

option of the appellant; and a copy, including the name and residence of each surety; and shall be served on the adverse party with the notice of appeal; unless a deposit be made as provided in section 605.10 and notice thereof given.

Sec. 15. Minnesota Statutes 1961, Section 605.20, is amended to read:

**605.20 Perishable property.** In cases not specified in sections 605.12 to 605.15; the perfecting of an appeal by giving the bond mentioned in section 605.10 shall stay proceedings in the court below upon the judgment appealed from, except that when it directs *If the appeal is from a judgment directing the sale of perishable property, the court may order the property to be sold; and the proceeds thereof deposited or invested to abide the judgment of the appellate supreme court.*

Sec. 16. Minnesota Statutes 1961, Chapter 605, is amended by adding a section to read:

**[605.225] Death of a party.** *If any party to the appeal shall die while an appeal is pending in the supreme court, the surviving party or the legal representative or successor in interest of the deceased party, shall file with the clerk of the supreme court an affidavit showing such death and the name and address of the legal representative or successor in interest. The clerk, after giving notice to the representative or successor in interest, shall substitute the name of such legal representative or successor in interest by or against whom the appeal shall thereafter proceed.*

Sec. 17. **[605.001] Citation.** *Minnesota Statutes, Chapter 605 may be cited as the Civil Appeal Code.*

Sec. 18. *Minnesota Statutes 1961, Sections 605.04, 605.06, 605.11, 605.12, 605.13, 605.15, 605.22, and 605.23 are repealed.*

Approved May 22, 1963.

---

#### CHAPTER 807—H. F. No. 315

*An act relating to the annexation of certain lands to new municipalities; amending Minnesota Statutes 1961, Sections 414.01, Subdivisions 2, 6, 7, 8, and 11; 414.02, Subdivisions 2 and 3; 414.03, Subdivisions 2 and 4; 414.04, Subdivision 2; and 414.06, Subdivision 3.*

Be it enacted by the Legislature of the State of Minnesota:

**Changes or additions indicated by italics, deletions by strikeout.**

Section 1. Minnesota Statutes 1961, Section 414.01, Subdivision 2, is amended to read:

Subd. 2. **Municipalities; annexation.** The commission shall be composed of a ~~chairman, vice chairman and secretary~~ *three members* appointed by the governor: ~~one of whom shall be learned in the law. The chairman shall be learned in the law and~~ *At its first meeting after July 1, 1963, and annually thereafter, the commission shall select from its members a chairman* who shall have the powers and duties prescribed by the general law applicable to the heads of departments and agencies of the state. In proceedings *before the commission* for the incorporation of a village, ~~pursuant to petition the annexation of unincorporated land to a municipality,~~ and the annexation of a municipality or municipalities to a contiguous municipality, the chairman of the board of county commissioners and the county auditor of the county in which all or a majority of the property to be annexed or incorporated is located, shall serve as additional and ex officio members of the commission for the purpose of such proceedings.

Sec. 2. Minnesota Statutes 1961, Section 414.01, Subdivision 6, is amended to read:

Subd. 6. Each member of the commission shall receive \$50 per day for performance of their duties; ~~except ex officio members shall be paid \$25 per day for each hearing attended. except the secretary who shall receive a salary of \$7,200 per year payable semimonthly and shall devote full time to the duties of his office.~~ Each member of the commission shall be reimbursed for actual expenses incurred in accordance with regulations relative to travel of state officers and employees.

Sec. 3. Minnesota Statutes 1961, Section 414.01, Subdivision 7, is amended to read:

Subd. 7. *The commission shall appoint a secretary not a member of the commission who shall receive a salary in an amount fixed by the commission but not to exceed \$10,000 per year payable semimonthly and shall devote full time to the duties of his office.* All correspondence and petitions shall be addressed to the secretary who shall be charged with conducting the administrative affairs of the commission, notifying the members of hearings, and making arrangements for the hearings as to time and place, giving proper notice in the areas affected as hereinafter provided, keeping records and minutes, and providing secretarial service.

Sec. 4. Minnesota Statutes 1961, Section 414.01, Subdivision 8, is amended to read:

**Changes or additions indicated by italics, deletions by strikethrough.**

Subd. 8. The commission shall have authority *to contract with regional, state, county, or local planning commissions* or to hire expert consultants to provide specialized information and assistance, and any member of the commission, except those who are ex officio, conducting or participating in the conduct of any hearings, shall have the power to administer oaths and affirmations, to issue subpoenas, and to compel the attendance and testimony of witnesses, and the production of papers, books, and documents.

Sec. 5. Minnesota Statutes 1961, Section 414.01, Subdivision 11, is amended to read:

Subd. 11. The commission may prescribe a schedule of filing fees for any petitions, *resolutions or ordinances* filed pursuant to this chapter by an appropriate rule promulgated in accordance with the procedure prescribed in the general laws relating to departments and agencies of the state for the issuance of administrative rules and regulations.

Sec. 6. Minnesota Statutes 1961, Section 414.02, Subdivision 2, is amended to read:

Subd. 2. **Commission's hearing and notice.** Upon receipt of a petition, made pursuant to subdivision 1 of this section, the secretary of the commission shall designate a time and place for a hearing on the petition, such time to be not less than 30 nor more than ~~45~~ *120 days from the date the petition was received*. The place of the hearing shall be within the county in which the greater area of the property to be incorporated is located and is to be established for the convenience of the parties concerned. The secretary shall cause a copy of the petition together with a notice of the hearing to be sent to each member of the commission, to the chairman of the county board and the town board in which all or a part of the property to be incorporated is located, and any duly constituted municipal or regional planning commission exercising authority over all or part of the area. They may submit briefs, prior to the hearing, for or against the proposed incorporation, stating clearly and succinctly the reasons therefor. Notice shall be posted not less than 20 days before the hearing in three public places in the area described in the petition, and the secretary shall cause notice of the hearing to be published two successive weeks in a newspaper qualified as a medium of official and legal publication of general circulation in the area to be incorporated. The hearing may be adjourned from time to time.

Sec. 7. Minnesota Statutes 1961, Section 414.02, Subdivision 3, is amended to read:

**Changes or additions indicated by *italics*, deletions by ~~strikeout~~.**

Subd. 3. **Commission's order.** Pursuant to a hearing on a petition for the incorporation of a village under subdivision 1, the commission shall approve the petition for incorporation if it finds that the property to be incorporated is now, or is about to become, urban or suburban in character. The commission may, in any case, approve the petition if it finds that the existing township form of government is not adequate to protect the public health, safety and welfare in reference to plat control or land development and construction which may be reasonably expected to occur within a reasonable time thereafter. As a guide in arriving at a determination, the commission shall make findings as to the following factors: (1) The population of the area within the boundaries of the proposed incorporation. (2) The area of the proposed incorporation. (3) The area of platted land relative to unplatted land. (4) The character of the buildings on the platted and unplatted lands. (5) Past expansion in terms of population and construction. (6) Prospective future expansion. (7) The assessed value of platted land relative to the assessed value of the unplatted areas. (8) The present and expected necessity and feasibility of providing governmental services such as sewage disposal, water system, zoning, street planning, police, and fire protection. (9) The adequacy of the township form of government to cope with problems of urban or suburban growth in the area proposed for incorporation. The commission shall have authority to alter the boundaries of the proposed incorporation by increasing or decreasing the area to be incorporated so as to include only that property which is now, or is about to become, urban or suburban in character. In the event the boundaries are to be increased, notice shall be given to the property owners encompassed within the area to be added, by mail ~~within five days~~ and the hearing shall reconvene ~~within 30~~ *not less than 20 days after the transmittal of such notice, unless* within the ~~30~~ 20 days those entitled to notice give their written consent to such action. The commission may provide for election of trustees by wards, not less than three nor more than seven in number, whose limits are prescribed in the commission order upon a finding that area representation is required to accord proper representation in the proposed incorporated area because of uneven population density in different parts thereof or the existence of agricultural lands therein which are in the path of suburban development. The petition shall be denied if it appears that annexation to an adjoining municipality would better serve the interests of the area. If the proposed incorporation includes a part of an organized township, the commission shall apportion such property and obligations in such manner as shall be just and equitable having in view the value of the township property, if any, located in the area to be incorporated, the assessed value of all the taxable property in the township, both within and without the area to be incorporated, the indebtedness,

**Changes or additions indicated by italics, deletions by strikeout.**

the taxes due and delinquent and other revenue accrued but not paid to the township. The commission order shall apportion taxes due between the township and annexing municipality on an equitable basis giving due regard to the liability of the annexing municipality to furnish services, or extend utilities to the annexed area. The order shall be issued by the commission within a reasonable time after the termination of the hearing.

An order approving a petition made pursuant to subdivision 1 shall fix a day not less than 20 days nor more than 40 days after the entry of such order when an election shall be held at a place designated by the commission within the area to be incorporated. The secretary shall cause a copy of the order affirming the petition, as submitted or as amended by the commission, including notice of the election, to be posted not less than 20 days before the election in three public places in the area described in the petition, and shall cause notice of the election to be published two successive weeks in a newspaper qualified as a medium of official and legal publication, of general circulation in the area to be incorporated. The commission shall also appoint three electors resident in the area to act as judges of election, who shall be supervised in their duties by the commission, and shall fix a time, not less than six hours and until at least 7 o'clock p.m., when the polls shall be open at the election. The judges shall conduct the election so far as practicable in accordance with the laws regulating the election of town officers. Only voters residing within the territory described in the commission's order shall be entitled to vote. The ballot shall bear the words "For Incorporation" and "Against Incorporation" with a square before each of the phrases in one of which the voter shall make a cross to express his choice. The ballots and election supplies shall be provided and the judges shall be paid by the petitioners.

Sec. 8. Minnesota Statutes, 1961, Section 414.03, Subdivision 2, is amended to read:

Subd. 2. **Annexation by ordinance.** *Territory Except as hereinafter provided, territory* abutting on any municipality and not included in any other municipality may be annexed to the municipality without an order of the commission in the manner provided in this subdivision:

If the land is owned by the municipality, the governing body may by ordinance declare the land annexed to the municipality, and any such land is deemed to be urban in character.

If the land is completely surrounded by land within the municipal limits, the governing body may by ordinance declare the land

**Changes or additions indicated by italics, deletions by strikeout.**

annexed to the municipality, and any such land is deemed to be urban in character.

If the land is platted or, if unplatted, does not exceed 200 acres, the owner or a majority of the owners in number may petition the governing body of the municipality to have such land included *within the municipality and shall file copies of the petition with the commission, the town board and county board of the town and county in which all or any part of the land to be annexed is located, and the governing body of any other municipality whose boundaries abut upon the boundaries of the land to be annexed. Within 30 days thereafter, the town board, or the county board, or the governing body of the other municipality may submit written objections to the annexation to the commission and the municipality. Upon receipt of such objections, the municipality shall take no further action on the petition, and the commission shall proceed to hold a hearing and issue its order in accordance with the provisions of subdivisions 3 and 4 of this section. If written objections are not submitted within the time specified hereunder and if the governing body determines that the annexation will be to the best interest of the municipality and of the territory affected, it may by ordinance, except as hereinafter provided, declare such land annexed to the municipality, but if the petition is not signed by all the owners of the land proposed to be annexed, the ordinance shall not be passed until the governing body has held a hearing on the proposed annexation after at least 30 days posted notice. Whenever a petition for annexation is presented to a municipality pursuant to this paragraph and all or any part of the land described therein is included in a petition for incorporation or annexation which is pending before the commission, no action thereon shall be taken by the municipality, unless otherwise provided by an order of the commission, until final disposition has been made of the petition pending before the commission.*

Any annexation provided for in this subdivision shall be deemed final upon filing a copy of the ordinance with the commission, the county auditor, and the secretary of state.

Any territory which has been annexed to a municipality prior to the enactment of *this law Laws 1961, Chapter 645, and pursuant to Laws 1959, Chapter 686, Section 3, Subdivision 7,* shall be deemed to be suitably conditioned for municipal government and said annexation shall be deemed final upon filing a copy of the annexation ordinance with the commission, the county auditor, and the secretary of state.

Sec. 9. Minnesota Statutes 1961, Section 414.03, Subdivision 4, is amended to read:

**Changes or additions indicated by italics, deletions by ~~strikeout~~.**

Subd. 4. **Commission's order.** Pursuant to a hearing on a petition for the annexation of unincorporated property to a village or city, or if no hearing was required under the foregoing provisions, the commissions shall approve if it finds that the property to be annexed is now, or is about to become, urban or suburban in character. The commission may in any case, approve the annexation if it finds that municipal government of the area is required to protect the public health, safety and welfare in reference to plat control or land development and construction which may be reasonably expected to occur within a reasonable time thereafter and if it finds that the annexation would be to the best interest of the village or city and of the territory affected. As a guide in arriving at a determination, the commission shall make findings as to the following factors: (1) The relative population of the annexing area to the annexed territory. (2) The relative area of the two territories. (3) The relative assessed valuation. (4) The past and future probable expansion of the annexing area with respect to population increase and construction. (5) The availability of space to accommodate that expansion. (6) Whether the taxes can be reasonably expected to increase in the annexed territory, and whether the expected increase will be proportional to the expected benefit inuring to the annexed territory as a result of the annexation. (7) The presence of an existing or reasonably anticipated need for governmental services in the annexed territory such as water system, sewage disposal, zoning, street planning, police and fire protection. (8) The feasibility and practicability of the annexing territory to provide these governmental services presently or when they become necessary. (9) The existence of all or a part of an organized township within the area to be annexed and its ability and necessity of continuing after the annexation. (10) The adequacy of the township form of government to cope with problems of urban or suburban growth in the area proposed for annexation. If a complete organized township is included within the area to be annexed, its residents shall remain liable for any existing indebtedness of the township existing prior to the annexation. In the event only a portion of an organized township is ultimately included in the area to be annexed, the commission shall apportion such property and obligations in such manner as shall be just and equitable having in view the value of the township property, if any, located in the area to be annexed, the assessed value of all the taxable property in the township, both within and without the area to be annexed, the indebtedness, and the taxes due and delinquent. The commission shall have authority to 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, suburban in character or to add property of such character contiguous to the area proposed for annexation or to preserve or improve the symmetry of the area. The petition shall

**Changes or additions indicated by *italics*, deletions by ~~strikeout~~.**

be denied if it appears that the primary motive for the annexation is to increase revenues for the annexing municipality and such increase bears no reasonable relation to the value of benefits conferred upon the annexed area.

*If the commission finds that any unplatted land in the area proposed to be annexed is assessed as other than Class 3c or 3cc and that until such land is developed for residential, commercial, or industrial purposes, it will be benefitted by municipal services to a substantially lesser degree than other land in the municipality either because the services are not available to the same extent as on other property in the municipality or because all or some of such services cannot be practically utilized under conditions then existing, the commission in its order may provide that, during each of not more than ten fiscal years beginning with the first fiscal year after the annexation takes effect, the rate of taxation for city or village purposes on all such property shall be at a specified ratio of the highest rate of taxation applicable that year for city or village purposes to other property in the municipality. The order may provide for the ratio to increase from year to year according to a schedule of increase specified in the order; but in no case shall the order provide for a rate of taxation for municipal purposes in the annexed territory which will exceed the highest rate of taxation applicable that year for municipal purposes to other property in the municipality. If the annexation takes place on the basis of an order providing for taxation at such a ratio, the municipality may not tax such property in the annexed territory at a rate other than the ratio which the order authorizes for that fiscal year. If, during the period prescribed in the order, the land is classified in Class 3c or 3cc, the tax rate upon such land for municipal purposes shall be the same as that levied upon other land so classified. During the period prescribed in the order and after the first fiscal year to which the order applies, the governing body of the annexing municipality or the owner of any property to which the provisions for a lower municipal tax rate apply may petition the commission for an amended order and the commission may, if it finds after hearing upon two weeks' mailed notice to the owner or owners or the governing body not initiating the proceeding as the case may be, that the original order no longer conforms to the standards herein set forth, modify the order to conform to the evidence, but it may not extend the application of the order beyond the maximum period to which the original order could have applied. The order may also provide the time during which or the conditions upon which special assessments to finance the cost of water, storm sewer, or sanitary sewer improvements in the land proposed to be annexed are to be deferred in the manner provided by Minnesota Statutes, Section 429.051. The order of the commission shall be*

**Changes or additions indicated by italics, deletions by ~~str~~ikeout.**

issued within a reasonable time after the termination of the hearing. If the order approves annexation it shall be final if the area proposed for annexation is located within the metropolitan area as defined in Minnesota Statutes, Section 473.02, Subdivision 5. If the order denies annexation it shall be final. If the order approves annexation in any other area in Minnesota, and fixes a date for an election as provided hereafter in subdivision 6, it shall be an intermediate, non-appealable order.

Sec. 10. Minnesota Statutes, 1961, Section 414.04, Subdivision 2, is amended to read:

Subd. 2. **Hearing and notice.** Upon receipt of a petition for the annexation of an incorporated municipality or upon motion of the commission made pursuant to subdivision 1 of this section, the secretary of the commission shall designate a time and place for a hearing on the petition, such time to be not less than 30 nor more than ~~45~~ *120* days from the date the petition was received. The place of the hearing shall be within the county in which the greater area of the property to be incorporated is located and is to be established for the convenience of the parties concerned. The secretary shall cause a copy of the petition together with a notice of the hearing to be sent to each member of the commission, and to the chairman of the county board in which all or a part of the municipality to be annexed is located, and any duly constituted municipal or regional planning commission exercising authority or advisory jurisdiction over all or a part of the area. Notice shall be posted not less than 20 days before the hearing in three public places in the area described in the petition, and the commission secretary shall also cause notice of the hearing to be published two successive weeks in a newspaper qualified as a medium of official and legal publication of general circulation in the area to be annexed.

Sec. 11. Minnesota Statutes 1961, Section 414.06, Subdivision 3, is amended to read:

Subd. 3. **Hearing and notice.** If identical petitions are submitted by the municipality and the owners of the land to be detached, as provided in subdivision 1 of this section, or in situations covered by subdivision 2 of this section, no hearing is necessary. In any other case, upon receipt of a petition, the secretary of the commission shall designate a time and place for a hearing on the petition such time to be not less than 30 nor more than ~~40~~ *120* days from the date the petition was received. The place of the hearing shall be within the municipality to which the land is attached as the secretary may direct. The secretary shall cause a copy of the petition and notice of hearing to be sent to each member of the commission and to be sent to the council of the municipality to which the prop-

**Changes or additions indicated by *italics*, deletions by ~~strikeout~~.**

erty is attached and to at least 75 percent of the owners of the property proposed for detachment, and shall cause notice of the hearing to be published two successive weeks in a newspaper qualified as a medium of official and legal publication, of general circulation within the municipality.

Sec. 12. *Section 8 shall be effective on the date of final enactment of this act, and shall apply to all petitions pending before municipalities where ordinances have not been passed and filed prior to said effective date of Section 8. Section 9 is applicable to petitions pending before the commission on and after the date of final enactment of this act.*

*The remaining provisions of the act are effective on July 1, 1963.*

*The provisions of this act shall not be construed in any way to affect or modify the provisions of Laws of Minnesota 1963, Chapter 621, insofar as such enactment amends Minnesota Statutes 1961, Section 414.03, Subdivisions 4 and 5, and enacts section 3 thereof.*

Approved May 22, 1963.

---

CHAPTER 808—H. F. No. 349

[Not Coded]

*An act appropriating money to the commissioner of agriculture for certain employees necessary for the enforcement of butterfat overrun laws.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **Agriculture; butterfat overrun; appropriation.** There is appropriated to the commissioner of agriculture from the general revenue fund the sum of \$30,000 for the fiscal year ending June 30, 1964, and \$30,000 for the fiscal year ending June 30, 1965, for the purpose of providing the department of agriculture with salaries, supplies, and related expenses of auditors necessary to properly enforce laws relating to the regulation of butterfat overrun.

Sec. 2. This act takes effect on July 1, 1963.

Approved May 22, 1963.

---

**Changes or additions indicated by italics, deletions by ~~strikeout~~.**