

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

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

A Bill

HOUSE BILL 1647

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

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

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,
36 facilities, and customers.



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

14 (ii) If on the effective date of this act a
 15 municipality has within its corporate limits customers, distribution
 16 properties, or facilities that belong to a rural water service, the
 17 municipality shall have three (3) years from the effective date of this act
 18 to make the election to purchase under subdivision (a)(1)(A)(i) of this
 19 section.

20 (B) If the municipality that owns or operates a water
 21 service and a rural water service enter into an agreement for a specific term
 22 of years, the municipality's obligation to elect to acquire rural water
 23 service properties within a period of three (3) years as required by this
 24 subsection shall not begin until the termination of the agreement.

25 (2)(A) Unless otherwise agreed between a municipality that owns
 26 or operates a water service and a rural water service, a municipality may not
 27 undertake or begin construction, operation, or extension of any equipment or
 28 facilities for the supplying of water service to the annexed areas without
 29 making a timely election and complying with this subchapter.

30 (B) The affected rural water service is entitled to
 31 injunctive relief for any violation.

32 (b)(1) The municipality shall give written notice to the rural water
 33 service six (6) months prior to the municipality's election to acquire from
 34 the rural water service all customers, distribution properties, and
 35 facilities reasonably utilized or reasonably necessary to serve customers of
 36 the rural water service within the annexed areas.

1 (2) Upon filing the notice to the rural water service under
 2 subdivision (b)(1) of this section, the municipality shall file with the
 3 Arkansas Natural Resources Commission an application for Arkansas Water Plan
 4 approval under § 15-22-503 or give notice that the proposed action has been
 5 approved previously under the Arkansas Water Plan.

6 (3) The municipality and the rural water service shall meet and
 7 negotiate in good faith the terms of the acquisition, including, as an
 8 alternative, granting the rural water service an agreement to serve the
 9 annexed area or portions of the annexed area:

10 (A) Within the six-month period after the effective date
 11 of approval of the election under the Arkansas Water Plan;

12 (B) After the issuance of a letter that the proposed
 13 action is exempt from review under the Arkansas Water Plan; or

14 (C) After notice is given to the Arkansas Natural
 15 Resources Commission that the action has been approved under the Arkansas
 16 Water Plan.

17 (c) An agreement reached under this chapter shall comply with § 15-22-
 18 223.

19 (d) This chapter shall not limit applicable federal law.

20
 21 14-208-103. Procedures and valuation formula.

22 (a)(1) If an agreement under § 14-208-102 (a) or (b) cannot be
 23 reached, the municipality and the rural water service shall each select one
 24 (1) qualified appraiser, and the two (2) appraisers selected shall then
 25 select a third appraiser for the purpose of conducting appraisals to
 26 determine the fair market value of customers, distribution properties, and
 27 facilities of the rural water service annexed by the municipality.

28 (2) The agreement or decision of at least two (2) of the three
 29 (3) appraisers is the fair market value.

30 (3) If either the municipality or the rural water service is
 31 dissatisfied with the decision of the appraisers, either may institute an
 32 action in circuit court to challenge the reasonableness of the fair market
 33 value determined by the appraisers.

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

35 (1) To the rural water service at a time not later than one
 36 hundred twenty (120) days following the date upon which the fair market value

1 is certified;

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

3 (3) As determined by the circuit court.

4
5 14-208-104. Valuation data.

6 (a) The rural water service shall provide to the municipality all data
7 and information required to establish valuations under this chapter.

8 (b)(1) Upon execution of an agreement reached under this chapter, the
9 municipality shall reimburse the rural water service for reasonable costs of
10 appraisal and incidental expenses associated with establishing valuation.

11 (2) Incidental expenses shall not include attorney's fees or
12 court costs.