

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

Act 779 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H3/18/09

A Bill

HOUSE BILL 1647

5 By: Representative Woods
6 By: Senator Madison
7
8

9 **For An Act To Be Entitled**

10 AN ACT TO EXTEND THE ABILITY TO PURCHASE RURAL
11 WATER SERVICE FACILITIES TO A MUNICIPALITY AFTER
12 ANNEXATION; AND FOR OTHER PURPOSES.
13

14 **Subtitle**

15 TO EXTEND THE ABILITY TO PURCHASE RURAL
16 WATER SERVICE FACILITIES TO A
17 MUNICIPALITY AFTER ANNEXATION.
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code Title 14, Subtitle 12, is amended to add an
23 additional chapter to read as follows:

24 Chapter 208. Valuation Of Rural Water Service Properties And
25 Facilities Upon Annexation
26

27 14-208-101. Definitions.

28 As used in this chapter:

29 (1) "Municipality" means both Arkansas municipal corporations
30 and consolidated municipal water improvement districts; and

31 (2) "Rural water service" means any entity under Arkansas law
32 that is not owned by a municipality and is a water association, water
33 improvement district, or water authority.
34

35 14-208-102. Right to acquire rural water service properties,



1 facilities, and customers.

2 (a)(1) Unless otherwise agreed between a municipality that owns or
3 operates a water service and a rural water service, the inclusion by
4 annexation of any part of the assigned service area of a rural water service
5 within the boundaries of any Arkansas municipality shall not in any respect
6 impair or affect the rights of the rural water service to continue operations
7 and extend water service throughout any part of its assigned service area
8 unless a municipality that owns or operates a water service elects to
9 purchase from the rural water service all customers, distribution properties,
10 and facilities located within the municipality reasonably utilized or
11 reasonably necessary to serve customers of the rural water service within the
12 annexed areas under this chapter, excluding water sources, treatment plants,
13 and storage serving customers outside the annexed areas.

14
15 (2)(A) Unless otherwise agreed between a municipality that owns
16 or operates a water service and a rural water service, a municipality may not
17 undertake or begin construction, operation, or extension of any equipment or
18 facilities for the supplying of water service to the annexed areas without
19 complying with this chapter.

20 (B) The affected rural water service is entitled to
21 injunctive relief for any violation of this chapter.

22 (b)(1) The municipality shall give written notice to the rural water
23 service prior to the municipality acquiring from the rural water service all
24 customers, distribution properties, and facilities reasonably utilized or
25 reasonably necessary to serve customers of the rural water service within the
26 annexed areas.

27 (2) The municipality and the rural water service shall meet and
28 negotiate in good faith the terms of the acquisition, including, as an
29 alternative, granting the rural water service an agreement to serve the
30 annexed area or portions of the annexed area.

31 (3)(A) Before an acquisition under this chapter by the
32 municipality, the municipality shall receive approval from the Arkansas
33 Natural Resources Commission that the action complies with the Arkansas Water
34 Plan under § 15-22-503.

35 (B) The commission shall:

36 (i) Approve the application under the Arkansas Water

1 Plan if it determines the requirements of § 15-22-223(b)(2)(B) are satisfied,
2 including costs derived from negotiation or appraisal;

3 (ii) Issue a letter to the municipality that the
4 proposed action is exempt from review under the Arkansas Water Plan; or

5 (iii) Deny the application under the Arkansas Water
6 Plan if it determines the requirements of § 15-22-223(b)(2)(B) are not
7 satisfied.

8 (c) An agreement reached under this chapter shall comply with § 15-22-
9 223.

10 (d) This chapter shall not limit applicable federal law, including
11 without limitation 7 U.S.C. § 1926(b).

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13 14-208-103. Procedures and valuation formula.

14 (a)(1)(A) If an agreement under § 14-208-102 can not be reached, the
15 municipality and the rural water service shall each select one (1) qualified
16 appraiser, and the two (2) appraisers selected shall then select a third
17 appraiser for the purpose of conducting appraisals to determine the value of
18 customers, distribution properties, and facilities of the rural water service
19 annexed by the municipality.

20 (B) The value of customers, distribution properties, and
21 facilities of the rural water service annexed by the municipality shall be
22 determined by using the factors set out in § 15-22-223(b)(2)(B).

23 (2) The agreement or decision of at least two (2) of the three
24 (3) appraisers is the value.

25 (3) If either the municipality or the rural water service is
26 dissatisfied with the decision of the appraisers, either may institute an
27 action in circuit court to challenge the reasonableness of the value
28 determined by the appraisers.

29 (b) The compensation required by this section shall be paid:

30 (1) To the rural water service at a time not later than one
31 hundred twenty (120) days following the date upon which the value is
32 certified;

33 (2) At a later date as mutually agreed upon by the parties; or

34 (3) As determined by the circuit court.

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36 14-208-104. Valuation data.

