

1 State of Arkansas
2 80th General Assembly
3 Regular Session, 1995

A Bill

HOUSE BILL 1316

4 By: Representatives Molinaro and Thomas

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6

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 14-40-303 TO REQUIRE A
9 MAJORITY VOTE IN A MUNICIPAL ANNEXATION ELECTION FROM BOTH
10 THE VOTERS IN THE ANNEXING CITY AND IN THE PROPOSED AREA
11 TO BE ANNEXED BEFORE AN ANNEXATION IS EFFECTIVE; AND FOR
12 OTHER PURPOSES."

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Subtitle

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15 "TO REQUIRE A MAJORITY VOTE BOTH FROM
16 VOTERS OF THE ANNEXING CITY AND FROM THE
17 VOTERS OF THE PROPOSED AREA TO BE
18 ANNEXED IN A CITY ANNEXATION ELECTION."

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

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22 SECTION 1. Arkansas Code § 14-40-303 is amended to read as follows:
23 "14-40-303. Annexation ordinance - Election - Procedures.

24 (a) The annexation ordinance shall:

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

27 (2) Include a schedule of the services of the annexing
28 municipality that will be extended to the area within three (3) years after
29 the date the annexation becomes final; and

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

31 (b)(1)(A) The annexation ordinance shall not become effective until
32 the question of annexation is submitted to the qualified electors of the
33 annexing municipality and of the area to be annexed at the next general
34 election or at a special election. The special election shall be conducted
35 no earlier than sixty (60) days after the date of enactment of the ordinance.

1 (B)(i) If a majority of the qualified electors in the
2 municipality and a majority of the qualified electors in the area to be
3 annexed voting in the election shall both vote for the annexation, the county
4 clerk shall, no later than seven (7) days following the election, certify the
5 election results, record the same, along with the description and a map of
6 the annexed area, in the county records, and file a certified copy thereof
7 with the Secretary of State.

8 (ii) The annexation shall be effective, and the
9 lands annexed shall be included within the corporate limits of the annexing
10 municipality thirty (30) days following the date of recording and filing of
11 the description and map, as provided in this section, or, in the event an
12 action is filed with the circuit court as provided in § 14-40-304 on the date
13 the judgment of the court becomes final.

14 (2) If, either a majority of the qualified electors in the
15 municipality, or a majority of the qualified electors in the area to be
16 annexed voting on the issue at the election, votes against the annexation,
17 the annexation ordinance shall be null and void.

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

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

27 (ii) The failure to identify all persons residing
28 within the area proposed to be annexed or the failure to determine the names
29 and addresses of all qualified electors residing within that area shall not
30 invalidate or otherwise affect the results of the election.

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

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

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

5 (B) The county clerk shall prepare a list by precinct of
6 all those qualified electors residing within the area to be annexed who are
7 qualified to vote in that precinct and furnish that list to the election
8 officials at the time the ballot boxes are delivered.

9 (3) If the county clerk or the county election commission shall
10 fail to perform any duties required of it, then any interested party may
11 apply for a writ of mandamus to require the performance of the duties, but
12 the failure to perform the duties shall not void the annexation election
13 unless a court finds that the failure to perform the duties substantially
14 prejudiced an interested party.

15 (d) If the annexation is approved and becomes final, the governing
16 body of the city shall, by ordinance, as soon as practical after the
17 annexation, attach and incorporate such annexed territory to and in one (1)
18 or more wards of the city lying adjacent thereto, and the territory so
19 assigned and attached to a ward shall thereafter be considered and become a
20 part thereof as fully as any other part of the city.

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

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

33 (2) If the annexation election held first is approved by the
34 voters of both the municipality and the area to be annexed, the results of it
35 shall be stayed until the second annexation election is held.

1 (A) If only one (1) of the annexation elections is
2 approved by the voters of both the municipality and the area to be annexed,
3 then the city which called that election shall proceed with the annexation of
4 the land.

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

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

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

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

15 (iv) In the event of a tie vote in the third
16 election, the area shall be annexed to the city which, in the first or second
17 election, had the highest percentage vote in favor of the annexation from
18 electors in the area proposed to be annexed.

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

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26 SECTION 2. All provisions of this act of general and permanent nature
27 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
28 Revision Commission shall incorporate the same in the Code.

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

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

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