

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: H2/27/03 H3/18/03

A Bill

HOUSE BILL 1708

5 By: Representative Hutchinson
6 By: Senator Broadway
7

For An Act To Be Entitled

8
9
10 AN ACT TO REQUIRE A *MUNICIPALITY WITH A*
11 *POPULATION OF OVER ONE HUNDRED FIFTY THOUSAND*
12 *(150,000)* TO PROVIDE ADEQUATE MUNICIPAL SERVICES
13 TO ITS CURRENT MUNICIPAL CITIZENS BEFORE ANNEXING
14 ANY ADDITIONAL AREAS TO THE MUNICIPALITY; TO
15 PROVIDE FOR A LEGAL ACTION TO DETERMINE IF
16 ADEQUATE SERVICES ARE BEING PROVIDED TO CURRENT
17 CITIZENS AND TO THE ANNEXED AREAS; AND FOR OTHER
18 PURPOSES.

Subtitle

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20
21 TO REQUIRE A *CITY OF OVER 150,000* TO
22 PROVIDE ADEQUATE MUNICIPAL SERVICES TO
23 ITS CURRENT CITIZENS BEFORE ANNEXING ANY
24 NEW AREAS TO THE MUNICIPALITY AND TO
25 PROVIDE FOR A LEGAL ACTION TO DETERMINE
26 IF MUNICIPAL SERVICES ARE ADEQUATE.

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

30
31 *SECTION 1. Arkansas Code § 14-40-302 is amended to read as follows:*
32 *14-40-302. Authority - Exceptions.*

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



1 the municipality if the lands are any of the following:

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

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

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

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

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

12 (2) By a vote of two-thirds (2/3) of the total number of members
13 making up the governing body of a municipality with a population of more than
14 one hundred fifty thousand (150,000) people, according to the latest federal
15 decennial census, the municipality may adopt an ordinance to annex lands
16 contiguous to the municipality if the lands being annexed are as described in
17 subdivision (a)(1) of this section and if that municipality provides adequate
18 services to the existing municipal citizens as described under subdivision
19 (c)(2) of this section.

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

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

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

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

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

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

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

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

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

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

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

25
26 SECTION 2. Arkansas Code § 14-40-304 is amended to read as follows:

27 14-40-304. Judicial review.

28 (a)(1) If it is alleged that the area proposed to be annexed to a
29 municipality with a population of one hundred fifty thousand (150,000) people
30 or less, according to the latest federal decennial census, does not conform
31 to the requirements and standards prescribed in § 14-40-302, a legal action
32 may be filed in the circuit court of the county where the lands lie, within
33 thirty (30) days after the election, to nullify the election and to prohibit
34 further proceedings pursuant to the election.

35 (2) If it is alleged that adequate municipal services are not
36 being provided to all municipal citizens of the municipality with a

1 population of more than one hundred fifty thousand (150,000) people or that
2 the area proposed to be annexed does not conform to the requirements and
3 standards prescribed in § 14-40-302, a legal action may be filed in the
4 circuit court of the county where the lands lie, within thirty (30) days
5 after the election, to nullify the election and to prohibit further
6 proceedings pursuant to the election.

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

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

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

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25 /s/ Hutchinson