

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

# A Bill

SENATE BILL 1018

4  
5 By: Senator Irvin

## For An Act To Be Entitled

8 AN ACT TO AMEND THE PROCEDURES FOR ANNEXATION; AND  
9 FOR OTHER PURPOSES.

### Subtitle

12 TO AMEND THE PROCEDURES FOR ANNEXATION.

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15  
16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

17  
18 SECTION 1. Arkansas Code § 14-40-302(b), concerning exceptions to  
19 annexation proceedings, is amended to read as follows:

20 (b)(1) Contiguous lands shall not be annexed ~~when they~~ if the lands  
21 either:

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

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

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

34 (3) If any lands are annexed that are being used ~~exclusively~~  
35 agricultural purposes, the lands shall be protected under § 2-4-101 et seq.,  
36 and the lands may continue to be used for such purposes so long as the owner



1 desires and the lands shall be assessed as agricultural lands.

2  
3 SECTION 2. Arkansas Code § 14-40-303 is amended to read as follows:

4 14-40-303. Annexation ~~ordinance~~ ~~Election~~ ~~Procedures~~ initiated by  
5 municipalities.

6 ~~(a) The annexation ordinance shall:~~

7 ~~(1) Contain an accurate description of the lands desired to be~~  
8 ~~annexed;~~

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

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

13 ~~(b)(1) The annexation ordinance shall not become effective until the~~  
14 ~~question of annexation is submitted to the qualified electors of the annexing~~  
15 ~~municipality and of the area to be annexed at the next general election or at~~  
16 ~~a special election. The special election shall be called by ordinance or~~  
17 ~~proclamation of the mayor of the annexing municipality in accordance with §~~  
18 ~~7-11-201 et seq.~~

19 ~~(2)(A) If a majority of the qualified electors voting in the~~  
20 ~~election vote for the annexation, no later than fifteen (15) days following~~  
21 ~~the election, the county clerk shall certify the election results and record~~  
22 ~~the same, along with the description and a map of the annexed area, in the~~  
23 ~~county records, and file a certified copy thereof with the Secretary of~~  
24 ~~State.~~

25 ~~(B) The annexation shall be effective, and the lands~~  
26 ~~annexed shall be included within the corporate limits of the annexing~~  
27 ~~municipality thirty (30) days following the date of recording and filing of~~  
28 ~~the description and map, as provided in this section, or in the event an~~  
29 ~~action is filed with the circuit court as provided in § 14-40-304, on the~~  
30 ~~date the judgment of the court becomes final.~~

31 ~~(3) If a majority of the qualified electors voting on the issue~~  
32 ~~at the election vote against the annexation, the annexation ordinance shall~~  
33 ~~be null and void.~~

34 ~~(c)(1)(A) The city clerk shall certify two (2) copies of the~~  
35 ~~annexation ordinance and a plat or map of the area to be annexed and convey~~  
36 ~~one (1) copy to the county clerk and one (1) copy to the county election~~

1 ~~commission at least sixty (60) days before the election.~~

2 ~~(B)(i) No later than forty five (45) days prior to the~~  
3 ~~election, the city shall identify all persons who reside within the area~~  
4 ~~proposed to be annexed, and the county clerk shall assist the city in~~  
5 ~~determining the names and addresses of all qualified electors residing within~~  
6 ~~that area.~~

7 ~~(ii) The failure to identify all persons residing~~  
8 ~~within the area proposed to be annexed or the failure to determine the names~~  
9 ~~and addresses of all qualified electors residing within that area shall not~~  
10 ~~invalidate or otherwise affect the results of the election.~~

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

13 ~~(D) The city clerk shall give notice of the election by~~  
14 ~~publication by at least one (1) insertion in some newspaper having a general~~  
15 ~~circulation in the city.~~

16 ~~(2)(A) The county clerk shall give notice of the voter~~  
17 ~~registration deadlines at least forty (40) days before the election by~~  
18 ~~ordinary mail to those persons whose names and addresses are on the list~~  
19 ~~provided by the city clerk.~~

20 ~~(B) The county clerk shall prepare a list by precinct of~~  
21 ~~all those qualified electors residing within the area to be annexed who are~~  
22 ~~qualified to vote in that precinct and furnish that list to the election~~  
23 ~~officials at the time the ballot boxes are delivered.~~

24 ~~(3) If the county clerk or the county election commission shall~~  
25 ~~fail to perform any duties required of it, then any interested party may~~  
26 ~~apply for a writ of mandamus to require the performance of the duties. The~~  
27 ~~failure of the county clerk or the county election commission to perform the~~  
28 ~~duties shall not void the annexation election unless a court finds that the~~  
29 ~~failure to perform the duties substantially prejudiced an interested party.~~

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

36 ~~(e) From the map or plat provided by city ordinance of the wards~~

1 assigned, the county clerk shall proceed to ascertain and determine the  
2 voters' proper precinct and shall enter the same upon the voter registration  
3 records of those inhabitants of the territory so annexed and give notice of  
4 that change within thirty (30) days after the adoption of the city ordinance  
5 assigning the territory to wards.

6 (f)(1) In the event that within thirty (30) days of the date that one  
7 (1) city calls for an annexation election, another city calls for an  
8 annexation election on all or part of the same land proposed to be annexed by  
9 the first city, then both annexation elections shall be held, provided that  
10 the second city must call for its annexation election to be held on the next  
11 available date in accordance with § 7-11-201 et seq. before or after the  
12 holding of the first city's election.

13 (2)(A) If the annexation election held first is approved by the  
14 voters, the results of it shall be stayed until the second annexation  
15 election is held.

16 (B)(i) If only one (1) of the annexation elections is  
17 approved by the voters, then the city that called that election shall proceed  
18 with the annexation of the land.

19 (ii)(a) Except as provided in subdivisions  
20 (f)(2)(B)(ii)(b) and (c) of this section, if both annexation elections are  
21 approved by the voters, then a third election shall be held three (3) weeks  
22 after the second annexation election. The provisions of § 7-11-201 et seq.,  
23 governing the procedures and dates on which special elections may be held  
24 shall not apply to the third annexation election provided in this subsection.

25 (b) If the date of the third election falls  
26 upon a legal holiday, the election shall be held four (4) weeks after the  
27 second annexation election.

28 (c) If the date of the election under  
29 subdivision (f)(2)(B)(ii)(b) of this section is a legal holiday, the election  
30 shall be held five (5) weeks after the second annexation election.

31 (iii) Notice of the third election shall be  
32 published in a newspaper circulated in the area to be annexed during the  
33 period following the second election.

34 (iv) Only the residents of the area proposed to be  
35 annexed by both cities shall vote in the third election.

36 (v) The issue on the ballot in the third election

1 ~~shall be into which of the two (2) cities the residents of the area want to~~  
2 ~~be annexed.~~

3 ~~(vi) The area shall be annexed into the city~~  
4 ~~receiving the most votes in the third election.~~

5 ~~(vii) In the event of a tie vote in the third~~  
6 ~~election, the area shall be annexed to the city that had the highest~~  
7 ~~percentage vote in favor of the annexation in the first or second election.~~

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

14 (a) It is declared that:

15 (1) Sound urban development is essential to the continued  
16 economic development of Arkansas;

17 (2) Municipalities are created to provide the governmental  
18 services essential for sound urban development and for the protection of  
19 health, safety, and welfare in areas being intensively used for residential,  
20 commercial, industrial, institutional, and governmental purposes or in areas  
21 undergoing development;

22 (3) Municipal boundaries should be extended using uniform  
23 statutory standards that apply throughout the state to include such areas and  
24 to provide the high quality of governmental services needed therein for the  
25 public health, safety, and welfare;

26 (4) Areas annexed to municipalities using uniform statutory  
27 standards should receive the services provided by the annexing municipality;

28 (5) The provision of services to protect the health, safety, and  
29 welfare is a public purpose; and

30 (6) It is essential for citizens to have an effective voice in  
31 annexations initiated by municipalities.

32 (b) As used in this section:

33 (1)(A) "Contiguous area" means any area that, at the time  
34 annexation procedures are initiated, either abuts directly on the municipal  
35 boundary or is separated from the municipal boundary by a street or street  
36 right-of-way, a creek or river, the right-of-way of a railroad or other

1 public service corporation, lands owned by the municipality or some other  
2 political subdivision, or lands owned by the State of Arkansas.

3 (B) A connecting corridor consisting solely of the length  
4 of a street or street right-of-way may not be used to establish contiguity;

5 (2) "Eligible property owner" means a property owner who is  
6 eligible to be notified of the opportunity to have water lines and sewer  
7 lines and connections installed at no cost to the property owner because he  
8 or she held a freehold interest in the real property to be annexed as of the  
9 date of the combined notice of public informational meeting and public  
10 hearing;

11 (3) "Necessary land connection" means an area that does not  
12 exceed twenty-five percent (25%) of the total area to be annexed; and

13 (4) "Property owner" means a person having a freehold interest  
14 in real property;

15 (5)(A) "Used for residential purposes" means any lot or tract  
16 five (5) acres or less in size on which is constructed a habitable dwelling  
17 unit.

18 (B) "Used for residential purposes" also means any lot or  
19 tract that is used in common for social or recreational purposes by either  
20 owners of lots with habitable dwelling units or owners of lots intended for  
21 occupation by dwelling units and the lot owners have a real property interest  
22 in the commonly used property that attaches to or is appurtenant to the  
23 owners' lots.

24 (c) The governing body of a municipality may extend the corporate  
25 limits of the municipality under this section.

26 (d) A municipality exercising authority under this section shall make  
27 plans for the extension of services to the area proposed to be annexed and  
28 before the public hearing under this subchapter shall prepare a report  
29 setting forth the plans to provide services to the area proposed to be  
30 annexed. The report shall include the following:

31 (1) A map of the municipality and adjacent territory to show the  
32 following:

33 (A) The present and proposed boundaries of the  
34 municipality;

35 (B) The present major trunk water mains and sewer  
36 interceptors and outfalls, and the proposed extensions of such mains,

1 outfalls, and lines as required in this section. The water and sewer map  
2 shall bear the seal of a registered professional engineer; and

3 (C) The general land use pattern in the area proposed to  
4 be annexed;

5 (2) A statement showing that the area proposed to be annexed  
6 meets the requirements of this subchapter;

7 (3) A statement setting forth the plans for extending to the  
8 area proposed to be annexed each major municipal service on substantially the  
9 same basis and in the same manner as the services are provided within the  
10 rest of the municipality before annexation and the method to finance the  
11 extension of major municipal services into the area proposed to be annexed as  
12 follows:

13 (A)(i) Provision of police protection, fire protection,  
14 solid waste collection, and street maintenance services on the effective date  
15 of annexation.

16 (ii) A contract with a rural fire department to  
17 provide fire protection shall be an acceptable method of providing fire  
18 protection.

19 (iii) A contract with a private firm to provide  
20 solid waste collection services shall be an acceptable method of providing  
21 solid waste collection services; and

22 (B) Extension of water and sewer services to each lot or  
23 parcel, if an installation easement is provided by the affected property  
24 owner, with a proposed timetable for construction of such mains, outfalls,  
25 and lines within three and one-half (3 ½) years of the effective date of  
26 annexation, in accordance with this subchapter;

27 (4)(A) A statement of the impact of the annexation on any rural  
28 fire department providing service in the area proposed to be annexed and a  
29 statement of the impact of the annexation on fire protection and fire  
30 insurance rates in the area proposed to be annexed, if the area where service  
31 is provided is in a rural fire protection district or a fire service  
32 district.

33 (B) The rural fire department shall make available to the  
34 municipality not later than thirty (30) days following a written request from  
35 the municipality all information in its possession or control, including  
36 operational, financial, and budgetary information necessary for preparation

1 of a statement of impact.

2 (C) The municipality shall in a timely fashion supply the  
3 rural fire department with information requested by the rural fire department  
4 to respond to the written request.

5 (D) The rural fire department forfeits its rights under  
6 this subchapter if it fails to make a good faith response within forty-five  
7 (45) days following receipt of the written request for information from the  
8 municipality, provided that the municipality's written request makes specific  
9 reference to this section; and

10 (5)(A) A statement concerning how the proposed annexation will  
11 affect the municipality's finances and services, including without limitation  
12 municipal revenue change estimates.

13 (B) This statement shall be delivered to the county clerk  
14 at least thirty (30) days before the date of the public informational meeting  
15 on any annexation under this section.

16 (e) The governing body of a municipality may extend the municipal  
17 corporate limits to include any area that meets all of the following  
18 criteria:

19 (1) It shall be adjacent or contiguous to the municipality's  
20 boundaries at the time the annexation proceeding begins, except if the entire  
21 territory of a county water and sewer district is being annexed, the  
22 annexation shall include any noncontiguous pieces of the district as long as  
23 the part of the district with the greatest land area is adjacent or  
24 contiguous to the municipality's boundaries at the time the annexation  
25 proceeding begins;

26 (2) At least one-eighth (1/8) of the aggregate external  
27 boundaries of the area shall coincide with the municipal boundary;

28 (3) No part of the area shall be included within the boundary of  
29 another incorporated municipality; and

30 (4) The total area to be annexed shall meet the requirements of  
31 the following:

32 (A) Part or all of the area to be annexed must be an area  
33 developed for urban purposes at the time of approval of the report provided  
34 for in this subchapter. The area of streets and street rights-of-way shall  
35 not be used to determine total acreage under this subdivision. "Area  
36 developed for urban purposes" means any area which meets any one (1) of the



1 following standards:

2 (i) Has a total resident population equal to at  
3 least two and three-tenths (2 3/10) persons for each acre of land included  
4 within its boundaries;

5 (ii) Has a total resident population equal to at  
6 least one (1) person for each acre of land included within its boundaries and  
7 is subdivided into lots and tracts such that at least sixty percent (60%) of  
8 the total acreage consists of lots and tracts three (3) acres or less in size  
9 and such that at least sixty-five percent (65%) of the total number of lots  
10 and tracts are one (1) acre or less in size;

11 (iii) Is so developed that at least sixty percent  
12 (60%) of the total number of lots and tracts in the area at the time of  
13 annexation are used for residential, commercial, industrial, institutional,  
14 or governmental purposes, and is subdivided into lots and tracts so that at  
15 least sixty percent (60%) of the total acreage, not counting the acreage used  
16 at the time of annexation for commercial, industrial, governmental, or  
17 institutional purposes, consists of lots and tracts three (3) acres or less  
18 in size;

19 (iv) Is the entire area of any county water and  
20 sewer district, if all of the following apply:

21 (a) The municipality has provided in a  
22 contract with that district that the area is developed for urban purposes;

23 (b) The contract provides for the municipality  
24 to operate the sewer system of that county water and sewer district; and

25 (c) The municipality is annexing in one (1)  
26 ordinance the entire territory of the district not already within the  
27 corporate limits of a municipality; and

28 (v) Is so developed that, at the time of the  
29 approval of the annexation report, all tracts in the area to be annexed are  
30 used for commercial, industrial, governmental, or institutional purposes; or

31 (B) Part or all of the area to be annexed meets at least  
32 one (1) of the following:

33 (i) Lies between the municipal boundary and an area  
34 developed for urban purposes so that the area developed for urban purposes is  
35 either not adjacent to the municipal boundary or cannot be served by the  
36 municipality without extending major municipal services, including water or

1 sewer lines, through such sparsely developed area;

2 (ii) Is adjacent, on at least sixty percent (60%) of  
3 its external boundary, to any combination of the municipal boundary and the  
4 boundary of an area or areas developed for urban purposes as defined in this  
5 section. The purpose is to permit the governing body of a municipality to  
6 extend corporate limits to include all nearby areas developed for urban  
7 purposes and where necessary to include areas which at the time of annexation  
8 are not yet developed for urban purposes but which constitute necessary land  
9 connections between the municipality and areas developed for urban purposes  
10 or between two (2) or more areas developed for urban purposes; or

11 (iii) The total area to be annexed is completely  
12 surrounded by the municipality's primary corporate limits.

13 (f) In fixing new municipal boundaries and determining whether land is  
14 an area developed for urban purposes, the governing body of a municipality  
15 shall:

16 (1) Use recorded property lines and streets as boundaries. Some  
17 or all of the boundaries of a county water and sewer district may also be  
18 used when the entire district is not already within the corporate limits of  
19 the municipality;

20 (2) Use whole parcels of property. If any portion of that  
21 parcel is included, the entire parcel of real property as recorded in the  
22 deed transferring title shall be included;

23 (3) Not use a connecting corridor consisting solely of the  
24 length of a street or street right-of-way to establish contiguity;

25 (4) Not consider property in use for a commercial, industrial,  
26 institutional, or governmental purpose if the lot or tract is used only  
27 temporarily, occasionally, or on an incidental or insubstantial basis in  
28 relation to the size and character of the lot or tract;

29 (5) Include acreage actually occupied by buildings or other man-  
30 made structures together with all areas that are reasonably necessary and  
31 appurtenant to such facilities for purposes of parking, storage, ingress and  
32 egress, utilities, buffering, and other ancillary services and facilities  
33 when determining acreage in use for commercial, industrial, institutional, or  
34 governmental purposes; and

35 (6) Consider the area of an abolished water and sewer district  
36 to be a water and sewer district for the purpose of this section following

1 its abolition.

2  
3 SECTION 3. Arkansas Code § 14-40-304 is repealed.

4 ~~14-40-304. Judicial review.~~

5 ~~(a) If it is alleged that the area proposed to be annexed does not~~  
6 ~~conform to the requirements and standards prescribed in § 14-40-302, a legal~~  
7 ~~action may be filed in the circuit court of the county where the lands lie,~~  
8 ~~within thirty (30) days after the election, to nullify the election and to~~  
9 ~~prohibit further proceedings pursuant to the election.~~

10 ~~(b) In any such action filed in the circuit court of the county where~~  
11 ~~the lands lie, the court shall have jurisdiction and the authority to~~  
12 ~~determine whether the procedures outlined in this subchapter have been~~  
13 ~~complied with and whether the municipality has used the proper standards~~  
14 ~~outlined in § 14-40-302 in determining the lands to be annexed.~~

15  
16 SECTION 4. Arkansas Code Title 14, Chapter 40, Subchapter 3, is  
17 amended to add additional sections to read as follows:

18 14-40-305. Procedure for annexation.

19 (a)(1) The governing body of a municipality desiring to annex  
20 territory under this section first shall pass a resolution of consideration  
21 identifying the area under consideration for annexation by either a metes and  
22 bounds description or a map. The resolution of consideration shall remain  
23 effective for two (2) years after adoption and be filed with the municipal  
24 clerk.

25 (2) A new resolution of consideration adopted before expiration  
26 of the two-year period for a previously adopted resolution covering the same  
27 area shall relate back to the date of the previous resolution.

28 (3) Adoption of a resolution of consideration under this section  
29 does not confer prior jurisdiction over the area as to any other  
30 municipality.

31 (b)(1) A notice of the adoption of the resolution of consideration  
32 shall be published one (1) time a week for two (2) successive weeks, with  
33 each publication being on the same day of the week, in a newspaper having  
34 general circulation in the municipality.

35 (2) The second notice shall be published no more than thirty  
36 (30) days after adoption of the resolution of consideration.

1           (3) The resolution of consideration shall contain a map or  
2 description of the area under consideration and a summary of the annexation  
3 process and time lines.

4           (4) A copy of the resolution of consideration shall be mailed  
5 within thirty (30) days after the adoption of the resolution of consideration  
6 by first class mail to the owners of real property located within the area  
7 under consideration for annexation as shown by the tax records of the county.

8           (5) If a proposed annexation extends across a county border into  
9 a county other than the county where the majority of the area of the existing  
10 municipality is located, a copy of the resolution of consideration shall be  
11 mailed within thirty (30) days after the adoption of the resolution of  
12 consideration by first class mail to the county clerk of that county.

13           (c)(1) At least one (1) year after adoption of the resolution of  
14 consideration, the governing body of a municipality may adopt a resolution of  
15 intent to proceed with the annexation of some or all of the area described in  
16 the resolution of consideration.

17           (2) The resolution of intent shall:

18                   (A) Describe the boundaries of the area proposed for  
19 annexation;

20                   (B) Fix a date for a public informational meeting;

21                   (C) Fix a date for a public hearing on the question of  
22 annexation; and

23                   (D) Fix a date for the referendum on annexation.

24           (3) The date for the public informational meeting shall be not  
25 less than forty-five (45) days and not more than fifty-five (55) days  
26 following passage of the resolution of intent.

27           (4) The date for the public hearing shall be not less than one  
28 hundred thirty (130) days and not more than one hundred fifty (150) days  
29 following passage of the resolution of intent.

30           (5) The date of the referendum on annexation shall be set for  
31 the next municipal general election that is more than forty-five (45) days  
32 from the date of the resolution of intent.

33           (d) A combined notice of public informational meeting and public  
34 hearing shall be issued under this section as follows:

35                   (1) The notice shall be a combined notice that includes a  
36 minimum of:

1                   (A) The date, hour, and place of the public informational  
 2 meeting;

3                   (B) The date, hour, and place of the public hearing;

4                   (C) A clear description of the boundaries of the area  
 5 under consideration, including a legible map of the area;

6                   (D) A statement that the report required by this  
 7 subchapter will be available at the office of the municipal clerk;

8                   (E) An explanation of property owner’s rights under this  
 9 section;

10                  (F) A summary of the annexation process with time lines;

11                  (G) A summary of the opportunity to vote in the  
 12 referendum, available statutory remedies appealing the annexation, and the  
 13 failure to provide services;

14                  (H) Information on how to request water and sewer service,  
 15 all forms to request that service, and the consequences of opting in or  
 16 opting out, as provided in this subchapter; and

17                  (I) A clear description of the distinction between the  
 18 public informational meeting and the public hearing.

19                  (2)(A) The combined notice shall be given by publication of the  
 20 information required by this section and a statement regarding the  
 21 availability of the information required by this section in a newspaper  
 22 having general circulation in the municipality one (1) time a week for at  
 23 least two (2) successive weeks before the date of the public informational  
 24 meeting, with each publication being on the same day of the week.

25                  (B)(i) The date of the last publication shall be not more  
 26 than ten (10) days preceding the date of the public informational meeting.

27                  (ii) In addition, if the area proposed to be annexed  
 28 lies in a county containing less than fifty percent (50%) of the land area of  
 29 the municipality, the same publication shall be given in a newspaper having  
 30 general circulation in the area of proposed annexation.

31                  (iii) If there is no such newspaper, the  
 32 municipality shall post the notice in at least five (5) public places within  
 33 the municipality and at least five (5) public places in the area to be  
 34 annexed for thirty (30) days before the date of public informational meeting.

35                  (3)(A) The combined notice, together with the information about  
 36 requesting water and sewer service, shall be mailed within five (5) business

1 days of the passage of the resolution of intent by first class mail to the  
2 owners of real property located within the area to be annexed as shown by the  
3 tax records of the county.

4 (B) The person or persons mailing the notices shall  
5 certify to the governing body of the municipality that fact, and the  
6 certificate shall become a part of the public record of the annexation  
7 proceeding and is conclusive in the absence of fraud.

8 (C) If a notice is returned to the municipality by the  
9 postal service by the tenth day before the informational meeting, a copy of  
10 the notice shall be sent by certified mail, return receipt requested, at  
11 least seven (7) days before the informational meeting.

12 (D) Failure to comply with the mailing requirement of this  
13 section does not invalidate the annexation unless it is shown that the  
14 requirements were not substantially complied with by the municipality.

15 (4)(A) If the governing body of a municipality by resolution  
16 finds that the tax records are not adequate to identify the property owners  
17 within the area to be annexed after exercising reasonable efforts to locate  
18 the property owners, in lieu of the mail procedure required by this section,  
19 it may post the notice at least (thirty) 30 days before the date of the  
20 public informational meeting on all buildings, on such parcels, and in at  
21 least five (5) other places within the area to be annexed as to those parcels  
22 where the property owner could not be identified.

23 (B) In any case where notices are placed on property, the  
24 person placing the notice shall certify that fact to the governing body of a  
25 municipality.

26 (e) At least thirty (30) days before the date of the public  
27 informational meeting, the governing body of a municipality shall:

28 (1) Approve the report provided for in this subchapter;

29 (2) Prepare a summary of the approved report for public  
30 distribution;

31 (3) Post in the office of the county clerk:

32 (A) The approved report provided for in this subchapter;

33 (B) The summary of the approved report;

34 (C) A legible map of the area to be annexed;

35 (D) The list of the property owners and associated mailing  
36 addresses in the area to be annexed that the municipality has identified and

1 mailed notice; and

2 (E) Information for property owners on how to request  
3 water service or sewer service and all forms to request that service;

4 (4) If the municipality has a website, post on that website all  
5 of the information under this section together with any forms to apply for  
6 water and sewer service; and

7 (5) Prepare a summary of the opportunity to vote in the  
8 referendum and available statutory remedies for appealing the annexation for  
9 public distribution.

10 (f)(1) At the public informational meeting, a representative of the  
11 municipality shall make an explanation of the report required in this  
12 subchapter and an explanation of the provision of major municipal services.

13 (2) The explanation of the services shall include how to request  
14 water service or sewer service to individual lots, the average cost of a  
15 residential connection to the water and sewer system, and the opportunity for  
16 installation of a residential connection under this subchapter.

17 (3) The following shall be distributed at the public  
18 informational meeting:

19 (A) A summary of the annexation process with time lines;

20 (B) A summary of opportunity to vote in the referendum;

21 (C) A summary of available statutory remedies for  
22 appealing the annexation;

23 (D) An explanation of the provision of services; and

24 (E) Information for requesting water service or sewer  
25 service to individual lots and any forms to so request.

26 (4) After the distribution of information under subdivision  
27 (f)(3) of this section, all property owners and residents of the area  
28 proposed to be annexed as described in the notice of public informational  
29 meeting and hearing and all residents of the municipality shall be given the  
30 opportunity to ask questions and receive answers regarding the proposed  
31 annexation.

32 (g)(1) At the public hearing, a representative of the municipality  
33 shall first make an explanation of the report required in this subchapter.

34 (2) After the explanation, all property owners and residents of  
35 the area proposed to be annexed as described in the notice of public  
36 informational meeting and hearing and all residents of the municipality shall

1 be given an opportunity to be heard.

2 (h)(1) The governing body of the municipality shall take into  
3 consideration facts presented at the public hearing and shall have authority  
4 to amend the report required by this subchapter to make changes in the plans  
5 for serving the area proposed to be annexed so long as such changes meet the  
6 requirements of this subchapter.

7 (2) At any regular or special meeting held no sooner than ten  
8 (10) days after the certification of the election held under this subchapter,  
9 the governing body of a municipality may adopt an ordinance, subject to this  
10 section, extending the corporate limits of the municipality to include all or  
11 part of the area described in the notice of public hearing which the  
12 governing body of a municipality has concluded should be annexed. The  
13 annexation ordinance shall:

14 (A) Contain specific findings showing that the area to be  
15 annexed meets the requirements of this subchapter;

16 (B) Describe the external boundaries of the area to be  
17 annexed by metes and bounds;

18 (C) Include a statement of the intent of the municipality  
19 to provide services to the area being annexed as set forth in the report  
20 required by this subchapter and a time line for the provision of those  
21 services; and

22 (D)(i) Contain a specific finding that on the effective  
23 date of annexation, the municipality will have funds appropriated in  
24 sufficient amount to finance construction of any water and sewer lines stated  
25 in the report required by this subchapter to extend the water and sewer  
26 services into the area to be annexed, or that on the effective date of  
27 annexation the municipality will have authority to issue bonds in an amount  
28 sufficient to finance such construction.

29 (ii) If authority to issue the bonds is secured from  
30 the electorate of the municipality prior to the effective date of annexation,  
31 the effective date of annexation shall be no earlier than the day following  
32 the statement of the successful result of the bond election.

33 (3) The governing body of a municipality shall set the effective  
34 date for annexation as June 30 next following the adoption of the ordinance  
35 or the second June 30 following adoption of the ordinance, but not before the  
36 completion of the water and sewer request appeal periods are complete.



1           (4) The list of the property owners of parcels within the area  
2 described in the annexation ordinance to which a notice was mailed under this  
3 section shall be delivered within five (5) business days to the tax assessor  
4 and the board of elections of the county in which a majority of the  
5 municipality lies.

6           (5) If a public body has a website, conspicuously post notice of  
7 the referendum until after the certification of the election.

8           (i) The procedures in this subchapter shall apply to any annexation  
9 under this section. The municipality shall reimburse the county board of  
10 election commissioners the costs of the referendum required under this  
11 subchapter.

12           (j) From and after the effective date of the annexation ordinance, the  
13 citizens and property in the annexed area shall be subject to all debts,  
14 laws, ordinances, and regulations in force in the municipality and shall be  
15 entitled to the same privileges and benefits as other parts of the  
16 municipality.

17           (k) If a municipality is considering the annexation of two (2) or more  
18 areas which are all adjacent to the municipal boundary but are not adjacent  
19 to one another, it may undertake simultaneous proceedings under authority of  
20 this section for the annexation of the areas.

21           (l)(1) If not earlier than thirty (30) days after the effective date  
22 of annexation and not later than fifteen (15) months from the effective date  
23 of annexation any property owner in the annexed territory contends that the  
24 municipality has not followed through providing services under this  
25 subchapter and this section, the property owner may apply for a writ of  
26 mandamus.

27           (2) Relief may be granted by the judge of the circuit court if  
28 the municipality has not provided the services under this subchapter on  
29 substantially the same basis and in the same manner as the services were  
30 provided within the rest of the municipality before the effective date of  
31 annexation and those services are still being provided on substantially the  
32 same basis and in the same manner within the original corporate limits of the  
33 municipality.

34           (3) If a writ is issued, costs, including reasonable attorneys'  
35 fees for the aggrieved property owner, shall be charged to the municipality.

36           (o) The municipality shall report to the circuit court of the county:

1           (1)(A) If police protection, fire protection, solid waste  
2 services, and street maintenance services were provided under this  
3 subchapter, within (thirty) 30 days after the effective date of the  
4 annexation.

5           (B) The report shall be filed no more than thirty (30)  
6 days following the expiration of the thirty-day period.

7           (C) If the circuit court determines that the municipality  
8 failed to deliver police protection, fire protection, solid waste services,  
9 or street maintenance services under this subchapter within thirty (30) days  
10 after the effective date of the annexation, the circuit court shall notify  
11 the municipality that the municipality may not count any of the residents as  
12 part of the population of the municipality for the purpose of receiving any  
13 state, federal, or county dollars distributed based on population until all  
14 of the services are provided; and

15           (2)(A) If the extension of water and sewer lines was completed  
16 under this subchapter, within six (6) months after the effective date of the  
17 annexation ordinance and again within three and one-half (3 1/2) years of the  
18 effective date of the annexation ordinance or upon the completion of the  
19 installation, whichever occurs first.

20           (B) If the municipality failed to deliver either water or  
21 sewer services, or both, under this subchapter within three and one-half (3  
22 1/2) years after the effective date of the annexation, the municipality shall  
23 stop any other annexations in progress and may not begin any other annexation  
24 until the water and sewer services are provided.

25           (C) The municipality shall adopt a resolution of  
26 consideration to begin again any annexation that is stopped under this  
27 section.

28  
29           14-40-306. Provision of water and sewer service.

30           (a)(1) The municipality shall provide water and sewer service to the  
31 annexed area as required by plans for extension under this subchapter within  
32 three and one-half (3 1/2) years of the effective date of the annexation  
33 ordinance except as provided in this section if:

34           (A) The residents in the existing city boundaries are  
35 served by a public water or sewer system or by a combination of a public  
36 water or sewer system and one (1) or more nonprofit entities providing

1 service by contract with the public system;

2 (B) The annexing municipality does not provide that  
3 service within the existing city boundaries;

4 (C) The area to be annexed is in an area served by the  
5 public water or sewer system; and

6 (D) The municipality has no responsibility through an  
7 agreement with the public water or sewer system to pay for the extension of  
8 lines to areas annexed to the city, the city shall have no financial  
9 responsibility for the extension of water and sewer lines under this section;

10 (2) As used in this section, "public water or sewer system"  
11 means:

12 (A) A water or sewer authority;

13 (B) A water or sewerage district;

14 (C) A county water or sewer district;

15 (D) A sanitary district;

16 (E) A county-owned water or sewer system;

17 (F) A municipally owned water or sewer system;

18 (G) A water or sewer utility created by an act of the  
19 General Assembly; or

20 (H) A joint agency providing a water or sewer system by  
21 interlocal agreement.

22 (b) Prior to the adoption of the annexation ordinance, the  
23 municipality shall offer to each eligible owner of real property located  
24 within the area proposed to be annexed an opportunity to obtain water or  
25 sewer service, or both, at no cost other than periodic user fees based upon  
26 usage as follows:

27 (1)(A) After passage of the resolution of intent, the owner of  
28 real property located within the area proposed to be annexed shall be  
29 notified in writing under this subchapter within five (5) business days of  
30 the passage of the resolution of intent of the opportunity to have water and  
31 sewer lines and connections installed at no cost to the property owner.

32 (B) The notice shall state that a request for extending  
33 water and sewer lines does not waive the right to contest the annexation.

34 (C) The owners of real property located within the area  
35 proposed to be annexed shall be allowed sixty-five (65) days from the date of  
36 the passage of the resolution of intent to respond yes or no to the

1 opportunity.

2 (D) Any property owner of a parcel that is an existing  
3 customer of the municipality's water or sewer, whether provided by the  
4 municipality or by a third party under contract with the municipality, shall  
5 be deemed to respond yes to the opportunity, whether or not the property  
6 owner returns the notification;

7 (2)(A) At the close of the sixty-five-day period, the  
8 municipality shall determine if the eligible property owners of a majority of  
9 the parcels to be annexed have responded favorably.

10 (B) A majority of the owners of a single parcel of real  
11 property must respond favorably before the municipality may count that parcel  
12 of real property as responding favorably;

13 (3) If the property owners of a majority of the parcels located  
14 within the area proposed to be annexed respond favorably, the municipality  
15 shall:

16 (A)(i) Provide water and sewer lines, service lines, and  
17 connections at no cost other than periodic user fees to all real property  
18 that an owner responded favorably if the annexation ordinance is adopted.

19 (ii) The right to receive water and sewer lines  
20 shall run with the land; and

21 (B) Notify within five (5) days of the close of the sixty-  
22 five-day period under this subsection those owners of real property located  
23 within the area proposed to be annexed who failed to respond or responded  
24 negatively that the property owners of a majority of the parcels located  
25 within the area proposed to be annexed responded favorably and offer a second  
26 opportunity for that property owner to respond favorably within thirty (30)  
27 days; and

28 (4)(A) If the property owners of a majority of the parcels  
29 located within the area proposed to be annexed fail to respond favorably to  
30 the offer to obtain water and sewer services made under this section, the  
31 municipality may nevertheless proceed with the annexation.

32 (B) If the municipality proceeds with the annexation when  
33 the property owners of a majority of the parcels located within the area  
34 proposed to be annexed fail to respond favorably to the offer to obtain water  
35 and sewer services, the municipality is not required to provide water and  
36 sewer services to any property owners in the area that is annexed.

1           (C) If the municipality does provide water and sewer  
2 services, and if a property owner requests those services, the municipality  
3 may charge the property owner for the connection to a residential lot under  
4 this section during the first five (5) years following the effective date of  
5 the annexation.

6           (D) After five (5) years, and only if connection is  
7 requested by a property owner under this section, the municipality may charge  
8 for the connection according to the municipality's policy.

9           (c)(1) The process required by this section shall be completed by the  
10 municipality at least thirty (30) days prior to the public hearing.

11           (2) The report required by this subchapter shall include the  
12 results of the process required by this section.

13           (d)(1) Any owner of real property located within the area described in  
14 the annexation ordinance may apply to participate in the water and sewer  
15 system after the completion of the process required by this section.

16           (2) The following costs of installation of water and sewer for a  
17 residential lot may be charged to an owner of real property located within  
18 the area described in the annexation ordinance who applies:

19           (A) Within the first year, an amount not to exceed fifty  
20 percent (50%) of average cost of installation;

21           (B) Within the second year, an amount not to exceed sixty  
22 percent (60%) of average cost of installation;

23           (C) Within the third year, an amount not to exceed seventy  
24 percent (70%) of average cost of installation;

25           (D) Within the fourth year, an amount not to exceed eighty  
26 percent (80%) of average cost of installation; and

27           (E) Within the fifth year, an amount not to exceed ninety  
28 percent (90%) of average cost of installation;

29           (3) Charges under this section shall be made when the water and  
30 sewer connection is operable.

31           (e)(1) The municipality may not charge for any reason any property  
32 owner within the area described in the annexation ordinance for the  
33 installation or use of the water or sewer system unless that property owner  
34 is or has requested to become a customer of the water or sewer system.

35           (2)(A) The initial installation of water or sewer connection  
36 lines to property shall be completed without charge to the property owner.

1                   (B) Title to water or sewer connection lines shall vest in  
2 the property owner following completion of the initial installation.

3                   (C) The property owner shall be responsible for  
4 maintenance and repair of water and sewer connection lines on the owner's  
5 property following the initial installation.

6                   (3) If the municipality is unable to provide water or sewer  
7 service within three and one-half (3 1/2) years, as required by this section,  
8 due to permitting delays that are caused through no fault of the  
9 municipality, the municipality may petition the circuit court for a  
10 reasonable time extension.

11                   (f) As used in this section:

12                   (1)(A) "At no cost other than periodic user fees" means the  
13 municipality may not charge the property owner who responded favorably under  
14 this section for any costs associated with the installation of the water or  
15 sewer system.

16                   (B) The municipality may not charge a property owner who  
17 applies to participate in the water and sewer system under this section  
18 before the first periodic user fee charge, and on that bill the owner may be  
19 charged no more than as provided in this section; and

20                   (2) "Average installation of a connection for a residential lot"  
21 means the average of the cost for residential installations from curb to  
22 residence, including connection and tap fees, in the area described in the  
23 annexation ordinance.

24  
25                   14-40-307. Contract with rural fire department.

26                   (a) If the area to be annexed described in a resolution of intent  
27 passed under this subchapter includes an area in a rural fire protection  
28 district or a fire service district, and a rural fire department was on the  
29 date of adoption of the resolution of intent providing fire protection in the  
30 area to be annexed, the municipality is required to make a good faith effort  
31 to negotiate a five-year contract with the rural fire department to provide  
32 fire protection in the area to be annexed, if the rural fire department makes  
33 a written request for a good faith offer, and the request is signed by the  
34 chief officer of the fire department and delivered to the city clerk no later  
35 than fifteen (15) days before the public hearing.

36                   (b) If the area is a rural fire protection district or a fire service

1 district, an offer to pay annually for the term of the contract the amount of  
2 money that the tax rate in the district in effect on the date of adoption of  
3 the resolution of intent would generate based on property values on January 1  
4 of each year in the area to be annexed which is in such a district is deemed  
5 to be a good faith offer of consideration for the contract.

6 (c) Any offer by a municipality to a rural fire department that would  
7 compensate the rural fire department for revenue loss directly attributable  
8 to the annexation by paying the amount annually for five (5) years is a good  
9 faith offer of consideration for the contract.

10 (d) Under this section, if the good faith offer is for first responder  
11 service, an offer of one-half (1/2) the calculated amount under this section  
12 is deemed to be a good faith offer.

13 (e) This section does not obligate a municipality or rural fire  
14 department to enter into any contract.

15 (f)(1) If it feels that no good faith offer has been made, the rural  
16 fire department may appeal to the circuit court within thirty (30) days  
17 following the passage of an annexation ordinance.

18 (2) The rural fire department may apply to the circuit court for  
19 an order staying the operation of the annexation ordinance pending the  
20 outcome of the review.

21 (3) The circuit court may grant or deny the stay in its  
22 discretion upon such terms as it deems proper, and it may permit annexation  
23 of any part of the area described in the ordinance concerning which no  
24 question for review has been raised, provided that no other appeal under this  
25 subchapter is pending.

26 (g) The circuit court may affirm the ordinance, or if the circuit  
27 court finds that no good faith offer has been made, it shall remand the  
28 ordinance to the governing body of the municipality for further proceedings,  
29 and the ordinance shall then not become effective unless the circuit court  
30 finds that a good faith offer has been made.

31  
32 14-40-308. Assumption of debt.

33 (a) If the municipality has annexed any area which is served by a  
34 rural fire department, a rural fire protection district, or a fire service  
35 district, upon the effective date of annexation if the municipality has not  
36 contracted with the rural fire department for fire protection, or when the

1 rural fire department ceases to provide fire protection under contract, the  
2 municipality shall pay annually a proportionate share of any payments due on  
3 any debt, including principal and interest, relating to facilities or  
4 equipment of the rural fire department if the debt was existing at the time  
5 of adoption of the resolution of intent, with the payments in the same  
6 proportion that the assessed valuation of the area of the district annexed  
7 bears to the assessed valuation of the entire district on the date the  
8 annexation ordinance becomes effective or another date for valuation mutually  
9 agreed upon by the municipality and the fire department.

10 (b) The municipality and rural fire department shall jointly present a  
11 payment schedule to the circuit court for approval and no payment may be made  
12 until the schedule is approved.

13  
14 14-40-309. Contract with private solid waste collection firms.

15 (a) If the area to be annexed described in a resolution of intent  
16 passed under this subchapter includes an area that a private solid waste  
17 collection firm services and:

18 (1) It meets the requirements of this section;

19 (2) On the ninetieth day preceding the date of adoption of the  
20 resolution of intent or resolution of consideration was providing solid waste  
21 collection services in the area to be annexed;

22 (3) On the date of adoption of the resolution of intent is still  
23 providing the services; and

24 (4) By reason of the annexation the firm's franchise with a  
25 county or arrangements with third parties for solid waste collection will be  
26 terminated, the municipality shall:

27 (A) Contract with the firm for a period of two (2) years  
28 after the effective date of the annexation ordinance to allow the firm to  
29 provide collection services to the municipality in the area to be annexed for  
30 sums determined under this section;

31 (B)(i) Pay the firm for the firm's economic loss, with  
32 one-third (1/3) of the economic loss to be paid within thirty (30) days of  
33 the termination and the balance paid in twelve (12) equal monthly  
34 installments during the next succeeding twelve (12) months.

35 (ii) Any remaining economic loss payment is  
36 forfeited if the firm terminates service to customers in the annexation area



1 prior to the effective date of the annexation; or

2 (C) Make other arrangements satisfactory to the parties.

3 (b) To qualify for the options set forth in this section, a firm shall  
4 have:

5 (1) After receiving notice of the annexation under this section,  
6 filed with the city clerk at least ten (10) days before the public hearing a  
7 written request to contract with the municipality to provide solid waste  
8 collection services containing a certification, signed by an officer or owner  
9 of the firm, that the firm serves at least fifty (50) customers within the  
10 county at that time; or

11 (2)(A) Contacted the city clerk under the public notice  
12 published by the municipality under this subchapter at least ten (10) days  
13 before the hearing and provided to the city clerk a written request to  
14 contract with the municipality to provide solid waste collection services.

15 (B) The request shall contain a certification signed by an  
16 officer or owner of the firm that the firm serves at least fifty (50)  
17 customers within the county at that time.

18 (c) Firms shall file notice of provision of solid waste collection  
19 service with the city clerk of the municipality of each municipality located  
20 in the firm's collection area or within five (5) miles of the collection  
21 area.

22 (d)(1) At least four (4) weeks before the date of the informational  
23 meeting under subsection (c) of this section, the municipality shall provide  
24 written notice of the resolution of intent to all firms serving the area to  
25 be annexed.

26 (2) The notice shall be sent to all firms that filed notice  
27 under this section by certified mail, return receipt requested, to the  
28 address provided by the firm.

29 (e) The municipality may require that the contract contain:

30 (1) A requirement that the private solid waste collection firm  
31 post a performance bond and maintain public liability insurance coverage;

32 (2) A requirement that the private solid waste collection firm  
33 agree to service customers in the annexed area that were not served by that  
34 firm on the effective date of annexation;

35 (3) A provision that divides the annexed area into service areas  
36 if more than one (1) private solid waste collection firm is being contracted

1 within the area, such that the entire area is served by the firms, or by the  
2 municipality to customers not served by the firms;

3 (4) A provision that the municipality may serve customers not  
4 served by the firm on the effective date of annexation;

5 (5) A provision that the contract can be cancelled in writing,  
6 delivered by certified mail to the firm in question with thirty (30) days to  
7 cure substantial violations of the contract, but no contract may be cancelled  
8 on these grounds unless the circuit court finds that substantial violations  
9 have occurred, except that the municipality may suspend the contract for up  
10 to thirty (30) days if it finds substantial violations of health laws;

11 (6) Performance standards not exceeding municipal standards  
12 existing at the time of notice published under this subchapter with a  
13 provision that the contract may be cancelled for substantial violations of  
14 those standards, but no contract may be cancelled on those grounds unless the  
15 circuit court finds that substantial violations have occurred; and

16 (7) A provision for monetary damages if there are violations of  
17 the contract or of performance standards.

18 (f)(1) If the services to be provided to the municipality by reason of  
19 the annexation are substantially the same as rendered under the franchise  
20 with the county or arrangements with the parties, the amount paid by the  
21 municipality shall be at least ninety percent (90%) of the amount paid or  
22 required under the existing franchise or arrangements.

23 (2) If the services are required to be adjusted to conform to  
24 municipal standards or as a result of changes in the number of customers and  
25 as a result there are changes in disposal costs, including mileage and  
26 landfill charges, requirements for storage capacity like dumpsters or  
27 residential carts, or frequency of collection, the amount paid by the  
28 municipality for the service shall be increased or decreased to reflect the  
29 value of such adjusted services as if computed under the existing franchise  
30 or arrangements.

31 (3) If agreement cannot be reached between the municipality and  
32 the firm under this subsection, the matters shall be determined by the  
33 circuit court.

34 (g)(1) If it contends that no contract has been offered, the firm may  
35 appeal to the circuit court within thirty (30) days following passage of an  
36 annexation ordinance.

1           (2) The firm may appeal to the circuit court for an order  
2 staying the operation of the annexation ordinance pending the outcome of the  
3 review.

4           (3) The circuit court may grant or deny the stay upon such terms  
5 as it deems proper.

6           (4) If the circuit court finds that the municipality has not  
7 made an offer that complies with this section, it shall remand the ordinance  
8 to the governing body of the municipality for further proceedings, and the  
9 ordinance shall not become effective until the circuit court finds that such  
10 an offer has been made.

11          (h)(1) A firm that has given notice under this section that it desires  
12 to contract, and any firm that the municipality believes is eligible to give  
13 the notice, shall make available to the municipality not later than thirty  
14 (30) days following a written request of the municipality, sent by certified  
15 mail return receipt requested, all information in its possession or control,  
16 including without limitation operational, financial, and budgetary  
17 information, necessary for the municipality to determine if the firm  
18 qualifies for the benefits of this section and to determine the nature and  
19 scope of the potential contract or economic loss.

20          (2) The firm forfeits its rights under this section if it fails  
21 to make a good faith response within thirty (30) days following receipt of  
22 the written request for information from the municipality, provided that the  
23 municipality's written request makes specific reference to this section.

24          (i) As used in this section:

25           (1) "Economic loss" means a sum equal to fifteen (15) times the  
26 average gross monthly revenue for the three (3) months prior to the passage  
27 of the resolution of intent or resolution of consideration, as applicable  
28 under this section, collected or due the firm for residential, commercial,  
29 and industrial collection service in the area annexed or to be annexed,  
30 provided that revenues shall be included in calculations under this  
31 subdivision only if policies of the city will provide solid waste collection  
32 to those customers such that arrangements between the firm and the customers  
33 will be terminated; and

34           (2) "Firm" means a private solid waste collection firm.

35  
36          14-40-310. Appeal to circuit court.

1       (a) Within sixty (60) days following the adoption of the annexation  
2 ordinance, any owner of real property located within the area described in  
3 the annexation ordinance who believes that the property owner will suffer  
4 material injury by reason of the failure of the governing body of the  
5 municipality to comply with the procedure or to meet the requirements set  
6 forth in this section as it applies to the annexation may file a petition in  
7 the circuit court of the county in which the municipality is located seeking  
8 review of the action of the governing body of the municipality.

9       (b)(1) The petition shall explicitly state what exceptions are taken  
10 to the action of the governing body of the municipality and what relief the  
11 petitioner seeks.

12       (2) Within ten (10) days after the petition is filed with the  
13 court, the person seeking review shall serve copies of the petition by  
14 registered mail, return receipt requested, upon the municipality.

15       (c) Within fifteen (15) days after receipt of the copy of the petition  
16 for review or within such additional time as the court may allow, the  
17 municipality shall transmit to the reviewing court the following:

18       (1) A transcript of the portions of the municipal journal or  
19 minute book in which the procedure for annexation is set forth; and

20       (2) A copy of the report setting forth the plans for extending  
21 services to the annexed area as required in this subchapter.

22       (d) If two (2) or more petitions for review are submitted to the  
23 court, the court may consolidate all the petitions for review at a single  
24 hearing, and the municipality shall be required to submit only one (1) set of  
25 minutes and one (1) report as required in this section.

26       (e)(1) At any time before or during the review proceeding, any  
27 petitioner may apply to the reviewing court for an order staying the  
28 operation of the annexation ordinance pending the outcome of the review.

29       (2) The court may grant or deny the stay in its discretion upon  
30 such terms as it deems proper and may permit annexation of any part of the  
31 area described in the ordinance concerning which no question for review has  
32 been raised.

33       (f)(1) The court shall fix the date for review of annexation  
34 proceedings under this section, and the review date shall be expeditious and  
35 without unnecessary delays.

36       (2) The review shall be conducted by the court without a jury.

1           (3) The court may hear oral arguments, receive written briefs,  
2 and take evidence intended to show:

3                   (A) That the statutory procedure was not followed; or

4                   (B) That the provisions of this subchapter were not met.

5           (g) The court may affirm the action of the governing body of the  
6 municipality without change or:

7                   (1) Remand the ordinance to the governing body of the  
8 municipality for further proceedings if procedural irregularities are found  
9 to have materially prejudiced the substantive rights of any of the  
10 petitioners;

11                   (2) Remand the ordinance to the governing body of the  
12 municipality for amendment of the boundaries to conform to the provisions of  
13 this subchapter if it finds that the provisions of this subchapter have not  
14 been met, provided that the court cannot remand the ordinance to the  
15 governing body of the municipality with directions to add area to the  
16 municipality which was not included in the notice of public hearing and not  
17 provided for in plans for service;

18                   (3) Remand the report to the governing body of the municipality  
19 for amendment of the plans for providing services under this subchapter or to  
20 correct errors in estimates made by the governing body of the municipality  
21 that fall below the standards in this subchapter; or

22                   (4)(A) Declare the ordinance null and void if the court finds  
23 that the ordinance cannot be corrected by remand as provided in this section.

24                   (B) If any municipality fails to take action in accordance  
25 with the court's order upon remand within ninety (90) days following entry of  
26 the order embodying the court's instructions, the annexation proceeding shall  
27 be deemed null and void.

28           (h)(1) Any party to the review proceedings, including the  
29 municipality, may appeal from the final judgment of the circuit court under  
30 the Arkansas Rules of Civil Procedure.

31                   (2) With the agreement of the municipality, the circuit court  
32 may permit annexation to be effective with respect to any part of the area  
33 that is not subject to the appeal and that can be incorporated into the  
34 municipality without regard to any part of the area that is subject to the  
35 appeal.

36                   (i)(1) If part or all of the area annexed under the terms of an

1 annexation ordinance is the subject of an appeal on the effective date of the  
2 ordinance, the ordinance shall be deemed amended to make the effective date  
3 with respect to such area the first June 30 at least six (6) months following  
4 the date of the final judgment of the appeals court, or the first June 30 at  
5 least six (6) months from the date the governing body of the municipality  
6 completes action to make the ordinance conform to the court's order in the  
7 event of remand.

8 (2) For the purposes of this section, a denial of a petition for  
9 rehearing or for discretionary review shall be treated as a final judgment.

10 (j) If a petition for review is filed under this section or an appeal  
11 is filed under this subchapter and a stay is granted, the time period of  
12 three and one-half (3½) years or otherwise under this subchapter are each  
13 extended by the lesser of the length of the stay or one (1) year for that  
14 annexation.

15 (k) This section shall apply to any judicial review authorized in  
16 whole or in part by this subchapter.

17 (l)(1) In any proceeding related to an annexation ordinance appeal  
18 under this section, a municipality shall not state a claim for lost property  
19 tax revenue caused by the appeal.

20 (2) This subchapter shall not be construed to mean that as a  
21 result of an appeal a municipality may assert a claim for property tax  
22 revenue lost during the pendency of the appeal.

23 (m)(1) Any settlement reached by all parties in an appeal under this  
24 section may be presented to the circuit court in the county in which the  
25 municipality is located.

26 (2) If the circuit court, in its discretion, approves the  
27 settlement, it shall be binding on all parties without approval by the  
28 General Assembly.

29 (n) If a final court order is issued against the annexing  
30 municipality, costs in the action, including reasonable attorneys' fees for  
31 an aggrieved person having a freehold interest in the real property located  
32 within the area described in the annexation ordinance may be charged to the  
33 municipality.

34  
35 14-14-311. Annexation recorded.

36 (a) Whenever the limits of a municipality are enlarged under this

1 section, it shall be the duty of the mayor of the municipality to cause an  
2 accurate map of the annexed territory, together with a copy of the certified  
3 ordinance, to be recorded in the office of the recorder of deeds of the  
4 county in which the territory is situated and in the office of the Secretary  
5 of State.

6 (b) The documents required to be filed with the Secretary of State  
7 under this section shall be filed not later than thirty (30) days following  
8 the effective date of the annexation ordinance.

9 (c) All documents shall have an identifying number and shall conform  
10 in size in accordance with rules prescribed by the Secretary of State.

11 (d) Failure to file within thirty (30) days shall not affect the  
12 validity of the annexation.

13 (e) Any annexation shall be reported as part of the Boundary and  
14 Annexation Survey of the United States Census Bureau.

15  
16 14-40-312. Authorized expenditures.

17 (a) Municipalities initiating annexations under this subchapter are  
18 authorized to make expenditures for surveys required to describe the property  
19 under consideration or for any other purpose necessary to plan for the study  
20 or annexation of unincorporated territory adjacent to the municipality.

21 (b) Following final passage of the annexation ordinance, the annexing  
22 municipality may proceed with expenditures for construction of water and  
23 sewer lines and other capital facilities and for any other purpose calculated  
24 to bring services into the annexed area in a more effective and expeditious  
25 manner before the effective date of annexation.

26  
27 14-14-313. Population and land estimates.

28 (a) In determining population and degree of land subdivision for  
29 purposes of meeting the requirements of this subchapter, the municipality  
30 shall use methods calculated to provide reasonably accurate results.

31 (b) In determining whether the standards under this subchapter have  
32 been met on appeal to the circuit court under this subchapter, the reviewing  
33 court shall accept the estimates of the municipality unless the actual  
34 population, total area, or degree of land subdivision falls below the  
35 standards in this subchapter:

36 (1)(A) As to population, if the estimate is based on the number

1 of dwelling units in the area multiplied by the average family size in the  
2 area or in the township of which the area is a part, as determined by the  
3 most recent federal decennial census; or

4 (B) If the estimate is based on a new enumeration carried  
5 out under reasonable rules and regulations by the annexing municipality,  
6 provided that the court shall not accept the estimates if the petitioners  
7 demonstrate that the estimates are in error in the amount of ten percent  
8 (10%) or more;

9 (2) As to total area, if the estimate is based on an actual  
10 survey, county tax maps or records, aerial photographs, or some other  
11 reasonably reliable map used for official purposes by a governmental agency,  
12 unless the petitioners on appeal demonstrate that such estimates are in error  
13 in the amount of five percent (5%) or more; and

14 (3) As to degree of land subdivision, if the estimates are based  
15 on an actual survey, county tax maps or records, aerial photographs, or some  
16 other reasonably reliable source, unless the petitioners on appeal show that  
17 such estimates are in error in the amount of five percent (5%) or more.

18  
19 14-14-314. Referendum prior to involuntary annexation ordinance.

20 (a)(1) After the adoption of the resolution of intent under this  
21 section, the municipality shall place the question of annexation on the  
22 ballot.

23 (2) The governing body of the municipality shall notify the  
24 appropriate county board of election commissioners of the adoption of the  
25 resolution of intent and provide a legible map and clear written description  
26 of the proposed annexation area.

27 (b) The governing body of the municipality shall adopt a resolution  
28 setting the date for the referendum and notify the appropriate county board  
29 of election commissioners.

30 (c)(1) The county board of election commissioners shall cause legal  
31 notice of the election to be published.

32 (2) The notice shall include the general statement of the  
33 referendum.

34 (3) The referendum shall be conducted, returned, and the results  
35 declared as in other municipal elections in the municipality.

36 (4) Only registered voters of the proposed annexation area shall



1 be allowed to vote on the referendum.

2 (d) The referendum of any number of proposed involuntary annexations  
 3 may be submitted at the same election, but each proposed involuntary  
 4 annexation shall be in an entirely separate ballot question.

5 (e) The ballots used in a referendum shall submit the following  
 6 proposition:

7 "[ ] FOR [ ] AGAINST

8 The annexation of (clear description of the proposed annexation  
 9 area)."

10 (f)(1) If less than a majority of the votes cast on the referendum are  
 11 for annexation, the governing body of the municipality shall not proceed with  
 12 the adoption of the annexation ordinance or begin a separate involuntary  
 13 annexation process with respect to that proposed annexation area for at least  
 14 thirty-six (36) months from the date of the referendum.

15 (2) If a majority of the votes cast on the referendum are for  
 16 annexation, the governing body of the municipality shall proceed with the  
 17 adoption of the annexation ordinance under this subchapter.

18  
 19 SECTION 5. Arkansas Code Title 14, Chapter 40, Subchapter 5 is  
 20 repealed.

21 ~~14-40-501. Authority—Exceptions.~~

22 ~~(a)(1)(A)(i) Whenever the incorporated limits of a municipality have~~  
 23 ~~completely surrounded an unincorporated area, the governing body of the~~  
 24 ~~municipality may propose an ordinance calling for the annexation of the land~~  
 25 ~~surrounded by the municipality.~~

26 ~~(ii) Subdivision (a)(1)(A)(i) of this section shall~~  
 27 ~~include situations in which the incorporated limits of a municipality~~  
 28 ~~completely have surrounded an unincorporated area on only three (3) sides~~  
 29 ~~because the fourth side is a boundary line with another state.~~

30 ~~(B) If the incorporated limits of two (2) or more~~  
 31 ~~municipalities have completely surrounded an unincorporated area, the~~  
 32 ~~governing body of the municipality with the greater distance of city limits~~  
 33 ~~adjoining the unincorporated area's perimeter may propose an ordinance~~  
 34 ~~calling for the annexation of the land surrounded by the municipalities,~~  
 35 ~~unless it is agreed by the adjoining municipalities that another of the~~  
 36 ~~adjoining municipalities should propose an ordinance calling for the~~

1 annexation.

2           ~~(2) The ordinance will provide a legal description of the land~~  
3 ~~to be annexed and describe generally the services to be extended to the area~~  
4 ~~to be annexed.~~

5           ~~(b)(1) The unincorporated area to be annexed shall comply with the~~  
6 ~~standards for lands qualifying for annexation which are set forth in § 14-40-~~  
7 ~~302.~~

8           ~~(2) Privately owned lakes exceeding six (6) acres of water~~  
9 ~~surface which are used exclusively for recreational purposes and lands~~  
10 ~~adjacent to them not exceeding twenty (20) acres in size which are used~~  
11 ~~exclusively for recreational purposes in relation to the lake shall not~~  
12 ~~qualify for annexation under the provisions of this subchapter.~~

13  
14           ~~14-40-502. Hearing—Notice.~~

15           ~~(a) A public hearing shall be conducted within sixty (60) days of the~~  
16 ~~proposal of the ordinance calling for annexation.~~

17           ~~(b) At least fifteen (15) days prior to the date of the public~~  
18 ~~hearing, the governing body of the municipality shall publish a legal notice~~  
19 ~~setting out the legal description of the territory proposed to be annexed and~~  
20 ~~notify by certified mail all the property owners within the area proposed to~~  
21 ~~be annexed of their right to appear at the public hearing to present their~~  
22 ~~views on the proposed annexation.~~

23  
24           ~~14-40-503. Procedure for annexation.~~

25           ~~(a)(1)(A) Except as provided in subdivision (a)(1)(B) of this section,~~  
26 ~~at the next regularly scheduled meeting following the public hearing, the~~  
27 ~~governing body of the municipality proposing annexation may bring the~~  
28 ~~proposed ordinance up for a vote.~~

29           ~~(B) An ordinance shall not be enacted within fifty-one~~  
30 ~~(51) days of a scheduled election to consider annexing all or part of the~~  
31 ~~area in question.~~

32           ~~(2) If a majority of the total number of members of the~~  
33 ~~governing body vote for the proposed annexation ordinance, then a prima facie~~  
34 ~~case for annexation shall be established, and the city shall proceed to~~  
35 ~~render services to the annexed area.~~

36           ~~(b) The decision of the municipal council shall be final unless suit~~

1 ~~is brought in circuit court of the appropriate county within thirty (30) days~~  
2 ~~after passage to review the actions of the governing body.~~

3  
4 SECTION 6. Arkansas Code § 14-40-601 is repealed.

5 ~~14-40-601. Application by petition.~~

6 ~~(a) Whenever a majority of the real estate owners of any part of a~~  
7 ~~county contiguous to and adjoining any city or incorporated town shall desire~~  
8 ~~to be annexed to the city or town, they may apply, by petition in writing, to~~  
9 ~~the county court of the county in which the city or town is situated and~~  
10 ~~shall name the persons authorized to act on behalf of the petitioners.~~

11 ~~(b) The "majority of real estate owners" referred to in this section~~  
12 ~~shall mean a majority of the total number of real estate owners in the area~~  
13 ~~affected, if the majority of the total number of owners shall own more than~~  
14 ~~one-half (½) of the acreage affected.~~

15  
16 SECTION 7. Arkansas Code § 14-40-602 is repealed.

17 ~~14-40-602. Hearing on petition.~~

18 ~~(a)(1) When the petition shall be presented to the county court, the~~  
19 ~~clerk shall file it, and the court shall set a date for a hearing on the~~  
20 ~~petition.~~

21 ~~(2) The date for the hearing shall not be less than thirty (30)~~  
22 ~~days after the filing of the petition.~~

23 ~~(b)(1)(A) Between the time of the filing of the petition and the date~~  
24 ~~of the hearing, the petitioners shall cause a notice to be published in some~~  
25 ~~newspaper of general circulation in the county.~~

26 ~~(B) The notice shall be published one (1) time a week for~~  
27 ~~three (3) consecutive weeks.~~

28 ~~(2) If there is no newspaper of general circulation in the~~  
29 ~~county, notice shall be posted at some public place within the limits of the~~  
30 ~~incorporated town or city for at least three (3) weeks before the date of the~~  
31 ~~hearing.~~

32 ~~(3) The notice referred to in this subsection shall contain the~~  
33 ~~substance of the petition and state the time and place appointed for the~~  
34 ~~hearing thereof.~~

35 ~~(c) The hearing procedure set forth in § 14-38-103 shall be followed~~  
36 ~~in the proceedings concerned in this section insofar as such procedure is not~~

1 ~~in conflict with any provision expressly set out in this subchapter.~~

2  
3 SECTION 8. Arkansas Code § 14-40-603 is repealed.

4 ~~14-40-603.—Order for annexation.~~

5 ~~(a)—After the hearing, if the county court shall be satisfied that the~~  
6 ~~allegations of the petition were sustained by the proof, if the court shall~~  
7 ~~be satisfied that the requirements for signatures under § 14-40-601 have been~~  
8 ~~complied with, and if the court shall be satisfied that the limits of the~~  
9 ~~territory to be annexed have been accurately described and an accurate map~~  
10 ~~thereof made and filed, and that the prayer of the petitioner is right and~~  
11 ~~proper, then the court shall enter its order granting the petition and~~  
12 ~~annexing the territory.~~

13 ~~(b)—The order shall be recorded by the clerk of the county.~~

14  
15 SECTION 9. Arkansas Code § 14-40-604 is repealed.

16 ~~14-40-604.—Proceedings to prevent annexation.~~

17 ~~(a)(1)—No further action shall be taken for a period of thirty (30)~~  
18 ~~days after the order for annexation has been entered. Within that time any~~  
19 ~~person interested may institute a proceeding in the circuit court to have the~~  
20 ~~annexation prevented.~~

21 ~~(2)(A)—If the court or judge hearing the proceeding shall be~~  
22 ~~satisfied that the requirements for annexation as set out in this subchapter~~  
23 ~~have not been complied with, that the territory proposed to be annexed is~~  
24 ~~unreasonably large, or that the territory is not properly described, the~~  
25 ~~court or judge shall make an order restraining any further action under the~~  
26 ~~order of the county court and annulling it. However, such proceeding shall~~  
27 ~~not bar any subsequent petition.~~

28 ~~(B)—If the court or judge shall determine that the order~~  
29 ~~of the county court was proper, then the order of the county court shall be~~  
30 ~~affirmed, and the proceedings to prevent the annexation shall be dismissed.~~

31 ~~(b)—When any complaint shall be made in accordance with this section~~  
32 ~~to prevent an annexation of territory, notice thereof shall be given to the~~  
33 ~~city or incorporated town authorities and the agent of the petitioners.~~

34  
35 SECTION 10. Arkansas Code § 14-40-605 is repealed.

36 ~~14-40-605.—Confirmation of annexation.~~

1           ~~(a) If no notice shall be given within thirty (30) days from the~~  
 2 ~~making of the order of annexation by the county court, the proceeding before~~  
 3 ~~the court shall in all things be confirmed, if the city or incorporated town~~  
 4 ~~council shall, by ordinance or resolution, accept the territory.~~

5           ~~(b)(1) If the council accepts the territory, the county clerk shall~~  
 6 ~~duly certify one (1) copy of the plat of the annexed territory and one (1)~~  
 7 ~~copy of the order of the court and the resolution or ordinance of the~~  
 8 ~~council. The clerk shall forward a copy of each document to the Secretary of~~  
 9 ~~State, who shall file and preserve them. The clerk shall forward one (1) copy~~  
 10 ~~of the plat of the annexed territory and one (1) copy of the order of the~~  
 11 ~~court to the Director of the Tax Division of the Arkansas Public Service~~  
 12 ~~Commission, who shall file and preserve them and shall notify all utility~~  
 13 ~~companies having property in the municipality of the annexation.~~

14           ~~(2) The clerk shall forward a certified copy of the order of the~~  
 15 ~~court to the council.~~

16  
 17           SECTION 11. Arkansas Code § 14-40-606 is repealed.

18           ~~14-40-606. Rights and privileges of new inhabitants.~~

19           ~~As soon as the resolution or ordinance declaring the annexation has~~  
 20 ~~been adopted or passed, the territory shall be deemed and taken to be a part~~  
 21 ~~and parcel of the limits of the city or incorporated town, and the~~  
 22 ~~inhabitants residing therein shall have and enjoy all the rights and~~  
 23 ~~privileges of the inhabitants within the original limits of the city or~~  
 24 ~~incorporated town.~~

25  
 26           SECTION 12. Arkansas Code § 14-40-608 is repealed.

27           ~~14-40-608. Right to detach certain lands after an annexation~~  
 28 ~~proceeding.~~

29           ~~(a) Within eight (8) years after an annexation proceeding is completed~~  
 30 ~~under the provisions of this subchapter and the land remains the boundary of~~  
 31 ~~the city or town, the person owning all lands originally annexed into the~~  
 32 ~~city or town may be authorized to detach those annexed lands from the city or~~  
 33 ~~town under the provisions of this section, so long as the city or town has~~  
 34 ~~not provided utility services to those lands.~~

35           ~~(b)(1) When a qualifying landowner notifies the municipality that he~~  
 36 ~~or she wishes to detach his or her land from the city or town under this~~

1 section, the governing body of the municipality may pass an ordinance within  
 2 thirty (30) days to detach the annexed, qualifying land from the  
 3 municipality.

4 ~~(2)(A) In order to notify the city or town, the landowner shall~~  
 5 ~~file an affidavit with the city clerk or recorder stating that:~~

6 ~~(i) His or her land was annexed;~~

7 ~~(ii) His or her land is located inside the city or~~  
 8 ~~town along the municipal boundary; and~~

9 ~~(iii) He or she desires the annexed land to be~~  
 10 ~~detached from the municipality.~~

11 ~~(B) The affidavit shall be filed along with a certified~~  
 12 ~~copy of the plat of the annexed land he or she desires to be detached and a~~  
 13 ~~copy of the order of the county court approving the annexation and the~~  
 14 ~~resolution or ordinance of the municipal governing body accepting the~~  
 15 ~~annexation.~~

16 ~~(c) If the municipal governing body approves the ordinance to detach~~  
 17 ~~the territory, the clerk or recorder of the municipality shall duly certify~~  
 18 ~~and send one (1) copy of the plat of the detached territory, one (1) copy of~~  
 19 ~~the ordinance detaching the territory, and one (1) copy of the qualifying~~  
 20 ~~affidavit to the county clerk.~~

21 ~~(d)(1) The county clerk shall forward a copy of each document to the~~  
 22 ~~Secretary of State, who shall file and preserve them.~~

23 ~~(2) The county clerk shall forward one (1) copy of the plat of~~  
 24 ~~the detached territory and one (1) copy of the ordinance detaching the~~  
 25 ~~territory to the Director of the Tax Division of the Arkansas Public Service~~  
 26 ~~Commission, who shall file and preserve them and shall notify all utility~~  
 27 ~~companies having property in the municipality of the detachment proceedings.~~

28  
 29 SECTION 13. Arkansas Code Title 14, Chapter 40, Subchapter 6, is  
 30 amended to add an additional section to read as follows:

31 14-40-609. Annexation by petition.

32 (a)(1) The governing body of a municipality may annex by ordinance any  
 33 area contiguous to its boundaries upon presentation to the governing body of  
 34 a petition signed by the owners of all the real property located within the  
 35 area.

36 (2) The petition shall be signed by each owner of real property

1 in the area and shall contain the address of each owner.

2 (b) The petition shall be prepared in substantially the following  
 3 form:

4 DATE:

5 To the \_\_\_\_\_ (name of governing body) of the (City or Town) of  
 6 \_\_\_\_\_.

7 1. We the undersigned owners of real property respectfully request  
 8 that the area described in paragraph 2 below be annexed to the (City or Town)  
 9 of \_\_\_\_\_.

10 2. The area to be annexed is contiguous to the (City or Town) of  
 11 \_\_\_\_\_ and the boundaries of the territory are as follows:

12 (c)(1) If fifty-one percent (51%) of the households in an area  
 13 petitioning for annexation under this section have incomes that are two  
 14 hundred percent (200%) or less than the most recently published United States  
 15 Census Bureau poverty thresholds, a governing body of the municipality shall  
 16 annex by ordinance any area the population of which is no more than ten  
 17 percent (10%) of that of the municipality and one-eighth (1/8) of the  
 18 aggregate external boundaries of which are contiguous to its boundaries, upon  
 19 presentation to the governing body of a petition signed by the owners of at  
 20 least seventy-five percent (75%) of the parcels of real property in that  
 21 area.

22 (2) A municipality shall not be required to adopt more than one  
 23 (1) ordinance under this subsection within a thirty-six month period.

24 (d) The petition under this section shall be prepared in substantially  
 25 the following form:

26 DATE:

27 To the \_\_\_\_\_ (name of governing body) of the (City or Town) of  
 28 \_\_\_\_\_.

29 1. We the undersigned owners of real property believe that the area  
 30 described in paragraph 2 below meets the requirements of law and respectfully  
 31 request that the area described in paragraph 2 below be annexed to the (City  
 32 or Town) of \_\_\_\_\_.

33 2. The area to be annexed is contiguous to the (City or Town) of  
 34 \_\_\_\_\_, and the boundaries of the territory are as follows:

35 (e)(1) Upon receipt of the petition, the governing body of the  
 36 municipality shall cause the city clerk to investigate the sufficiency

1 thereof and to certify the result of the investigation.

2 (2) For petitions received under this section, the clerk shall  
3 receive the evidence provided under this section before certifying the  
4 sufficiency of the petition.

5 (3) Upon receipt of the certification, the governing body of the  
6 municipality shall fix a date for a public hearing on the question of  
7 annexation and shall cause notice of the public hearing to be published one  
8 (1) time in a newspaper having general circulation in the municipality at  
9 least ten (10) days prior to the date of the public hearing, if there is no  
10 newspaper, the governing body of the municipality shall have notices posted  
11 in three (3) or more public places within the area to be annexed and three  
12 (3) or more public places within the municipality.

13 (f)(1) At the public hearing, persons residing or owning property in  
14 the area described in the petition and persons residing or owning property in  
15 the municipality shall be given an opportunity to be heard.

16 (2) The governing body of the municipality shall then determine  
17 whether the petition meets the requirements of this section.

18 (3) Upon a finding that the petition that was submitted under  
19 this section meets the requirements of this section, the governing body of  
20 the municipality shall have authority to pass an ordinance annexing the  
21 territory described in the petition.

22 (4) The governing body of the municipality shall have authority  
23 to make the annexing ordinance effective immediately or on the June 30 after  
24 the date of the passage of the ordinance or the June 30 of the following year  
25 after the date of passage of the ordinance.

26 (g) Upon a finding that a petition submitted under this section meets  
27 the requirements of this section, the governing body of the municipality  
28 shall have the authority to adopt an annexation ordinance for the area with  
29 an effective date no later than twenty-four (24) months after the adoption of  
30 the ordinance.

31 (h)(1)(A) Upon a finding that a petition submitted under this section  
32 meets the requirements of this section, the governing body of the  
33 municipality shall within sixty (60) days of the finding estimate the capital  
34 cost to the municipality of extending water and sewer lines to all parcels  
35 within the area covered by the petition and estimate the annual debt service  
36 payment that would be required if those costs were financed by a twenty-year



1 revenue bond.

2 (B) If the estimated annual debt service payment is less  
3 than five percent (5%) of the municipality's annual water and sewer systems  
4 revenue for the most recent fiscal year, then the governing body of the  
5 municipality within thirty (30) days shall adopt an annexation ordinance for  
6 the area with an effective date no later than twenty-four (24) months after  
7 the adoption of the ordinance.

8 (C) If the estimated annual debt service payment is  
9 greater than or equal to five percent (5%) of the municipality's annual water  
10 and sewer systems revenue for the most recent fiscal year, then the governing  
11 body of the municipality may adopt a resolution declining to annex the area.

12 (D) If a resolution is adopted, the governing body of the  
13 municipality shall immediately submit a request to the circuit court of the  
14 county to certify that its estimate of the annual debt service payment is  
15 reasonable based on established governmental accounting principles.

16 (2)(A) If the circuit court of the county certifies the  
17 estimate, the municipality is not required to annex the area and no petition  
18 to annex the area may be submitted under this section for thirty-six (36)  
19 months following the certification.

20 (B) During the thirty-six month period, the municipality  
21 shall make ongoing annual good faith efforts to secure Community Development  
22 Block Grants or other grant funding for extending water and sewer service to  
23 all parcels in the areas covered by the petition.

24 (C) If sufficient funding is secured so that the estimated  
25 capital cost to the municipality for extending water and sewer service, less  
26 the funds secured, would result in an annual debt service payment cost to the  
27 municipality of less than five percent (5%) of the municipality's annual  
28 water and sewer systems revenue for the most recent fiscal year, the  
29 governing body of the municipality shall within thirty (30) days adopt an  
30 annexation ordinance for the area with an effective date no later than  
31 twenty-four (24) months after the adoption of the ordinance.

32 (3) If the circuit court of the county notifies the governing  
33 body of the municipality that the estimates are not reasonable based on  
34 established governmental accounting principles and that a reasonable estimate  
35 of the annual debt service payment is less than five percent (5%) of the  
36 municipality's annual water and sewer systems revenue for the most recent

1 fiscal year, the governing body of the municipality within thirty (30) days  
2 of the notification shall adopt an annexation ordinance for the area with an  
3 effective date no later than twenty-four (24) months after the adoption of  
4 the ordinance.

5 (i) Municipal services shall be provided to an area annexed under this  
6 section in accordance with this subchapter.

7 (j)(1) From and after the effective date of the annexation ordinance,  
8 the annexed area and its citizens and property shall be subject to all debts,  
9 laws, ordinances, and regulations in force in the municipality and shall be  
10 entitled to the same privileges and benefits as other parts of the  
11 municipality.

12 (2) Real and personal property in the newly annexed territory on  
13 the January 1 immediately preceding the beginning of the fiscal year in which  
14 the annexation becomes effective is subject to municipal taxes as provided in  
15 this subchapter.

16 (3) If the effective date of annexation falls between June 1 and  
17 June 30, and the effective date of the privilege license tax ordinance of the  
18 annexing municipality is June 1, businesses in the area to be annexed shall  
19 be liable for taxes imposed in the ordinance from and after the effective  
20 date of annexation.

21 (k)(1) As used in this section, an area is "contiguous" if at the time  
22 the petition is submitted the area either abuts directly on the municipal  
23 boundary or is separated from the municipal boundary by the width of a street  
24 or street right-of-way, a creek or river, or the right-of-way of a railroad  
25 or other public service corporation, lands owned by the municipality or some  
26 other political subdivision, or lands owned by the State of Arkansas.

27 (2) A connecting corridor consisting solely of a street or  
28 street right-of-way may not be used to establish contiguity.

29 (3) In describing the area to be annexed in the annexation  
30 ordinance, the governing body of the municipality may include within the  
31 description any territory described in this section that separates the  
32 municipal boundary from the area petitioning for annexation.

33 (l)(1) The governing body of the municipality may initiate annexation  
34 of contiguous property owned by the municipality by adopting a resolution  
35 stating its intent to annex the property in lieu of filing a petition.

36 (2) The resolution shall contain an adequate description of the

1 property, state that the property is contiguous to the municipal boundaries,  
2 and fix a date for a public hearing on the question of annexation.

3 (3) Notice of the public hearing shall be published under this  
4 section.

5 (4) The governing body of the municipality may hold the public  
6 hearing and adopt the annexation ordinance under this section.

7 (m)(1) A governing body of a municipality that receives a petition for  
8 annexation under this section may by ordinance require that the petitioners  
9 file a signed statement declaring whether or not vested rights with respect  
10 to the properties subject to the petition have been established under this  
11 subchapter.

12 (2) If the statement declares that the rights have been  
13 established, the municipality may require petitioners to provide proof of the  
14 rights.

15 (3) A statement that declares no vested rights have been  
16 established under this subchapter are binding on the landowner and any vested  
17 right is terminated.

18 (n)(1) A municipality has no authority to adopt a resolution or  
19 petition itself under this section for annexation of property it does not own  
20 or have any legal interest in.

21 (2) For the purpose of this section, a municipality has no legal  
22 interest in a state-maintained street unless it owns the underlying fee and  
23 not just an easement.

24 (o)(1) Using the procedures under this section, the governing body of  
25 a municipality may annex by ordinance any distressed area contiguous to its  
26 boundaries upon presentation to the governing body of a municipality of a  
27 petition signed by at least one (1) adult resident of at least two-thirds  
28 (2/3) of the resident households located within such area.

29 (2) As used in this section, a "distressed area" is an area in  
30 which at least fifty-one percent (51%) of the households in the area  
31 petitioning to be annexed have incomes that are two hundred percent (200%) or  
32 less than the most recently published United States Census Bureau poverty  
33 thresholds.

34 (3) The municipality may require reasonable proof that the  
35 petitioner in fact resides at the address indicated.

36 (p) The petition under this section shall be prepared in substantially

1 the following form:

2 DATE:

3 To the \_\_\_\_\_ (name of governing body) of the (City or Town) of

4 \_\_\_\_\_

5 1. We the undersigned residents of real property believe that the area  
 6 described in paragraph 2 below meets the requirements of law and respectfully  
 7 request that the area described in paragraph 2 below be annexed to the (City  
 8 or Town) of \_\_\_\_\_.

9 2. The area to be annexed is contiguous to the (City or Town) of  
 10 \_\_\_\_\_, and the boundaries of the territory are as follows:

11 (q)(1) For purposes of determining whether the percentage of  
 12 households in the area petitioning for annexation meets the poverty  
 13 thresholds under this section, the petitioners shall submit to the governing  
 14 body of the municipality any reasonable evidence that demonstrates the area  
 15 in fact meets the income requirements of this section.

16 (2) The evidence presented may include data from the most recent  
 17 federal decennial census, other official census documents, signed affidavits  
 18 by at least one (1) adult resident of the household attesting to the  
 19 household size and income level, or any other documentation verifying the  
 20 incomes for a majority of the households within the petitioning area.

21 (3) Petitioners may select to submit name, address, and social  
 22 security number to the city clerk, who shall in turn submit the information  
 23 to the Department of Finance and Administration.

24 (4) The information shall be kept confidential and is not a  
 25 public record under the Freedom of Information Act of 1967, § 25-19-101 et  
 26 seq.

27 (5) The department shall provide the municipality with a summary  
 28 report of income for households in the petitioning area.

29 (6) Information for the report shall be gathered from income tax  
 30 returns, but the report submitted to the municipality shall not identify  
 31 individuals or households.