

2016 Regular Session

HOUSE BILL NO. 1147 (Substitute for House Bill No. 125 by Representative Smith)

BY REPRESENTATIVE SMITH

MUNICIPAL/INCORPORATION: Provides relative to incorporation petitions

1 AN ACT

2 To amend and reenact R.S. 33:1, relative to incorporation of municipalities; to provide
3 relative to the process of petitioning for incorporation; to establish time limits for the
4 submission of a petition to the registrar of voters for certification; to provide that a
5 petition becomes a public record on a certain date; to prohibit annexation during the
6 petitioning process; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 33:1 is hereby amended and reenacted to read as follows:

9 §1. Petition for incorporation; contents; circulation; required signatures

10 A. Residents of any unincorporated area with a population in excess of two
11 hundred inhabitants may propose the incorporation of the area as provided in this
12 Subpart. ~~A petition proposing the incorporation of the area shall be prepared and~~
13 ~~shall contain the following.~~ The secretary of state shall provide a form approved by
14 the attorney general to be used for the petition for an incorporation election. Such
15 form shall be in conformity with the provisions of this Section and R.S. 18:3. All
16 incorporation petitions shall be on an approved form or on a form which contains the
17 same information as required on the approved form and any petition not on such
18 form shall be invalid. The incorporation petition shall include the following
19 information:

1 (1) A legal description of the area proposed for incorporation, a map of the
2 area proposed for incorporation, and the statement that all lands included in the area
3 constitute a contiguous area. The description shall also include a list of every parish
4 in which the proposed area of incorporation is wholly or partially situated.

5 (2) A statement of the number of inhabitants residing in the unincorporated
6 area of the proposed incorporation. Such statement shall be based on the latest
7 federal decennial census or another current population report or count which is
8 verifiable.

9 (3) A statement of the assessed value of the ~~real~~ immovable property located
10 in the unincorporated area.

11 (4) A listing of the public services the municipal corporation proposes to
12 render to the area and a plan for the provision of these services.

13 (5) A statement of the corporate name desired for the new municipality.

14 (6) The names of two ~~or more chairpersons~~ persons, who shall be designated
15 as chairperson and vice chairperson, for the petition for incorporation who shall
16 serve as agents for the petitioners in all legal matters, including the receipt of notices.
17 Notice will be sufficient if served on ~~any one of the chairpersons~~: the chairperson or
18 vice chairperson. If the chairperson is unable to carry out the duties required in this
19 Section, the vice chairperson shall carry out such duties.

20 ~~B.(1)(a) The signatures of twenty-five percent of the electors residing in the~~
21 ~~area proposed for incorporation shall be required in order to file the petition as~~
22 ~~provided in R.S. 33:2(A).~~

23 ~~(b) All electors, whether or not they own land, shall be eligible to sign the~~
24 ~~petition.~~

25 ~~(c) The signatures of the electors must reasonably correspond with their~~
26 ~~signatures on file in the office of the registrar of voters.~~

27 ~~(d) More than one copy of the petition may be circulated and signatures of~~
28 ~~electors on any copy of the petition shall be counted as part of the required twenty-~~
29 ~~five percent.~~

1 ~~(2) Any elector may withdraw his name from the petition by filing a signed~~
2 ~~statement of withdrawal with the registrar of voters at any time before the registrar~~
3 ~~of voters certifies that twenty-five percent of the electors residing in the area~~
4 ~~proposed for incorporation have signed the petition as provided by R.S. 33:2(C).~~

5 B.(1)(a) Prior to entering any signatures, the chairperson shall file a copy of
6 the incorporation petition with the secretary of state who shall endorse thereon the
7 fact and date of filing. The copy of the incorporation petition shall be deemed filed
8 as of the date of endorsement by the secretary of state. The secretary of state shall
9 notify the chairperson of the endorsement date within ten business days, by certified
10 mail, return receipt requested. No signatures for incorporation shall be collected
11 until the chairperson receives notice of the endorsement date.

12 (b) The secretary of state shall immediately transmit, by mail or
13 electronically, a copy of the filed petition to the registrar of voters for each parish in
14 which the proposed incorporated area is situated. Within ten business days after the
15 date of the endorsement, the registrar of voters for each parish in which the proposed
16 incorporated area is situated shall transmit to the chairperson and the secretary of
17 state, by mail or electronically, a notice of the number of electors residing within the
18 area proposed for incorporation as of the date the notice is sent to the chairperson
19 and the secretary of state.

20 (c) No copy of an incorporation petition shall be filed with the secretary of
21 state within a period beginning thirteen days prior to the date of any election through
22 ten days after the date of that election.

23 C.(1) The signatures of twenty-five percent of the electors residing in the
24 area proposed for incorporation shall be required in order to file the signed petition
25 as provided in R.S. 33:2(A).

26 (2) The chairperson shall submit the signed and dated petition for
27 certification to the registrar of voters for each parish in which the proposed
28 incorporated area is situated. However, not less than fourteen days prior to
29 submitting the signed and dated petition for certification, the chairperson shall

1 provide written notice by certified mail, return receipt requested, or by hand delivery
2 received on a return receipt request form to the registrar of voters for each parish of
3 his intention to submit the petition for certification. The chairperson shall submit the
4 signed and dated petition for certification not later than:

5 (a) One hundred and eighty days after the date on which he receives notice
6 of the date of endorsement by the secretary of state, if fewer than ten thousand
7 qualified electors reside within the area proposed for incorporation.

8 (b) Two hundred and seventy days after the date on which he receives notice
9 of the date of endorsement by the secretary of state, if ten thousand or more qualified
10 electors reside within the area proposed for incorporation.

11 (3)(a) The chairperson shall attach to the signed and dated petition an
12 affidavit attesting to the fact that no signatures were obtained prior to the receipt of
13 notice of the endorsement date.

14 (b) If the chairperson fails to submit the affidavit and the signed and dated
15 petition within the time period specified in this Subsection, the registrar of voters
16 shall not review the petition to determine whether it contains the required signatures
17 as provided in R.S. 33:2, and no copy of a petition for incorporation that proposes
18 to incorporate the same area shall be filed with the secretary of state for at least sixty
19 days.

20 D.(1) The handwritten signatures of the electors must reasonably correspond
21 with their signatures on file in the office of the registrar of voters. All electors
22 residing in the area proposed for incorporation shall be eligible to sign the petition.
23 More than one copy of the petition may be circulated but the signature of an elector
24 shall be counted only one time in the calculation of the twenty-five percent required
25 by R.S. 33:2.

26 (2) Prior to certification of a signed and dated petition as provided in R.S.
27 33:2(C) but not more than five days after a signed and dated petition is submitted for
28 certification pursuant to Subsection C of this Section, whichever is earlier, the
29 registrar of voters shall honor the written request of any elector who desires to have

1 his handwritten signature either stricken from or added to the signed and dated
2 petition. The written request of the elector shall include the name and address of the
3 elector, the date of birth of the elector, the signature of the elector, and the date of
4 the request.

5 E.(1) A signed and dated petition, including an elector's name, address, and
6 signature, shall be a public record as of the date that written notice is given by the
7 chairperson pursuant to Subsection C of this Section. However, the elector's day and
8 month of birth shall be redacted or not disclosed as provided in R.S. 18:154. The
9 written request of the elector to have his signature stricken from or added to a
10 petition pursuant to Paragraph(D)(2) of this Section shall also be a public record,
11 except for the elector's day and month of birth as provided in R.S. 18:154.

12 (2)(a) Prior to submitting a signed and dated petition to the registrar of voters
13 pursuant to Subsection C of this Section, the chairperson shall be the custodian of
14 any such petition.

15 (b) Upon receipt of a signed and dated petition submitted by the chairperson
16 pursuant to Subsection C of this Section, the registrar of voters shall be the custodian
17 of the petition.

18 (c) The petition and the custodian of the petition shall be subject to all the
19 provisions of R.S. 44:31 et seq.

20 F. If the final day for any action required in this Section falls on a Saturday,
21 Sunday, or legal holiday, the deadline shall be on the next day which is not a
22 Saturday, Sunday, or legal holiday.

23 G. Notwithstanding any provision of law to the contrary, during the time
24 period granted to a chairperson to submit a petition for certification pursuant to
25 Subsection C of this Section, no municipality shall annex any area included within
26 an area proposed for incorporation as described in a petition which has been filed
27 with the secretary of state. Any annexation in violation of this Subsection shall be
28 null and void ab initio.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 1147 Reengrossed

2016 Regular Session

Smith

Abstract: Provides relative to the procedures and time limits for the petition for the incorporation of a new municipality.

Present law provides that residents of any unincorporated area with a population in excess of 200 people may propose the incorporation of the area. A petition for incorporation must contain the following information:

- (1) A legal description of the area proposed for incorporation and a statement that all lands included in the area constitute a contiguous area.
- (2) A statement of the number of inhabitants residing in the unincorporated area, based on the latest federal decennial census or another current population report or count which is verifiable.
- (3) A statement of the assessed value of the real property located in the unincorporated area.
- (4) A listing of the public services the municipal corporation proposes to render to the area and a plan for the provision of these services.
- (5) A statement of the corporate name desired for the new municipality.
- (6) The names of two or more chairpersons for the petition for incorporation who shall serve as agents for the petitioners in all legal matters, including the receipt of notices.

Proposed law generally retains present law and additionally provides the following with respect to such a petition:

- (1) Requires the secretary of state to provide a form for such a petition that is approved by the attorney general and requires that all petitions be on an approved form or a form which contains the same information as required on the approved form.
- (2) Requires that a map of the area proposed for incorporation and a list of every parish in which the proposed area of incorporation is wholly or partially situated be included within the legal description.
- (3) Relative to the names of chairpersons for the petition of incorporation, limits the number to two and requires that they be designated as chairperson and vice chairperson. Requires the vice chairperson to carry out the duties of the chairperson in his absence.

Proposed law requires, prior to the collection of signatures, submission of a copy of the proposed petition to the secretary of state. Requires the secretary of state to endorse the fact and the date of filing. Provides that the petition is deemed filed as of the date of endorsement. Requires the secretary of state to notify the chairperson within 10 business days, by certified mail, return receipt requested, of the date of endorsement. Prohibits the collection of signatures until the receipt of the notice of endorsement and prohibits the filing of a copy of a petition within a period beginning 13 days prior to an election through 10 days after that election.

Proposed law requires the secretary of state to immediately transmit a copy of the petition, by mail or electronically, to the registrar of voters for each parish in which the proposed incorporated area is situated. Requires the registrar of voters, within 10 business days of the date of endorsement, to transmit to the chairperson and the secretary of state, by mail or electronically, a notice of the number of electors residing within the area proposed for incorporation as of the date the notice is sent to the chairperson and the secretary of state.

Proposed law requires the chairperson to submit the signed and dated petition for certification to the registrar of voters for each parish in which the proposed incorporated area is situated. Further requires the chairperson to notify the registrar of voters, by certified mail or receipted hand delivery, that he intends to submit the petition for certification at least 14 days prior to actual submission. Requires the chairperson to submit the petition not later than 180 days after the date on which he receives notice of the date of endorsement, if fewer than 10,000 qualified electors reside within the area proposed for incorporation and 270 days from such date if 10,000 or more qualified electors reside in the area proposed for incorporation.

Proposed law requires the chairperson to attach an affidavit to the petition attesting to the fact that no signatures were obtained prior to the receipt of notice of endorsement. Prohibits the registrar of voters from reviewing the signed petition to determine if it contains the requisite number of signatures if petitioners fail to submit the signed petition within the requisite number of days. Further prohibits the filing of another copy of a petition to the secretary of state that proposes to incorporate the same area for at least 60 days.

Present law provides that all electors are eligible to sign the petition and that more than one copy of the petition may be circulated. Requires that the signatures of the electors reasonably correspond with their signatures on file in the office of the registrar of voters. Further requires that signatures of electors on any copy of the petition be counted as part of the required 25%.

Proposed law retains present law but removes requirement that signatures of electors on any copy of the petition be counted as part of the required 25%. Proposed law instead requires that the signature of an elector be counted only one time in the calculation of the required 25%.

Present law authorizes any elector to withdraw his name from the petition by filing a signed statement of withdrawal with the registrar of voters at any time before the registrar of voters certifies the petition.

Proposed law instead requires the registrar of voters, prior to certifying the petition but not more than five days after submission by the chairperson for certification, whichever is earlier, to honor the written request of any elector who desires to have his signature stricken from or added to the petition. Provides further relative to the contents of the notice.

Proposed law provides that the petition, including the elector's name, address, and signature, are public record as of the date written notice is given by the chairperson of his intent to submit the petition for certification. Additionally provides that the request of the elector to add or remove his name is a public record. Prohibits the disclosure of the voter's day and month of birth.

Proposed law provides that the chairperson is the custodian of the petition prior to submission for certification but the registrar of voters becomes the custodian once the petition is submitted for certification. Provides that the petition and its custodian are subject to present law (R.S. 44:1) relative to the inspection of public records.

Proposed law prohibits the annexation of any area included within a petition filed with the secretary of state until the time lapses for the chairman to submit the petition for certification.

(Amends R.S. 33:1)

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Relative to the chairperson for the petition for incorporation, require rather than authorize the vice chairperson to carry out the duties of the chairperson in his absence.
2. Clarify relative to the period during which filing a petition for incorporation is prohibited.
3. Make technical changes.