

Hall of the House of Representatives
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of House Bill No. 1708

"TO REQUIRE A MUNICIPALITY TO PROVIDE ADEQUATE MUNICIPAL SERVICES TO
ITS CURRENT CITIZENS BEFORE ANNEXING ANY NEW AREAS TO THE
MUNICIPALITY AND TO PROVIDE FOR A LEGAL ACTION TO DETERMINE IF
MUNICIPAL SERVICES ARE ADEQUATE."

Amendment No. 2 to House Bill No. 1708.

Amend House Bill No. 1708 as engrossed, 02/27/03:

Page 1, line 10, delete "MUNICIPALITY" and substitute "MUNICIPALITY WITH A
POPULATION OF OVER ONE HUNDRED FIFTY THOUSAND (150,000)"

AND

Page 1, line 19, delete "MUNICIPALITY" and substitute "CITY OF OVER 150,000"

AND

Delete Section 1. and Section 2. of the bill and substitute new sections to
read as follows:

"SECTION 1. Arkansas Code § 14-40-302 is amended to read as follows:
14-40-302. Authority - Exceptions.

(a)(1) By vote of two-thirds (2/3) of the total number of members
making up its governing body, any municipality with a population of one
hundred fifty thousand (150,000) people or less, according to the latest
federal decennial census, may adopt an ordinance to annex lands contiguous to
the municipality if the lands are any of the following:

~~(1)~~(A) Platted and held for sale or use as municipal lots;

~~(2)~~(B) Whether platted or not, if the lands are held to be
sold as suburban property;

~~(3)~~(C) When the lands furnish the abode for a densely
settled community or represent the actual growth of the municipality beyond
its legal boundary;

~~(4)~~(D) When the lands are needed for any proper municipal
purposes such as for the extension of needed police regulation; or

~~(5)~~(E) When they are valuable by reason of their
adaptability for prospective municipal uses.

(2) By a vote of two-thirds (2/3) of the total number of members



making up the governing body of a municipality with a population of more than one hundred fifty thousand (150,000) people, according to the latest federal decennial census, the municipality may adopt an ordinance to annex lands contiguous to the municipality if the lands being annexed are as described in subdivision (a)(1) of this section and if that municipality provides adequate services to the existing municipal citizens as described under subdivision (c)(2) of this section.

(b)(1) Contiguous lands shall not be annexed when they either:

(A) Have a fair market value, at the time of the adoption of the ordinance, of lands used only for agricultural or horticultural purposes and the highest and best use of the lands is for agricultural or horticultural purposes; or

(B) Are lands upon which a new community is to be constructed with funds guaranteed, in whole or in part, by the federal government under Title IV of the Housing and Urban Development Act of 1968 or under Title VII of the Housing and Urban Development Act of 1970.

(2) Any person, firm, corporation, partnership, or joint venturer desiring to come within this exclusion must have received from the Department of Housing and Urban Development a letter of preliminary commitment to fund the new community under one (1) of the federal acts.

(3) If any lands are annexed which are being used exclusively for agricultural purposes, the lands may continue to be used for such purposes so long as the owner desires and the lands shall be assessed as agricultural lands.

(c)(1) However, a municipality having a population of fewer than one thousand (1,000) persons shall not annex in any one (1) calendar year contiguous lands in excess of ten percent (10%) of the current land area of the municipality.

(2)(A) Before a municipality with a population of more than one hundred fifty thousand (150,000) people, according to the latest federal decennial census, may annex lands to enlarge the size of the present municipality, the municipality shall provide all municipal citizens living within the present corporate limits with adequate municipal services.

(B)(i) The municipal services to be provided are police services, fire protection services, sanitation services, and code enforcement or housing inspection services.

(ii) If the municipality provides water and sewer services and other utility services, municipal services shall include the availability of water service, sewage collection and treatment services, and the other utility services to all municipal citizens.

(iii) However, if the municipality is required to supply water or sewer service across a natural barrier to comply with this subdivision (c)(2), the municipality is exempt from the adequate service requirement for water and sewer service.

(C) In order for a municipal service to be adequate, the service is to be supplied to, or available for, all municipal citizens and shall be readily available to supply or hookup in all areas of the present municipality of more than one hundred fifty thousand (150,000) people.

SECTION 2. Arkansas Code § 14-40-304 is amended to read as follows:
14-40-304. Judicial review.

(a)(1) If it is alleged that the area proposed to be annexed to a

municipality with a population of one hundred fifty thousand (150,000) people or less, according to the latest federal decennial census, does not conform to the requirements and standards prescribed in § 14-40-302, a legal action may be filed in the circuit court of the county where the lands lie, within thirty (30) days after the election, to nullify the election and to prohibit further proceedings pursuant to the election.

(2) If it is alleged that adequate municipal services are not being provided to all municipal citizens of the municipality with a population of more than one hundred fifty thousand (150,000) people or that the area proposed to be annexed does not conform to the requirements and standards prescribed in § 14-40-302, a legal action may be filed in the circuit court of the county where the lands lie, within thirty (30) days after the election, to nullify the election and to prohibit further proceedings pursuant to the election.

(b) In any such action filed in the circuit court of the county where the lands lie, the court shall have jurisdiction and the authority to determine whether the procedures outlined in this subchapter have been complied with, ~~and~~ whether the municipality has used the proper standards outlined in § 14-40-302 in determining the lands to be annexed, and whether the municipality under § 14-40-302(c)(2) was providing adequate municipal services to all municipal citizens of the current municipality.

(c)(1) Within the three (3) years after the date the annexation becomes final, if the municipality with a population of more than one hundred fifty thousand (150,000) people fails to extend the municipal services to the annexed area as prescribed in the schedule listed in the annexation ordinance under § 14-40-303(a)(2), then a legal action may be filed in the circuit court of the county where the lands lie, to nullify the annexation and to remove the annexed area from the municipality.

(2) The legal action under this subsection (c) is to be filed within four (4) years after the date the annexation becomes final.

The Amendment was read _____
By: Representative Hutchinson
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Chief Clerk