

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

A Bill

ACT 356 OF 1993
HOUSE BILL 1571

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

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For An Act To Be Entitled

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

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Subtitle

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

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17 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:**

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19 **SECTION 1. Arkansas Code §14-40-303 is amended to read as follows:**

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"14-40-303. Annexation ordinance - Election - Procedures.

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(a) The annexation ordinance shall:

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

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(2) Include a schedule of the services of the annexing municipality that will be

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extended to the area within three (3) years after the date the annexation becomes final; and

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

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(b)(1)(A) The annexation ordinance shall not become effective until the question of

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annexation is submitted to the qualified electors of the annexing municipality and of the area to

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be annexed at the next general election or at a special election. The special election shall be

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conducted no earlier than sixty (60) days after the date of enactment of the ordinance.

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(B)(i) If at the election a majority of the qualified electors voting in the

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election shall vote for the annexation, the county clerk shall, no later than seven (7) days

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following the election, certify the election results and record the same along with the

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description and a map of the annexed area in the county records and file a certified copy

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thereof with the Secretary of State.

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(ii) The annexation shall be effective and the lands annexed shall

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be included within the corporate limits of the annexing municipality thirty (30) days following

1 **the date of recording/filing of the description and map, as provided in this section, or in the**
2 **event an action is filed with the circuit court, as provided in § 14-40-304, on the date the**
3 **judgment of the court becomes final.**

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

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

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

13 **(ii) The failure to identify all persons residing within the area**
14 **proposed to be annexed or the failure to determine the names and addresses of all qualified**
15 **electors residing within that area shall not invalidate or otherwise affect the results of the**
16 **election.**

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

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

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

24 **(B) The county clerk shall prepare a list by precinct of all those**
25 **qualified electors residing within the area to be annexed which are qualified to vote in that**
26 **precinct and furnish that list to the election officials at the time the ballot boxes are delivered.**

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

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

1 thereof as fully as any other part of the city.

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

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

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

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

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

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

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

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

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

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

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33 **SECTION 2.** All provisions of this act of a general and permanent nature are
34 amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision
35 Commission shall incorporate the same in the Code.

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

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

APPROVED: 03/03/93