

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H4/1/13

A Bill

HOUSE BILL 1542

5 By: Representative Kizzia
6

For An Act To Be Entitled

8 AN ACT TO CLARIFY THE PROCEDURE FOR CERTAIN
9 ANNEXATION MATTERS; AND FOR OTHER PURPOSES.
10

Subtitle

11 TO CLARIFY THE PROCEDURE FOR CERTAIN
12 ANNEXATION MATTERS.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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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
22 municipal services may have ~~their~~ its land detached from the municipality in
23 which it is located and annexed into another municipality that borders the
24 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 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 municipal
31 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 services are available in another
2 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 services ~~available~~
6 and, within each thirty-day period thereafter to continue taking steps to
7 demonstrate a consistent commitment to provide the service within a
8 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 service
36 available within a reasonable time, as determined by the kind of services

1 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.

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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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12 /s/Kizzia
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