

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013

A Bill

HOUSE BILL 1542

4
5 By: Representative Kizzia

For An Act To Be Entitled

8 AN ACT TO CLARIFY THE PROCEDURE FOR CERTAIN
9 ANNEXATION MATTERS; AND FOR OTHER PURPOSES.

Subtitle

12 TO CLARIFY THE PROCEDURE FOR CERTAIN
14 ANNEXATION MATTERS.

16
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18
19 SECTION 1. Arkansas Code § 14-40-2002 is amended to read as follows:
20 14-40-2002. Annexation into adjoining municipality.

21 (a)(1) A landowner or group of landowners seeking additional or
22 improved municipal services may have ~~their~~ its land detached from the
23 municipality in which it is located and annexed into another municipality
24 that borders the land.

25 (2) However, before annexation is allowed, the municipality in
26 which the land is located shall have an opportunity to provide the additional
27 or improved services.

28 (b) The following procedure shall apply:

29 (1) The landowner or landowners shall file a statement with the
30 municipality in which the land is located listing the additional or improved
31 municipal service or services being sought and stating that:

32 (A) The municipality is not providing services necessary
33 to create improvements, provide employment or additional employment,
34 subdivide, or otherwise maximize the use and value of the property;

35 (B) All the land in the request must compose one (1) area
36 that is contiguous to another municipality;



1 (C) The additional or improved services are available in
 2 another municipality that borders the land subject to the request; and

3 (D)(i) The municipality is requested to make a commitment
 4 to take substantial steps, within one hundred eighty (180) days after the
 5 statement is filed, toward ~~making~~ providing the additional or improved
 6 services ~~available~~ and, within each thirty-day period thereafter to continue
 7 taking steps to demonstrate a consistent commitment to provide the service
 8 within a reasonable time, as determined by the kind of services requested.

9 (ii) The commitment must be made in writing to the
 10 landowner within thirty (30) calendar days of the filing of the statement, or
 11 the landowner may seek to have the land detached from the municipality and
 12 annexed into the other municipality.

13 (iii) The landowner must take appropriate steps to
 14 make the land accessible to the service and comply with reasonable requests
 15 of the municipality that are necessary for the service to be provided;

16 (2) The landowner or landowners may request the annexation of
 17 the land into the other municipality and thereby detach the land from the
 18 boundaries of the municipality in which the land is currently located, if:

19 (A) The municipality in which the land is located fails to
 20 execute a commitment to services within thirty (30) days after the statement
 21 is filed; or

22 (B) The municipality executes the commitment to services
 23 but fails to take the action required under subdivision (b)(1)(D) of this
 24 section;

25 (3)(A) The land shall be annexed into the other municipality if,
 26 after a request by the landowner or landowners, the governing body of the
 27 municipality into which annexation is sought indicates by ordinance,
 28 resolution, or motion its commitment to make the services available and
 29 ~~approves~~ its approval of the request for annexation.

30 (B)(i) The annexation shall be void and the land shall be
 31 returned to the original municipality if the annexing municipality fails to
 32 take substantial steps within one hundred eighty (180) days after the passage
 33 of the ordinance, resolution, or motion to make the services available and,
 34 within each thirty-day period thereafter, continues taking steps
 35 demonstrating a consistent commitment to ~~provide~~ make the additional or
 36 improved service available within a reasonable time, as determined by the

1 kind of services requested.

2 (ii) The landowner must have taken appropriate steps
 3 to make the land accessible to the service and complied with the reasonable
 4 requests of the municipality that are necessary for the service to be
 5 provided.

6 (iii) However, if the requested services are not
 7 ~~provided, accepted, and in place~~ available within twelve (12) months after
 8 the property is accepted by the annexing jurisdiction or substantial steps
 9 are not taken to ~~provide, accept, and have~~ make the services ~~in place~~
 10 available within this time period, then the detachment and annexation shall
 11 be void and all property returned to its original jurisdiction; and

12 (4) The land shall remain in the original municipality until it
 13 is annexed into the other municipality.

14 (c) Land annexed pursuant to this section shall not be eligible for
 15 reannexation under this section for a period of two (2) years.

16 (d) This section shall apply to residential, commercial, industrial,
 17 and unimproved land.

18 (e) For the purposes of this section, "services" means electricity,
 19 water, sewer, fire protection, police protection, drainage and storm water
 20 management, or any other offering by the municipality that materially affects
 21 a landowner's ability to develop, use, or expand the uses of the landowner's
 22 property.

23
 24 SECTION 2. Arkansas Code § 14-40-2004(b)-(d), concerning hearings in
 25 circuit court related to municipal services, is amended to read as follows:

26 (b)(1)(A) Upon ~~request~~ petition of either affected municipality, the
 27 landowner or group of landowners, or ~~their~~ its representatives, the circuit
 28 judge shall hold a hearing or series of hearings related to the provisions of
 29 this subchapter.

30 (B) The municipalities, the landowner who requested
 31 annexation, and a landowner who began owning land after the annexation
 32 request are parties to the hearings.

33 (2) The circuit judge shall make findings as are necessary to
 34 determine whether there has been substantial compliance or noncompliance with
 35 the requirements of this subchapter.

36 (c) ~~At any time, but in no event~~ The petition under subdivision (b)(1)

1 of this section shall be filed no later than twenty (20) days, after the
2 adoption or rejection of the ordinance, resolution, or motion bringing the
3 subject property into the annexing jurisdiction, ~~the affected municipalities,~~
4 ~~landowners, or their representatives may request a hearing before the circuit~~
5 ~~court on any matter related to this subchapter.~~

6 (d) In the event an action is brought in circuit court by any party,
7 the time period for the requested services to be ~~provided, accepted, and in~~
8 ~~place~~ available as provided in § 14-40-2002(b)(3)(B)(iii) shall be tolled
9 until entry of a ruling by the circuit judge and the conclusion of any
10 appeals from that court.

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