide written notice of the request for mediation to the parties and provide a list of neutrals experienced in land use planning or local government issues obtained from the Supreme Court, ~~Minnesota Municipal Board~~ chief administrative law judge of the state Office of Administrative Hearings, Bureau of Mediation Services, Minnesota State Bar Association, Hennepin County Bar Association, Office of Dispute Resolution, and others. Within 30 days thereafter, the affected parties shall select a mediator from the list of neutrals or someone else acceptable to the parties and submit to mediation for a period of 30 days facilitated by the bureau. If the dispute remains unresolved after the close of the 30-day mediation period, the bureau shall prepare a report of its recommendations and transmit the report within 30 days to the parties. Within 60 days after the date of issuance of the mediator's report, the dispute shall be submitted to binding arbitration as provided in this chapter. The mediator's report submitted to the parties is informational only and is not admissible in arbitration.

Sec. 13. Minnesota Statutes 2006, section 572A.015, subdivision 2, is amended to read:

Subd. 2. **Mediation.** Within ten days of receiving a request for mediation that the ~~director of the Office of Strategic and Long-Range Planning~~ chief administrative law judge of the state Office of Administrative Hearings has required under section 414.12, subdivision 1, the bureau shall provide written notice of the request for mediation to the parties and provide a list of neutrals experienced in land use planning and local government issues obtained from the Supreme Court, Bureau of Mediation Services, Minnesota State Bar Association, Hennepin County Bar Association, Office of Dispute Resolution, and others. Within 30 days thereafter, the affected parties, shall select a mediator from the list of neutrals or someone else acceptable to the parties and submit to mediation for a period of 30 days facilitated by the bureau. If the dispute remains unresolved after the close of the 30-day mediation period, the bureau shall prepare a report of its recommendations and transmit the report within 30 days to the parties. Within 60 days after the date of issuance of the mediator's report, the dispute shall be submitted to

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21.1 binding arbitration as provided in this chapter. The mediator's report submitted to the  
21.2 parties is informational only and is not admissible in arbitration.

21.3 Sec. 14. Minnesota Statutes 2006, section 572A.02, subdivision 6, is amended to read:

21.4 Subd. 6. **Decision.** The arbitrators, after a hearing on the matter, shall make a  
21.5 decision regarding the dispute within 60 days and transmit an order to the parties and  
21.6 to the Office of Strategic and Long-Range Planning in comprehensive planning disputes  
21.7 or to the chief administrative law judge in chapter 414 disputes. Unless appealed by an  
21.8 aggrieved party within 30 days of receipt of the arbitration panel's order by the office, the  
21.9 office shall execute an order in accordance with the arbitration panel's order and shall  
21.10 cause copies of the same to be mailed to all parties entitled to mailed notice, the secretary  
21.11 of state, the Department of Revenue, the state demographer, individual property owners if  
21.12 initiated in that manner, the affected county auditor, and any other party of record. The  
21.13 affected county auditor shall record the order against the affected property.

21.14 Sec. 15. **REVISOR INSTRUCTION.**

21.15 The revisor of statutes shall change the word "director" or "director's" to "chief  
21.16 administrative law judge" or "chief administrative law judge's," as appropriate, wherever  
21.17 the words appear in the following sections of Minnesota Statutes: 414.01, subdivisions  
21.18 1b, 5, 8, 10, 11, 12, 14, and 17; 414.012; 414.02, subdivisions 1, 2, and 3; 414.031,  
21.19 subdivisions 1, 3, 4a, and 7; 414.0325, subdivisions 2, 3, 4, and 4a; 414.033, subdivisions  
21.20 3, 5, 6, 7, and 10; 414.0335, subdivisions 1 and 2; 414.041, subdivisions 1, 2, 3, 4, 5,  
21.21 6, and 7; 414.051; 414.06, subdivisions 1, 2, 3, and 5; 414.061, subdivisions 1, 2, 3a,  
21.22 4, and 5; 414.063; 414.067, subdivision 3; 414.07, subdivision 2; 414.08; and 414.09,  
21.23 subdivisions 1, 2, and 3.

21.24 Sec. 16. **EFFECTIVE DATE.**

21.25 This article is effective the day following final enactment.

APPENDIX  
Article locations in 08-5099

ARTICLE 1	MUNICIPAL BOUNDARIES ADJUSTMENTS .....	Page.Ln 1.16
ARTICLE 2	CONFORMING CHANGES .....	Page.Ln 13.27

## Appendix C

### TOPIC LIST FOR SUBSTANTIVE DISCUSSIONS

#### 1. Minn. Stat. §414.01      **Legislative Findings and Goals:**

**Townships** - Outdated; need to revisit the roles of cities and towns; doesn't reflect current reality

**Cities** - Appropriate statement of policy, past and present; the rest of statutory sections don't reflect the legislative policy as set forth; Cities and towns are equipped to perform different government functions.

#### 2. Minn. Stat. §414.031      **Annexation By Order (automatic hearing)**

**Townships** - Alter factors and decision-making criteria to address 'string and balloon'; include new section on referendum;

#### 3. Minn. Stat. §414.0325      **Annexation By Joint Agreement (orderly)**

**Townships** - role of third parties; preventing other cities from annexing area designated to other city

**Cities** - Disincentives for negotiating orderly annexation agreements; state's role

#### 4. Minn. Stat. §414.033      **Annexation By Ordinance**

**Townships** - no island annexations

**Cities** - no acreage cap on property owner initiated annexations

#### 5. Minn. Stat. §414.036      **Municipal Reimbursement**

**Townships** - clarify provisions

**Cities** - clarify provisions

#### 6. Minn. Stat. §414.06      **Detachment**

**Townships** - when services are not provide within 'reasonable' time following annexation under .031

#### 7. **Cities**      Define 'urban or suburban in character'

Authority for extraterritorial planning and zoning for developing areas just outside city limits

#### 8. **Townships**      String and balloon annexations

## Appendix D

# MEMORANDUM

**To:** Municipal Boundary Adjustments Task Force Members

**From:** Patti Gartland, Gary Neumann, and Susan Arntz

**Date:** December 1, 2007

**Re:** Statement on Legislative Findings and Goals

-----

As agreed at the first meeting of the Municipal Boundary Adjustment Task Force Meeting below is a critique of the legislative findings and goals in Chapter 414.

### **CRITIQUE OF CHAPTER 414 LEGISLATIVE FINDINGS AND GOALS**

As stated in our memo to task force members dated October 31, 2007, we believe that the legislative findings and goals enumerated at the beginning of Chapter 414 are a proper expression of what historically has been and should be the state's public policy when it comes to annexation.

The findings, with their preferences for sound urban development, preservation of agricultural land and open spaces, efficient provision of government services, and continued economic development coupled with the recognition that cities and township are each best equipped to perform different governmental functions strikes the right balance between the roles of cities and townships.

The legislative findings and goals should enumerate the State's highest aspirations for land use and delivery of governmental services, not merely reflect an imperfect situation that may exist at a particular point in time.

Controversies exist not because the findings and goals are insufficient or out dated. Controversies exist because the law is not sufficient to accomplish the aims of the legislative findings and goals.

There is no need to change the current findings because:

### **The current findings and goals are environmentally responsible**

There are many cases throughout the state where the health of a region's ground and surface waters are imperiled by township development practices. Often the size of residential lots, topography, and insufficient attention to maintenance create circumstances where septic systems in townships fail. These failures threaten the health and well being of city and township residents alike. Annexation is often necessary and the most practical course to cure these

problems. The findings recognize that where the resources of an unincorporated territory are insufficient to provide municipal services, annexation is in the public interest.

Numerous examples, both past and present, can be cited where stronger annexation laws would have allowed cities to curb environmental degradation that was the result of poor land use outside of city boundaries.

Right now the city of Austin would like to annex part of Lansing township to cure environmental degradation to the Cedar River, but is being blocked by an un-cooperative township board. Weakening the legislative findings would be a step backward for protecting the environment and drinking water in Minnesota.

### **The current findings and goals control urban sprawl**

The current findings and goals promote the idea that preservation of agricultural land and open space is essential to the continued economic development of our state. Annexation issues are often sparked when development, over which the city has no control, occurs immediately outside a city's boundaries.

In many cases townships and counties allow residential development on large lots averaging 2 to 3 acres per residence. In comparison many greater Minnesota cities allow single family residential densities averaging 3 to 4 residences per acre, with higher densities for multi-family development, typically not allowed in townships. Residential development in townships typically consumes 6 to 12 times as much land area per home as residential development in cities. To use Rochester as an example, since 1983 when new County zoning laws took effect, the lot size for single family homes in townships has averaged 9.1 times the lot size of single family homes in Rochester. If all Rochester single family homes since 1983 had developed at township densities, the needed land area would have increased by 43 square miles. If multi-family and townhouse residences built since 1983 had also developed at township densities, Rochester would have needed a total of 80 more square miles of land area.

Further, there is often little planning or zoning that controls the direction or patterns of development in such a way that allows for the future, cost effective delivery of municipal services when they are deemed necessary. Meanwhile prime agricultural land and open space is lost forever.

When services are required to be extended after annexation, existing large lot development often makes it much more expensive to do so retroactively rather than as the development is occurring within city boundaries.

### **The current findings and goals recognize cost efficient delivery of government services**

Cities and townships generally provide vastly different levels of services. The findings recognize that where there is intensive development of residential, commercial, industrial, or governmental uses of land, services are best provided by a city. In the vast majority of cases, township governments do not have the staff or expertise to deliver municipal level services. Most greater Minnesota townships have only one or two staff members, whose primary responsibility is to maintain roads. For many townships the only physical service that is directly

provided by the township is the maintenance of roads. The services provided by cities are too numerous to mention here but can include: police, fire, roads, parks and recreation, airport, library, community centers, senior centers, sewer, water, storm sewer, mass transit, economic development, affordable housing programs, and many others.

Where a few townships are developing like cities with higher density residential development or with commercial or industrial development, unnecessary duplication of services and competition for resources is bound to follow or may have already occurred.

### **The current findings and goals recognize the role of cities in economic development**

The most critical factor in greater Minnesota's economic growth in the coming decades will be attracting and retaining a sufficient labor force. This is compounded by the fact that as the generation of the baby boom retires, Minnesota will need to attract workers to fill the jobs vacated by retirees. Cities make possible affordable housing in attractive neighborhoods with public amenities like parks, playgrounds and transit. Cities will be key to maintaining a strong greater Minnesota economy. By contrast township development has often served only the affluent few, and has excluded workforce housing. Our labor force needs and economic development needs are too important to allow this to happen.

### **The current findings and goals recognize fairness in tax burdens**

In many cities it is difficult to know where a city ends and a township begins, yet city residents paying city taxes bare the brunt of providing services and amenities for the entire urban community, including the non-ag residential development in surrounding townships. In many cases the population of a township is several times the population of the city making the tax unfairness of the situation even more dramatic. Requiring that urban level development takes place within municipal boundaries provides for a fair and equitable distribution of the regional tax burden. For example the following charts illustrate the disparity in tax rates between greater Minnesota cities and greater Minnesota townships and as an example, between the city of Rochester and some of their township neighbors.

For Greater Minnesota overall the disparity between city and township tax rates is:

Level of Gov't	Total Tax Capacity	Levy	Tax Rate
Greater MN Cities	1,005,359,636	440,813,166	43.8%
Greater MN Towns	1,176,786,665	166,857,305	14.2%

Between the City of Rochester and their neighboring townships:

City/Township	Total Tax Capacity	Levy	Tax Rate
City of Rochester	90,201,113	37,437,310	41.5%
Cascade Township	3,363,902	577,077	17.2%
Haverhill Township	1,945,598	281,997	14.5%
High Forest Township	1,348,383	149,994	11.1%
Kalmar Township	1,471,376	130,290	8.9%
Marion Township	4,322,109	561,097	13.0%
Rochester Township	3,051,932	635,535	20.8%

As these charts show, townships levy a much smaller portion of their total tax capacities than do greater Minnesota cities.

## **CONCLUSION**

In conclusion there is no reason to recommend changes to the legislative findings and goals contained in Chapter 414. The findings and goals recognize that cities and townships perform distinct functions within the context of local governance in Minnesota. If the State intended that townships and cities should serve the same functions there would be no need for both.

As stated at the outset of this memo the findings and goals in Chapter 414 should be a vehicle to express the state highest aspirations for managing growth, protecting the environment, and providing for the economic well-being of all Minnesotans and as such should make strong pronouncements about those aspirations and how to achieve them.

# MEMORANDUM

**To:** Municipal Boundary Adjustments Task Force Members

**From:** Patti Gartland, Gary Neumann, and Susan Arntz

**Date:** December 1, 2007

**Re:** Proposed Technical/House Keeping and Substantive Changes to Chapter 414

-----

As agreed at the first meeting of the Municipal Boundary Adjustment Task Force Meeting; below are specific policies and issues that need to be addressed by the Task Force.

## **PROPOSED TECHNICAL AND HOUSEKEEPING CHANGES TO CHAPTER 414**

Below are section specific suggestions for technical and house keeping changes to Chapter 414:

1. **Enabling Provisions for Municipal Boundary Adjustments (Legislative Findings): 414.01 Subd. 1a (5)** Add “joint resolutions for orderly annexation” and “consolidation of municipalities” to the list of cooperative actions which should be encouraged by state law.

We believe it is in the public interest to encourage cities and townships to work together.

2. **Enabling Provisions for Municipal Boundary Adjustments (Compelled meetings; report): 414.01 Subd 16,** Add a requirement that parties engage in three mandatory mediation sessions during the course of a 60 day period prior to a hearing in order to facilitate a settlement or narrow the issues in dispute for the hearing. The mediation period would be completed at least 90 days prior to the formal hearing.
3. **ANNEXING UNINCORPORATED PROPERTY BY DIRECTOR’S ORDER (Notice of intent to annex): 414.031 Subd. 1a** Add exception to Notice of Intent to Annex provision that would waive the 30 day notice provision in the case where the affected township or other municipality initiate a competing proceeding.

This was a provision added in the 2006 law. It has since led to controversy in cases where a city may give notice of intent to annex and in the intervening 30 days the affected township enters into an orderly annexation agreement for the same property with another municipality, circumventing the first municipality’s ability to annex or be heard in the process.

4. **ANNEXING UNINCORPORATED PROPERTY BY DIRECTOR'S ORDER**  
**(Relevant factors; order): 414.031 Subd. 4 (16)** Add a requirement that during the evidentiary hearing process the presiding administrative law judge be required to tour the proposed annexation area.
5. **ORDERLY ANNEXATION IN DESIGNATED UNINCORPRATED AREA**  
**(Electric utility service notice): 414.0325 Subd. 1a** Delete electric utility service notice provision.
6. **ORDERLY ANNEXATION IN DESIGNATED UNINCORPRATED AREA (Notice of intent to designate an area): 414.0325 Subd 1b** Amend subdivision to require notice only for those designated areas that are more than 1,500 acres.
7. **ORDERLY ANNEXATION IN DESIGNATED UNINCORPRATED AREA**  
**(Planning in orderly annexation area): 414.0325 Subd. 5(a)** A joint resolution for orderly annexation, in addition to possibly providing for a joint planning structure should also have the option of simply delegating planning and land use authority to the city. The joint resolution should contain the terms and conditions for the establishment of joint planning or delegation of planning to the city. No separate agreement would then be needed to accomplish joint planning.
8. **ORDERLY ANNEXATION IN DESIGNATED UNINCOPRORATED AREA (New subd. 7)** The legislature should create a limit on the length of effectiveness of an orderly annexation agreement of no more than 15 years. An orderly annexation agreement that expires after 15 years may be renewed in five year increments. Specific language can be provided upon request.
9. **JOINT INFORMATIONAL MEETING: 414.0333** At a hearing held pursuant to 414.031 and 414.09 after a joint informational meeting the presiding administrative law judge shall not hold an additional informational meeting for the purposes of allowing comment by the general public on the annexation matter. The hearing before the administrative law judge shall be reserved for the hearing of testimony and submission of evidence by the parties of record.
10. **DIFFERENTIAL TAXATION FOR UP TO SIX YEARS: 414.035** Remove orderly annexation and annexation by ordinance from differential taxation provision. Delete the word "full" from the sentence "The appropriate period, if any, shall be based on the time reasonably required to effectively provide full property tax supported municipal services to the annexed area."

Removing orderly annexations from this section allows the city and the township to negotiate their own solution to differential taxation issues.

**CITY REIMBIRSEMENT TO TOWN TO ANNEX TAXABLE PROPERTY:**  
**414.036**

This entire section should be re-written to correct ambiguity created by the 2006 law. The pre-2006 language is preferable. We can provide language upon request.

11. **APPORTIONED ASSETS AND OBLIGATIONS (Township and municipality divided): 414.067 subd. 1** Add the underlined in the following sentence “Whenever the director divides an existing governmental unit, the director or director’s designee may apportion the property and obligations between the governmental unit adding territory and the governmental unit from which the territory was obtained.”
12. **UNIFORM PROCEDURES (Hearings): 414.09 subd. 1(a)** Add the underlined to the section “Proceedings initiated by the submission of an initiating document or by the director shall come on for hearing within 30 to 60 days from the receipt of the document by the director. Following the opening of the hearing record, the hearing shall be continued indefinitely pending mediation or other compelled meetings under section 414.01 subd. 16. The person conducting the hearing must submit an order no later than one year from the date of the day of the first hearing, unless such date is extended by the administrative law judge following the mutual request of the parties to the hearing or following motion upon good cause.”  
  
(b) The place of the hearing shall be in the county where a majority of the affected territory is situated, and shall be established for the convenience of the parties at a facility appropriate for such proceedings in the judgment of the presiding administrative law judge. Notwithstanding the foregoing, in the event of competing annexation petitions filed under this chapter by two or more municipalities, unless otherwise agreed by the parties to the hearing, the place of the hearing shall be determined by the presiding administrative law judge.”
13. **DIRECTOR’S POWERS: 414.12** Changes should be made to reflect how the process is actually working in practice. Again, language can be provided upon request.

## **SUBSTANTIVE AREAS OF LAW THAT REQUIRE ATTENTION**

In addition to the specific technical changes outlined above the Municipal Boundary Adjustment Task Force should begin to review the topics listed below. While we don’t have specific language drafted yet, the task force should discuss and make recommendations to the Legislature that accomplish the following goals:

1. **Strengthen annexation by ordinance options.** There are many cases in which good land use and environmental policy would suggest that a city pursue annexation, but where it is currently difficult to do so because of the constraints of existing law. One possible change might be increasing or eliminating the acreage restriction on property owner petitioned annexations by ordinance as the current 120 acre limit is arbitrary.

2. **Clearly define “urban or suburban in character.”** This is the criteria used by ALJ’s in deciding contested cases. In order to remove ambiguity the Legislature should give more guidance as to the definition of “urban or suburban in character.”
3. **Remove disincentives that prevent townships and cities from entering into orderly annexation agreements.** The position of the state should be to encourage these orderly annexation agreements within a context that promotes cooperation. For instance, while townships receive compensation for lost property tax revenue they often demand payment above and beyond lost property tax revenue on a per acre basis in orderly annexation agreements. These demands often make it too expensive for cities to pursue orderly annexation agreements with their township neighbors. Disincentives to negotiation should be prohibited.
4. **Enhance municipalities’ ability to plan, zone, and subdivide extraterritorially and otherwise guide development in unincorporated areas.** Annexation and subsequent extension of services to newly annexed property is often made more expensive because of poor planning choices made by a counties, townships, and cities. Retrofitting roads, sewer and water services into already developed areas is much more expensive than planning it before development occurs. Allowing a city to do more planning in areas immediately beyond their borders will ensure that the surrounding areas are developed with municipal services in a cost effective, sustainable manner that constrains urban sprawl.

## **Appendix E**

### **Proposed Legislative Amendments to Chapter 414 Proposal #1 – Submitted by Township Appointees to Boundary Adjustment Taskforce December 3, 2007**

One only needs to look at the fact that cities have a voice in 100% of all annexations, but townships only have a right to oppose an annexation in a very limited number of situations to realize that the current laws are not evenly balanced. Further, the fact that townships have seldom prevailed in a contested case proceeding, despite strong opposition from residents, counties, and others demonstrates that current laws favor cities. Finally, a review of the costs associated with a contested annexation reveals that many townships can not afford to fight a threatened annexation, which can result in an orderly annexation agreement which is not really “orderly” as the towns are not able to negotiate from a position of equality. The following proposals summarize key annexation issues from the perspective of townships, and offer possible legislative changes that townships believe would help reestablish a balance of power between towns and cities.

Additional legislative changes related to planning and zoning as provided in Minnesota Statutes Chapters 394 and 462 may further enhance the efforts to resolve the longstanding legislative battles between cities and towns regarding annexation. However, as the taskforce’s main objective is to review chapter 414, this document is limited to revisions to those statutes. Further, while the following proposals address the primary concerns of townships, this document is in no way intended as a waiver to additional changes or alternative proposals that may arise as the taskforce continues its work.

**Issue:** Townships believe that the existing findings and policies set forth in Minn. Stat. § 414.01 are based on assumptions that, if ever true, are outdated in light of following facts: (1) the number of townships providing their own planning and zoning services have increased dramatically since the current findings were adopted, and the number continues to increase; (2) townships provide or contract for the services required or requested by their residents; (3) most sources now state that traditional big-pipe sewers are not the most efficient nor the most effective means of dealing with wastewater; (4) economic and other factors require a more diverse economic base for many townships; (5) certain types of commercial/industrial uses are actually better suited for rural areas, such as ethanol plants, farm implement dealers, grain elevators, etc.; (6) concerns over the need for specific types of services should be addressed through zoning approval provisions rather than artificial distinctions between cities and towns; (7) townships have repeatedly been found by the Office of the State Auditor to be one if not the most efficient form of local government.

Further, nothing in current law actually requires that a city provide any service following an annexation, much less the sewer and water services clearly implied as the services best provided by cities for “urban and suburban” development. In addition, many cities are currently not providing treatment to a level sufficient to meet current discharge standards, and yet they have the same powers to annex as any other city.

Finally, it is simply not good state policy to favor one form of government over another, which results in pitting community against community rather than fostering cooperative efforts, good regional planning, and other positive objectives to enhance the State. In a 2002 evaluation of annexation laws, the former department of Municipal Planning concluded that changes in annexation laws between 1992 and 2000 has resulted in cities and towns being more divided. State laws and policies should not divide local units of government.

Therefore, the townships propose that the relevant portions of 414.01 be amended as follows (note, the townships recognize that amendments to other provisions may be necessary to rectify procedural problems that are to be identified by OAH. The changes proposed below are intended only to address the township issues. Internal renumbering of statutes will also be necessary but can be left to the revisor's office.):

#### **414.01 ENABLING PROVISIONS FOR MUNICIPAL BOUNDARY ADJUSTMENTS.**

Subdivision 1. **A duty of planning director.** Among the duties of the director of the Office of Strategic and Long-Range Planning is the duty to conduct proceedings, make determinations, and issue orders for the creation of a municipality, the combination of two or more governmental units, or the alteration of a municipal boundary.

Subd. 1a. **Legislative findings.** The legislature finds that:

- (1) sound urban development and preservation of agricultural land and open spaces through land use planning is essential to the continued economic growth of this state;
- ~~(2) municipal government most efficiently provides governmental services in areas intensively developed for residential, commercial, industrial, and governmental purposes; and township government most efficiently provides governmental services in areas used or developed for agricultural, open space, and rural residential purposes;~~
- ~~(3) the public interest requires that municipalities be formed when there exists or will likely exist the necessary resources to provide for their economical and efficient operation;~~
- ~~(4) annexation to existing municipalities of unincorporated areas unable to supply municipal services should be facilitated; and~~
- (2) Cities and Towns are both viable forms of local government, authorized to conduct planning and zoning activities, and to provide the services requested or required by their residents and the type of development occurring in their respective communities;
- (3) State law should not be used to favor or discourage either the city or town form of local government, but when an entity is unable to provide adequate services for the intended use of property, it may be necessary to facilitate the transfer of that property to another government entity; and
- ~~(5) (4) long-range joint powers planning or other cooperative efforts among counties, cities, and towns should be encouraged.~~

Subd. 1b. **Goals in promoting, regulating municipal development.** The director may promote and regulate development of municipalities:

- ~~(1) to provide for the extension of municipal government to areas which are developed or are in the process of being developed for intensive use for residential, commercial, industrial, institutional, and governmental purposes or are needed for such purposes; and~~
- ~~(2) to protect the stability of unincorporated areas which are used or developed for agricultural, open space, and rural residential purposes and are not presently needed for more intensive uses; and~~
- ~~(3) to protect the integrity of land use planning in municipalities and unincorporated areas so that the public interest in efficient local government will be properly recognized and served.~~

**Issue:** Townships believe that ultimately contested case annexations should be abolished, which could be accomplished by deleting Minn. Stat. § 414.031. Historically, contested case annexations have proven very expensive, but more unfortunately is how they tend to divide a community. To the extent that a contested case process remains, it should require that the voice of the effected town residents be heard, ideally by restoring a right to vote to the process. Local control is an important issue for all local governments, and people should not be forced to give up their choice of government without a meaningful chance to be heard and defend their right to choose the town form of government. Any decisions not supported by an election should be made more locally (such as by restoring the process of the former Municipal Board or by creating a new type of local hearing panel, etc.) Townships are interested in having further conversations on these options, but at the very least, the criteria for allowing

hostile annexations to occur need to be strengthened to achieve the following: (1) be as objective as possible; (2) require a showing of need for annexation; (3) requiring a clear showing of how the annexation will respond to the need; (4) provide accountability for failure to provide the services necessary to meet the identified need. Therefore, townships propose modifying the relevant portions of Minn. Stat. § 414.031 as follows:

#### **414.031 ANNEXING UNINCORPORATED PROPERTY BY DIRECTOR'S ORDER.**

Subdivision 1. **Initiating the proceeding.** (a) A proceeding for the annexation of unincorporated property abutting a municipality may be initiated by submitting to the director and the affected township one of the following:

- (1) a resolution of the annexing municipality;
- (2) a resolution of the township containing the area proposed for annexation;
- (3) a petition of 20 percent of the property owners or 100 property owners, whichever is less, in the area to be annexed;
- (4) a resolution of the municipal council together with a resolution of the township board stating their desire to have the entire township annexed to the municipality.

(b) The petition, or resolution shall set forth the boundaries of the territory proposed for annexation, the names of all parties entitled to notice under section [414.09](#), and the reasons for requesting annexation, including the specific services needed and how the annexation will meet these needs.

(c) If the proceeding is initiated by a petition of property owners, the petition shall be accompanied by a resolution of the annexing municipality supporting the petition.

Subd. 1a. **Notice of intent to annex.** At least 30 days before submitting to the director a petition or resolution under this section, the municipality must serve the township clerk of the affected township by certified mail a notice of the municipality's intent to annex property within the township. The notice must clearly identify the boundaries of the area proposed to be annexed.

Subd. 2. [Repealed, 1973 c 621 s 9]

Subd. 3. **Hearing time, place.** Upon receipt of a petition or resolution initiating an annexation, the director shall designate a time and a place for a hearing in accordance with section [414.09](#). ;

**Subd. 3a. Limited Referendum.** For any proposed annexation initiated under subdivision 1 sections 1 or 3, unless the petition is signed by at least seventy-five percent of the effected residents, (note: 75% was chosen as it is the requirement for a petition for detachment under Minn. Stat. 414.06) a referendum on the proposed annexation shall be scheduled by the director not less than 30 but no more than 60 days following completion of the joint hearing required under section 414.0333. The town clerk shall publish notice of the election at least 10 days prior to the election. Unless different election judges are appointed by the town board in the same method as for a general town election, the election judges from the last town election shall serve as the election judges for the referendum. Unless an alternative polling place is designated by the town board, the polling place used for the last general town election shall be the polling place for the referendum. The referendum may be conducted by mail balloting. The use of electronic voting equipment provided for under Minn. Stat. § 206.57, subd. 5 shall not be required for the referendum under this section. The town board shall be the board of canvass for the election and shall certify the election results to the county auditor within 24 hours of the election. The election shall be subject to the contest provisions of Minn. Stat. Chapter 209. The ballot question shall read "Shall the petition to annex (insert property description from annexation petition) be approved" If no contest of the election is filed, or upon the sustaining of the election result following a contest, if approved by a vote total equal to at least 75% of those voting on the question, the director shall issue an order annexing the property petitioned under subd. 1. If fewer than 75% of those voting shall vote in the affirmative on the proposed annexation, the director shall proceed with the hearing required under subd. 3. Only the residents residing in the area proposed to be annexed shall be eligible to vote in the referendum.

Subd. 4. **Relevant factors, order.** (a) In arriving at a decision, the director shall consider the following sources and factors:

- (1) recordings and public documents from joint informational meetings under section [414.0333](#) relevant to other factors listed in this subdivision; and, if a referendum has been conducted under subdivision 3, the margin of difference between the percentage of votes cast in support of the proposed annexation compared to the percentage of votes cast in opposition.
  - (2) present population and number of households, past population and projected population growth of the annexing municipality and subject area and adjacent units of local government;
  - (3) quantity of land within the subject area and adjacent units of local government; and natural terrain including recognizable physical features, general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;
  - (4) degree of contiguity of the boundaries between the annexing municipality and the subject area;
  - (5) present pattern of physical development, planning, and intended land uses in the subject area and the annexing municipality including residential, industrial, commercial, agricultural and institutional land uses and the impact of the proposed action on those land uses, including the likely amount of time it will take to develop the area proposed to be annexed;
  - (6) the present transportation network and potential transportation issues, including proposed highway development, and the impact on the infrastructure of the remaining part of the town;
  - (7) land use controls and planning presently being utilized in the annexing municipality and the subject area, including comprehensive plans for development in the area and plans and policies of the Metropolitan Council, and whether there are inconsistencies between proposed development and existing land use controls and the reasons therefore, as well as whether there are any inconsistencies with any applicable county or town comprehensive plan and land use ordinances already in place for the area proposed to be annexed;
  - (8) existing levels of governmental services being provided in the annexing municipality and the subject area, including water and sewer service, fire rating and protection, law enforcement, street improvements and maintenance, administrative services, and recreational facilities and the impact of the proposed action on the delivery of said services;
  - (9) the implementation of previous annexation agreements and orders;
  - (10) existing or potential environmental problems and whether the proposed action is likely to improve or resolve these problems;
  - (11) plans and programs by the annexing municipality for providing needed and enhanced governmental services to the subject area in a cost-effective and feasible manner within a reasonable time from the date of the annexation;
  - (12) an analysis of the fiscal impact on the annexing municipality, the subject area, and adjacent units of local government, including net tax capacity and the present bonded indebtedness, and the local tax rates of the county, school district, and township;
  - (13) relationship and effect of the proposed action on affected and adjacent school districts and communities;
  - (14) adequacy of town government to deliver services, whether directly or by contract, to the subject area;
  - ~~(15) analysis of whether necessary governmental services can best be provided through the proposed action or another type of boundary adjustment; and~~
  - (16) if only a part of a township is annexed, the ability of the remainder of the township to continue or the feasibility of it being incorporated separately or being annexed to another municipality.
- (b) Based upon the factors, the director may order the annexation on finding:
- (1) that the subject area is now, or is about to become, urban or suburban in nature in character; in need of enhanced services not able to be provided by the town, whether directly or by contract. The proposed development by the city following annexation shall not be the sole basis for determining that the area is

about to be in need of services if the existing county or town land use controls would not allow the same use.

(2) that municipal government in the area proposed for annexation is required to protect the public health, safety, and welfare; or

(3) that the annexation would be in the best interest of the subject area.

(c) If only a part of a township is to be annexed, the director shall consider whether the remainder of the township can continue to carry on the functions of government without undue hardship. The director shall deny the annexation if the remainder of the township would suffer undue hardship.

(d) The director shall deny the annexation on finding that the increase in revenues for the annexing municipality bears no reasonable relation to the monetary value of benefits conferred upon the annexed area.

(e) The director may deny the annexation on finding:

(1) that annexation of all or a part of the property to an adjacent municipality would better serve the interests of the residents of the property; or

~~(2) that the remainder of the township would suffer undue hardship.~~

(f) The director may alter the boundaries of the area to be annexed by ~~increasing or~~ decreasing the area so as to include only that property which is now or is about to become in need of enhanced services which are not and cannot be provided by the town for that area ~~urban or suburban in character or to add property of such character abutting the area proposed for annexation in order to preserve or improve the symmetry of the area,~~ or to exclude property that may better be served by another unit of government. (Note: Townships believe it is inappropriate for the state to increase the area to be annexed as the town would not have an adequate opportunity to raise objections to the change. Further, this area is fairly subjective and thus not good policy.)

~~(g) The director may also alter the boundaries of the proposed annexation so as to follow visible, clearly recognizable physical features.~~

~~(h) If the director determines that part of the area would be better served by another municipality or township, the director may initiate and approve annexation by conducting further hearings and issuing orders pursuant to subdivisions 3 and 4.~~

(i) In all cases, the director shall set forth the factors which are the basis for the decision.

**Subd. 4a. Providing for election of new municipal officers.** (a) Any annexation order under this section for annexation by a single municipality of an entire township shall include a provision for the election of new municipal officers in accordance with section [414.09](#). The director of the office of strategic and long-range planning, or the director's designee, may also order an election of new municipal officers in accordance with section [414.09](#) as part of any other annexation order under this section if the director or the director's designee determines that such an election would be equitable.

(b) The expanded municipality shall be governed by the home rule charter or statutory form which governs the annexing municipality, except that any ward system for the election of council members shall be inoperable.

(c) The ordinances of both the annexing municipality and the township shall continue in effect within the former boundaries until repealed by the governing body of the new municipality.

(d) Notwithstanding any other provision of law to the contrary, the director of the Office of Strategic and Long-Range Planning, or the director's designee, may provide for election of council members by wards, not less than three nor more than seven in number, whose limits are prescribed in the director's order, upon a finding that area representation is required to accord proper representation in the municipality because of uneven population density in different parts thereof or the existence of agricultural lands therein which are in the path of suburban development; but after four years from the effective date of an annexation the council of the municipality may by resolution adopted by a four-fifths vote abolish the ward system and provide for the election of all council members at large.

(e) Until the effective date of the annexation order, the town board and other officers of the town shall continue to exercise their powers and duties under the town laws in that portion of the municipality that was formerly the town, and the council and other officers of the annexing municipality shall continue to exercise their powers and duties in that portion of the expanded municipality that was formerly the municipality. Thereafter the town board and the council of the annexing municipality shall have no jurisdiction within the municipality, and the new municipal council and other new officers shall act in respect to any matters previously undertaken by the town board of supervisors or municipal council within the limits of the expanded municipality, including the making of any improvement and the levying of any special assessments therefore in the same manner and to the same effect as if such improvement had been undertaken by the municipality.

(f) The new municipal council may continue or discontinue any board that may have previously existed in the town or former municipality.

Subd. 5. [Repealed, 1992 c 556 s 12]

Subd. 6. **Effective date of annexation.** The annexation shall be effective as of the date fixed in the annexation order or on a later date fixed in the annexation order.

Subd. 7. **Copy to county auditors.** A copy of the annexation order must be delivered immediately by the director to the appropriate county auditors.

Subd. 8. **Timing for tax levy.** For the purposes of taxation, if the annexation becomes effective on or before August 1 of a levy year, the municipality may levy on the annexed area beginning with that same levy year. If the annexation becomes effective after August 1 of a levy year, the town may continue to levy on the annexed area for that levy year, and the municipality may not levy on the annexed area until the following levy year.

**Issue:** Orderly annexation agreements should be the preferred method of annexation. In order to protect the integrity of an agreement, and to encourage towns and cities to negotiate orderly agreements, third parties should not have the right to interfere. Therefore, Minn. Stat. § 414.0325 should be amended as follows:

#### **414.0325 ORDERLY ANNEXATION IN DESIGNATED UNINCORPORATED AREA**

Subd. 3. **Relevant factors, order.** (a) In arriving at a decision, the director shall consider the factors in section [414.031, subdivision 4](#).

(b) Based upon factors in section [414.031, subdivision 4](#), the director may order the annexation:

- (1) on finding that the subject area is now or is about to become ~~urban or suburban in character~~ in need of enhanced services and that the annexing municipality is capable of providing the services required by the area within a reasonable time and in a cost effective manner; or
- (2) on finding that the existing township form of government is not adequate to protect the public health, safety, and welfare; or
- (3) on finding that annexation would be in the best interests of the subject area.

d) The director may alter the boundaries of the proposed annexation by ~~increasing or~~ decreasing the area so as to include that property within the designated area which is in need of enhanced municipal services or will be in need of enhanced municipal services.

(Note: The above changes are proposed for consistency purposes)

Subd. 6. **Validity, effect of orderly annexation agreement.** An orderly annexation agreement is a binding contract upon all parties to the agreement and is enforceable in the district

court in the county in which the unincorporated property in question is located. The provisions of an orderly annexation agreement are not preempted by any provision of this chapter unless the agreement specifically provides so. If an orderly annexation agreement provides the exclusive procedures by which the unincorporated property identified in the agreement may be annexed to the municipality, the municipality shall not annex that property by any other procedure. No city may annex property that is subject to an orderly annexation agreement between a town and another city.

**Issue:** State policy should not favor town or city government. Therefore, Minn. Stat. § 414.051 should be repealed.

#### **414.051 REVIEW OF TOWNSHIPS OF MORE THAN 2,000 POPULATION.**

~~After each federal census the director may determine the townships which have a population in excess of 2,000 exclusive of any municipality or part of a municipality within the township and make recommendations which the director considers necessary and reasonable to the board of any such township.~~

**Issue:** Cities should be held accountable for providing the enhanced services identified as needed in annexations by board order. Failure to provide such services in a timely and cost effective manner should be grounds for the property to be detached back to the township. Therefore, Minn. Stat. § 414.06 should be amended as follows:

#### **414.06 DETACHMENT OF PROPERTY FROM A MUNICIPALITY.**

Subdivision 1. **Initiating the proceeding.** Property which is situated within a municipality and abutting the municipal boundary, rural in character and not developed for urban residential, commercial, or industrial purposes; or property that was annexed pursuant to section 414.031 but for which the ordered enhanced services have not been provided in a timely manner or which can not be provided in a cost effective manner, may be detached from the municipality according to the following procedure. The proceeding may be initiated by submitting to the director a resolution of the municipality to which the land is attached or by submitting to the director a petition of all of the property owners of the land to be detached if the area is less than 40 acres or of 75 percent of the property owners if over 40 acres. The petition or resolution shall set forth the boundaries and the area of the land to be detached, the number and character of the buildings, the resident population, and the municipal improvements, if any, in the area.

Subd. 3. **Order.** Upon completion of the hearing, the director may order the detachment on finding that the requisite number of property owners have signed the petition if initiated by the property owners, that the property is rural in character and not developed for urban residential, commercial or industrial purposes, or that the enhanced services to be provided pursuant to an order issued under section 414.031 have not been provided in a timely manner or can not be provided in a cost effective manner, that the property is within the boundaries of the municipality and abuts a boundary, ~~that the detachment would not unreasonably affect the symmetry of the detaching municipality,~~ and that the land is not needed for reasonably anticipated future development. The director may deny the detachment on finding that the remainder of the municipality cannot continue to carry on the functions of government without undue hardship. The director may decrease the area of property to be detached and may include only a part of the proposed area to be detached. If the tract abuts more than one township, it shall become a part of each township, being divided by projecting through it the boundary line between the townships, except that if the property was originally annexed from one township then it shall detached back to that township. The detached area may be relieved of the primary responsibility for existing indebtedness of the municipality and be

required to assume the indebtedness of the township of which it becomes a part, in such proportion as the director shall deem just and equitable having in view the amount of taxes due and delinquent and the indebtedness of each township and the municipality affected, if any, and for what purpose the same was incurred, all in relation to the benefit inuring to the detached area as a result of the indebtedness and the last net tax capacity of the taxable property in each township and municipality.

**Issue:** “String and Balloon” annexations, where a city annexes a long and narrow strip of land, such as a right-of-way, in order to create a point of abutment with a larger tract or “island” of land that is the real target of annexation should not be an acceptable use or result of any annexation process unless specifically agreed to by a township through an orderly annexation agreement. Further, annexation proceedings should not be used to create islands that can be annexed by ordinance. Good land use planning would discourage annexations that ultimately result in islands being created and cities should not be rewarded by being able to annex the island they helped create by supporting previous annexations. The following amendments start to address these issues. However, depending on negotiations and final amendments to chapter 414, additional or different amendments may prove necessary.

#### **414.031 ANNEXING UNINCORPORATED PROPERTY BY DIRECTOR'S ORDER**

Subd. 4. **Relevant factors, order.** (a) In arriving at a decision, the director shall consider the following sources and factors:

(new number needed) Whether the majority of developable property in the proposed annexation area only abuts the city because of the annexation of a strip of land less likely or unable to be developed and would create a substantial distance between the existing city boundaries and the proposed annexation area most likely to be developed.

(to be inserted before the current “i”) The director shall deny an annexation where the majority of the developable property in the proposed annexation area abuts the municipality only because of the proposed annexation of a narrow strip of less developable or non-developable property, unless the director finds that there is a compelling safety or environmental protection need for the proposed annexation. If such an annexation is granted, the town property abutting the newly annexed area shall be exempt from annexation except by orderly annexation under section 414.0325.

#### **414.033 ANNEXATION BY ORDINANCE.**

Subd. 2. **Conditions.** A municipal council may by ordinance declare land annexed to the municipality and any such land is deemed to be urban or suburban in character or about to become so if:

- (1) the land is owned by the municipality;
- (2) the land is completely surrounded by land within the municipal limits, except if such property has become surrounded by prior annexations initiated by petition under section 414.031, subdivision 1(a) (1); or by city adopted ordinances under this section;