

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

HOUSE BILL

4 **By: Representatives Steele, Hinshaw, Bisbee, von Grep and Bryant**

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE §14-40-303 TO PRESCRIBE A
9 PROCEDURE FOR RESOLVING CONFLICTING ANNEXATION ELECTIONS
10 BETWEEN CITIES; AND FOR OTHER PURPOSES."

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Subtitle

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13 "AN ACT TO PRESCRIBE A PROCEDURE TO RESOLVE CONFLICTS
14 BETWEEN CITIES ON ANNEXATION ELECTIONS."

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

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18 SECTION 1. Arkansas Code §14-40-303 is amended to read as follows:
19 "14-40-303. Annexation ordinance - Election - Procedures.

20 (a) The annexation ordinance shall:

21 (1) Contain an accurate description of the lands desired to be
22 annexed;

23 (2) Include a schedule of the services of the annexing
24 municipality that will be extended to the area within three (3) years after
25 the date the annexation becomes final; and

26 (3) Fix the date for the election provided in this section.

27 (b) (1) (A) The annexation ordinance shall not become effective until the
28 question of annexation is submitted to the qualified electors of the annexing
29 municipality and of the area to be annexed at the next general election or at
30 a special election. The special election shall be conducted no earlier than
31 sixty (60) days after the date of enactment of the ordinance.

32 (B) (i) If at the election a majority of the qualified
33 electors voting in the election shall vote for the annexation, the county
34 clerk shall, no later than seven (7) days following the election, certify the
35 election results and record the same along with the description and a map of

1 the annexed area in the county records and file a certified copy thereof with
2 the Secretary of State.

3 (ii) The annexation shall be effective and the lands
4 annexed shall be included within the corporate limits of the annexing
5 municipality thirty (30) days following the date of recording/filing of the
6 description and map, as provided in this section, or in the event an action is
7 filed with the circuit court, as provided in § 14-40-304, on the date the
8 judgment of the court becomes final.

9 (2) If a majority of the qualified electors voting on the issue
10 at the election vote against the annexation, the annexation ordinance shall be
11 null and void.

12 (c) (1) (A) The city clerk shall certify two (2) copies of the annexation
13 ordinance and a plat or map of the area to be annexed and convey one (1) copy
14 to the county clerk and one (1) copy to the county election commission at
15 least sixty (60) days before the election.

16 (B) (i) No later than forty-five (45) days prior to the
17 election, the city shall identify all persons who reside within the area
18 proposed to be annexed and the county clerk shall assist the city in
19 determining the names and addresses of all qualified electors residing within
20 that area.

21 (ii) The failure to identify all persons residing
22 within the area proposed to be annexed or the failure to determine the names
23 and addresses of all qualified electors residing within that area shall not
24 invalidate or otherwise affect the results of the election.

25 (C) All of the qualified electors residing within the
26 territory to be annexed shall be entitled to vote in the election.

27 (D) The city clerk shall give notice of the election by
28 publication by at least one (1) insertion in some newspaper having general
29 circulation in the city.

30 (2) (A) The county clerk shall give notice of the voter
31 registration deadlines at least twenty (20) days before the election by
32 ordinary mail to those persons whose names and addresses are on the list
33 provided by the city clerk.

34 (B) The county clerk shall prepare a list by precinct of
35 all those qualified electors residing within the area to be annexed which are

1 qualified to vote in that precinct and furnish that list to the election
2 officials at the time the ballot boxes are delivered.

3 (3) If the county clerk or the county election commission shall
4 fail to perform any duties required of it, then any interested party may apply
5 for a writ of mandamus to require the performance of the duties, but the
6 failure to perform the duties shall not void the annexation election unless a
7 court finds that the failure to perform the duties substantially prejudiced an
8 interested party.

9 (d) If the annexation is approved and becomes final, the governing body
10 of the city shall, by ordinance, as soon as practical after the annexation,
11 attach and incorporate such annexed territory to and in one (1) or more wards
12 of the city, lying adjacent thereto, and the territory so assigned and
13 attached to a ward shall thereafter be considered and become a part thereof as
14 fully as any other part of the city.

15 (e) From the map or plat provided by city ordinance of the wards
16 assigned, the county clerk shall proceed to ascertain and determine the
17 voters' proper precinct and shall enter the same upon the voter registration
18 records of those inhabitants of the territory so annexed and give notice of
19 that change within thirty (30) days after the adoption of the city ordinance
20 assigning the territory to wards.

21 (f) (1) In the event that within thirty (30) days of the date that one
22 (1) city calls for an annexation election, another city calls for an
23 annexation election on all or part of the same land proposed to be annexed by
24 the first city, then both annexation elections shall be held; provided that
25 the second city must call for its annexation election to be held within thirty
26 (30) days before or after the holding of the first city's election.

27 (2) If the annexation election held first is approved by the
28 voters, the results of it shall be stayed until the second annexation election
29 is held.

30 (A) If only one (1) of the annexation elections is approved
31 by the voters, then the city which called that election shall proceed with the
32 annexation of the land.

33 (B) If both annexation elections are approved by the
34 voters, then a third election shall be held three (3) weeks after the second
35 annexation election.

1 (i) Only the residents of the area proposed to be
2 annexed by both cities shall vote in the third election.

3 (ii) The issue on the ballot in the third election
4 shall be into which of the two (2) cities the residents of the area want to be
5 annexed.

6 (iii) The area shall be annexed into the city
7 receiving the most votes in the third election.

8 (iv) In the event of a tie vote in the third
9 election, the area shall be annexed to the city which, in the first or second
10 election, had the highest percentage vote in favor of the annexation.

11 (3) If the city, which does not get to annex the area voted on by
12 both cities, included land in its annexation election other than the land
13 voted on by both cities, then that land shall be annexed into such city if it
14 is still contiguous to such city after the other land is annexed to the other
15 city, but such land shall remain part of the county if it is not so
16 contiguous."

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18 SECTION 2. All provisions of this act of a general and permanent nature
19 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
20 Revision Commission shall incorporate the same in the Code.

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22 SECTION 3. If any provision of this act or the application thereof to
23 any person or circumstance is held invalid, such invalidity shall not affect
24 other provisions or applications of the act which can be given effect without
25 the invalid provision or application, and to this end the provisions of this
26 act are declared to be severable.

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28 SECTION 4. All laws and parts of laws in conflict with this act are
29 hereby repealed.

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