

January 28, 2025

Delegate Marc Korman
Maryland House of Delegates
Chair – Environment and Transportation Committee

Re: HB0532

Delegate Korman,

House Bill 532 (HB532), in its current form, fails to address the diverse and complex needs of Maryland's communities, particularly those of smaller, rural, and under-resourced regions. Moreover, it marks a seismic change in the Attorney General's and the Supreme Court of Maryland's past interpretations of the Annexation Statute. In *City of Salisbury v. Banker's Life*, 21 Md. App. 396 (1974) the case dealt with the interpretation of legislative intent in statutes overseeing municipal annexation and property assessment, holding that tax exempt properties should not factor into assessments for annexation consent issues. The RDA is a tax-exempt entity.

This case was affirmed in *Town of Forest Heights v. Maryland-National Capital Park and Planning Commission*, 463 Md. 469 (2019) where the high court held that tax exempt property owners like counties and other governments could not consent to or veto a municipal annexation. The Court in *Forest Heights* stated that "...a holding requiring the consent of tax-exempt property owners to permit a municipal annexation would create the potential of gross inequities between the State, federal, and county governments and their authority to block or veto municipal annexation proceedings." 463 Md. at 495. This bill would create gross inequities regarding annexation for governments not having an RDA and will create problems with charter county governments themselves.

While the bill aims to reform annexation policies, its broad and streamlined approach overlooks the intricate relationships between municipalities and counties, potentially fostering inequities that favor wealthier, urbanized areas, governmental sub-entities, and private developers.

Rather than promoting balanced growth and equitable development, HB532 risks exacerbating economic and social disparities, undermining the unique identities of rural communities, and creating administrative and governance challenges that could take decades to resolve. These consequences would disproportionately impact municipalities with limited resources and deeply rooted cultural identities, leaving them vulnerable to policy shifts that favor large-scale development and urban expansion.

The bill also presents significant constitutional and policy concerns, particularly in its potential retroactive impact on ongoing litigation over a pending annexation, such as the lawsuits filed by the Town of Cheverly and the Redevelopment Authority of Prince

George's County (RDA-PGCO). By altering the legal framework during active judicial proceedings, HB532 risks directly interfering with the judiciary's ability to render impartial decisions and a home rule municipality's discretion to annex land. If enacted, it could nullify the outcome of any litigation, overriding the judiciary's authority and creating a troubling precedent where legislative action supersedes judicial rulings. This Bill will open the door to the demise of the Municipal Annexation Statute as we know it and thereby destroy the sustainability of 156 municipal corporations in this State.

This encroachment on the judiciary conflicts with the constitutional principle of separation of powers, which ensures that legislative, executive, and judicial branches function independently. Courts have consistently ruled against legislative interference in active cases, emphasizing the necessity of judicial finality, as seen in *Plaut v. Spendthrift Farm, Inc.*, 514 U.S. 211 (1995). Furthermore, enacting a law while litigation is pending, particularly one that directly affects the outcome of an ongoing case, creates the appearance of legislative bias or favoritism toward one party, which could undermine public trust in both the judiciary and the legislature.

Additionally, the proposed changes introduce serious concerns regarding retroactivity. If HB532 is enacted after a temporary injunction is granted but before the case is resolved, it could nullify judicial decisions and render the litigation meaningless. The retroactive application of laws in such a manner would bypass judicial processes, creating legal uncertainty for all parties involved. The broader implications of HB532, in conjunction with HB0081, further compound these concerns. HB0081's mandate for all Maryland local governments to transition to Charter government by 2030 could create governance challenges extending far beyond the annexation dispute, leading to increased administrative burdens and potential jurisdictional conflicts between municipalities and counties. If implemented alongside HB532's annexation restrictions, these policies could escalate intergovernmental tensions, disrupt local governance structures, and diminish public confidence in government decision-making.

To mitigate these legal and policy risks, several amendments should be considered. A sunset clause should be introduced to ensure that HB532 does not apply retroactively to cases initiated before its enactment, preserving the judiciary's authority to resolve pending disputes without legislative interference. A grandfather clause should also be included to allow annexation efforts to proceed under the existing legal framework, preventing arbitrary disruptions to ongoing municipal planning. Requiring a comprehensive impact study before implementation would provide legislators with a clearer understanding of the bill's long-term effects on governance, economic development, and intergovernmental relations. Furthermore, delaying HB532's

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implementation would allow sufficient time for active litigation to conclude and prevent conflicts between legislative action and judicial decisions.

Beyond these immediate concerns, the bill raises fundamental issues about properly allocating governmental authority. A county's Redevelopment Authority (RDA) functions as a sub-entity within the broader governmental structure and does not possess independent legislative or executive powers. The authority to request a referendum on annexation should rightfully belong at the county level, ensuring that duly elected officials oversee major governmental decisions.

For example, in Prince George's County, governance is divided between the County Council and the County Executive, who hold legislative and executive powers, respectively. These entities provide accountability to the public and ensure that governmental actions align with the interests of local constituents. However, HB532 would disrupt this framework by granting an unelected sub-governmental organization, the RDA, the power to initiate policy decisions related to municipal annexation. This shift would bypass the established governmental structure and transfer decision-making authority to an entity that lacks direct electoral accountability.

To uphold the integrity of county governance, any annexation-related referendums must be initiated and approved only by the County Council and the County Executive through a transparent process that includes public input and legislative oversight.

Ultimately, HB532, in its current form, poses a range of legal, constitutional, and governance challenges that must be addressed before it can be responsibly enacted. Without significant amendments, the bill risks undermining the separation of powers, judicial independence, and the balance of authority between municipalities and counties. By implementing safeguards such as those outlined above, the legislature can ensure that this measure upholds constitutional principles, fosters equitable development, and respects the diverse needs of Maryland's communities. If revised thoughtfully, HB532 could become a model for annexation reform that balances growth and local autonomy while preserving the fundamental structures of democratic governance. This bill is best left for the summer conference to hammer out the vast and far-reaching implications of municipal annexation in Maryland.

Please see below for some friendly recommendations on possible amendments to the legislation as it sits now:

Authority to Force Referendum by Charter Government *(Modification to Section 4-413)*

“The County Council of a Charter Government, upon request from a Redevelopment Authority created by statute, may vote by a supermajority and, with the concurrence of

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the County Executive, require an annexation proposal by a municipal corporation to be decided by a referendum. This applies only if the Redevelopment Authority jointly owns the property and meets the criteria outlined in Sections (1), (2), and (3) of Section 4-413.”

Responsibility for Conducting the Special Election

(Addition to Section 4-402 – Annexation Process Requirements)

“The annexing municipal corporation shall be responsible for organizing and funding the special election for the referendum. The registered voters of the annexing municipal corporation shall be eligible to participate in the referendum once the annexation proposal is officially ordered to a vote.”

Participation of Neighboring Jurisdictions in Referendum

(Modification to Section 4-413 – Eligibility to Vote in Annexation Referendum)

“Registered voters of a neighboring municipal corporation that seeks to annex the same property, or where an annexation proposal is contested by a neighboring jurisdiction, shall be entitled to participate in the referendum election, provided the area to be annexed meets the criteria outlined in Section 4-413.”

Restrictions on Re-Proposing Annexation After Referendum Defeat

(Addition to Section 4-404 – Petition and Reconsideration Limitations)

“If a referendum election rejects an annexation proposal, the property subject to the annexation shall not be eligible for re-annexation by any municipal corporation unless ownership of the property formally changes hands.”



Honorable John O'Connor

CSMC 2014-2022

Cc: Delegate Regina Boyce, Jacqueline T. Addison, Nick Allen, Terry L. Baker, Barrie S. Ciliberti, Debra M. Davis, Linda K. Foley, Michele J. Guyton, Anne M. Healey, Marvin E. Holmes, Jr., Jay A. Jacobs, Mary A. Lehman, Robbyn T. Lewis, Jeffrie E. Long, Jr., Todd B. Morgan, Ryan M. Nawrocki, Charles J. Otto, Sheila S. Ruth, Dana M. Stein, Vaughn M. Stewart, Jennifer R. Terrasa, Natalie C. Ziegler.