

State of Arkansas
76th General Assembly
Regular Session, 1987
By: Senator Malone

SENATE BILL 366

As engrossed 4-1-87

"AN ACT TO AMEND SECTION 3 OF ACT 613 OF 1983, AS AMENDED; TO AUTHORIZE AND PRESCRIBE PROCEEDINGS FOR ANNEXATION OF ADDITIONAL LANDS TO PROPERTY OWNERS IMPROVEMENT DISTRICTS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES."

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

SECTION 1. That Section 3 of Act 613 of 1983, as amended, the same being Section 20-2403 of the Arkansas Statutes, is hereby amended to read as follows:

"Section 3. Upon the petition of all the owners of the record title as reflected by the deed records in the office of the circuit clerk and ex officio recorder of the pertinent county of real property in any territory, all the real property of which territory is owned by twenty five (25) or fewer persons, it shall be the duty of the county court to lay off into an improvement district the territory described in the petition, for the purpose of purchasing, accepting as a gift, constructing, or maintaining waterworks, recreational facilities, systems of gas pipe lines, sewers, or grading, draining, paving, curbing and guttering streets and highways and laying sidewalks, or establishing, equipping and maintaining rural fire departments, or for more than one (1) of such purposes, and to name as commissioners of the district the three (3) persons whose names appear in the petition, if the petition contains such names and, if not, three (3) individuals of integrity and good business ability. Portions of municipalities may be included in such districts provided that the portion of area located within municipalities shall be less than fifty percent (50%) of the area of the entire district.

All such districts shall be numbered consecutively or else shall receive names selected by the county court. If the county court does not act promptly in complying with the terms of this Section, or of any other Section of this

Act essential to the creation and operation of the district, it may be compelled to do so by mandamus.

If land in more than one (1) county is embraced in the proposed district the petition shall be addressed to the circuit court in which the largest portion of the lands lie and all proceedings shall be had in such circuit court. In the cases where the district contains lands in more than one (1) county, the words 'county court' or 'county judge' are used in this Act shall be construed to mean 'circuit court' or 'circuit judge', and the words 'county clerk' to mean 'circuit clerk'. Any notices in that event shall be published in newspapers published and having a bona fide circulation in each county in which the district embraces land.

Any number of petitions may be circulated and identical petitions with additional names may be filed at any time until the county court acts."

SECTION 2. All districts organized under Act 613 of 1983 shall have the authority to permit lands outside the boundaries of the district to be annexed to the district. Such annexation shall be permissible only for the purpose of providing improvements to the property to be annexed for purposes similar to the purposes for which the district was formed, or for which the district currently exists. When persons claiming to constitute all of the owners of territory contiguous to any such district desire that said territory be annexed to such district, they may present their petition to the clerk of the County Court, describing the territory to be annexed. Such petition shall be accompanied by a resolution of the Board of the existing district approving such annexation. Thereupon, the County Court shall direct the clerk to publish for two (2) consecutive weeks, in some newspaper having general circulation in each county in which the district and the territory proposed to be annexed is located, a notice calling upon the owners in the district and the territory proposed to be annexed to appear before the County Court on the date and time, and at the place named in the notice, and show cause for or against such annexation.

On the day named in said notice, the County Court shall hear all persons who desire to be heard on the question whether the territory to be annexed to the district lies within the jurisdiction of the County Court, whether all of the owners of real property in the territory sought to be annexed have signed such petition, and whether a majority of the Board of the district has

approved the annexation by resolution of the Board. The findings of the County Court shall have all the force and effect of a judgment, and shall be conclusive, unless, within thirty (30) days thereafter, suit is brought in the chancery court to review it. The finding of the County Court shall be expressed as a judgment in case it is in favor of the petitioners, and in that event, the territory sought to be annexed shall become a part of the district, and the improvements petitioned for shall be made by the commissioners. The commissioners shall make the assessment of benefits and levy the tax for said improvements on the territory annexed under the provision of this Act on the basis as if said territory was included in the original district.

SECTION 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. The provisions of this Act are hereby declared to be severable. If any provision of this Act should be declared to be invalid or to be inapplicable to any person or circumstance, such determination shall not affect the validity or applicability of the other provisions of this Act.

SECTION 5. It is the intention of this Act to amend or repeal only such sections or subsections of Act 613 of 1983, as are specifically mentioned herein, and the remainder of said Act 613 of 1983 shall remain in full force and effect as enacted until the same shall be further amended or repealed.

SECTION 6. It is hereby found and declared that the laws of Arkansas pertaining to the organization and operation of property owners improvement districts as authorized by Act 613 of 1983 are inadequate and must be clarified and supplemented in order to permit such districts to effectively carry out the purposes for which they have been created; and that this inadequacy is causing the delay of the accomplishment of projects and improvements of a public nature which are greatly needed and in the best interests of the inhabitants of each such district. Therefore, an emergency is declared to exist and this Act, being necessary for the preservation of the public peace, health and safety, shall be in effect upon its passage and approval.

/s/ Malone