

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 1237 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H3/17/05

A Bill

HOUSE BILL 2573

5 By: Representative Borhauer
6
7

8 **For An Act To Be Entitled**

9 AN ACT TO PROVIDE AN ALTERNATIVE METHOD OF
10 INCORPORATION AS A CITY OR TOWN; AND FOR OTHER
11 PURPOSES.
12

13 **Subtitle**

14 TO PROVIDE AN ALTERNATIVE METHOD OF
15 INCORPORATION AS A CITY OR TOWN.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code Title 14, Chapter 38, Subchapter 1 is amended
21 to add an additional section to read as follows:

22 14-38-115. Alternative method of incorporation - Petition and
23 election.

24 (a)(1) In addition to the procedures for incorporating a city or town
25 under §§ 14-38-101 through 14-38-108, the inhabitants of a part of any county
26 not embraced within the limits of any city or incorporated town may apply to
27 the county judge of the proper county to call for an election on the issue of
28 incorporating a city or town and for electing municipal officials if the
29 following conditions are met:

30 (A) The territory proposed to be incorporated has at least
31 four thousand (4,000) inhabitants according to the most recent federal
32 decennial census; and

33 (B) The county judge is presented a written petition that:
34 (i) Meets the requirements of subdivision (a)(2) of
35 this section; and



1 (ii) Is signed by at least twenty-five percent (25%)
2 of the qualified voters who reside in the territory proposed to be
3 incorporated.

4 (2) The petition shall:

5 (A) Describe the territory proposed to be embraced in the
6 incorporated city or town and have attached to it an accurate map or plat of
7 the territory;

8 (B) State the name proposed for the incorporated city or
9 town; and

10 (C) Name the persons authorized to act in behalf of the
11 petitioners in prosecuting the petition.

12 (b) The county judge shall not approve a petition for incorporation of
13 any city or town if any portion of the territory proposed to be incorporated
14 is ineligible under the criteria in § 14-38-101(b).

15 (c) If a petition for incorporation is presented to the county judge,
16 it shall be filed in the office of the county clerk, to be kept there,
17 subject to the inspection of any persons interested, until the time appointed
18 for a public hearing on the petition.

19 (d)(1) Upon the filing of a petition for incorporation, the county
20 judge shall set the time for a public hearing on the petition and shall
21 communicate to the petitioners, or their agent, a time and place for the
22 hearing, that shall not be less than thirty (30) days after the filing of the
23 petition.

24 (2)(A) The petitioners or their agent shall publish a notice in
25 some newspaper of general circulation in the county for not less than three
26 (3) consecutive weeks.

27 (B) The notice shall contain the substance of the petition
28 and state the time and place set for the public hearing.

29 (e) The county judge shall hold the public hearing at the time and
30 place determined and the procedure for a hearing set forth in § 14-38-103
31 shall be followed in the proceedings concerned in this section to the extent
32 applicable.

33 (f)(1) After the hearing, if the county judge is satisfied that the
34 procedures for filing the petition for incorporation were followed, that the
35 requirements for signatures under subsection (a) of this section have been
36 complied with, that the limits of the territory to be incorporated have been

1 accurately described and an accurate map was made and filed, and if the
2 prayer of the petitioner is right and proper, then the county judge shall
3 enter an order that:

4 (A) Grants the petition to hold an election on the date of
5 the next general election; and

6 (B) Sets the date of the election on the issue of
7 incorporating the city or town and electing officers as the date of the next
8 general election.

9 (2) The order shall be recorded by the clerk of the county.

10 (g)(1)(A) If the county judge orders an election on the issue of
11 incorporation, the county clerk shall notify the county election commission
12 at least sixty (60) days before the election that the issue of incorporation
13 shall also appear on the election ballot for a proposed city or incorporated
14 town.

15 (B)(i) No later than forty-five (45) days prior to the
16 election, the county clerk shall identify all persons who reside within the
17 territory proposed to be incorporated, and the county clerk shall determine
18 the names and addresses of all qualified electors residing within that
19 territory.

20 (ii) The failure to identify all persons residing
21 within the territory proposed to be incorporated or the failure to determine
22 the names and addresses of all qualified electors residing within that
23 territory shall not invalidate or otherwise affect the results of the
24 election.

25 (C) All of the qualified electors residing within the territory
26 to be incorporated shall be entitled to vote on the issue of incorporation.

27 (D) The county clerk shall give notice of the election by
28 publication by at least one (1) insertion in some newspaper having a general
29 circulation in the county.

30 (2)(A) The county clerk shall prepare a list by precinct of all
31 those qualified electors residing within the territory to be incorporated who
32 are qualified to vote in that precinct and furnish that list to the election
33 officials.

34 (B) The county clerk shall give notice of the voter
35 registration deadlines at last forty (40) days before the election by
36 ordinary mail to those persons whose names and addresses are on the list.

1 (3) The election on the issue of incorporation shall be held in
2 accordance with the procedures established for other municipal elections and
3 the ballot for the election shall be printed substantially as follows:

4 "[] FOR THE INCORPORATION OF THE CITY (OR TOWN) OF (NAME OF
5 PROPOSED CITY OR INCORPORATED TOWN), ARKANSAS.

6 [] AGAINST THE INCORPORATION OF THE CITY (OR TOWN) OF (NAME OF
7 PROPOSED CITY OR INCORPORATED TOWN), ARKANSAS."

8 (4) The county clerk shall, no later than seven (7) days
9 following the election, certify the election results, record the same in the
10 county records, and file a certified copy with the county judge.

11 (h)(1)(A) If a majority of the qualified electors voting on the issue
12 of incorporation in the election vote for the issue, then the county clerk
13 shall, no later than seven (7) days following the election, certify the
14 election results, record the same in the county records, and file a certified
15 copy with the Secretary of State.

16 (B) Upon the county clerk's filing of the election
17 results, the county judge shall approve the petition of incorporation as
18 ratified by the voters and shall endorse on the petition an order that the
19 city or incorporated town as named and described in the petition is organized
20 and that the petition shall be granted.

21 (C)(i) The order, petition, and the map or plat shall be
22 signed and delivered to the county recorder to record them in the proper
23 records and to file and preserve in his or her office the original papers,
24 having certified on the papers that they have been properly recorded.

25 (ii) It shall also be the duty of the recorder to
26 make out and certify, under his or her official seal, two (2) transcripts of
27 the record. The recorder shall forward one (1) copy to the Secretary of State
28 and deliver one (1) copy to the agent of the petitioners, with a certificate
29 on the transcript that a similar transcript has been forwarded to the
30 Secretary of State.

31 (D) The incorporation shall be effective on the date the
32 order of the county judge is filed and recorded and the election of municipal
33 officers shall be effective upon that date.

34 (2) If a majority of the qualified electors voting on the issue
35 at the election vote against the issue of incorporation, the incorporation
36 petition is null and void.

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