

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

HOUSE BILL 1430

4
5 By: Representative Molinaro

For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE § 14-40-303 TO REQUIRE A
10 MAJORITY VOTE IN A MUNICIPAL ANNEXATION ELECTION FROM THE
11 VOTERS OF THE ANNEXING CITY AND A SIXTY PERCENT (60%)
12 MAJORITY FROM THE VOTERS OF THE PROPOSED AREA TO BE
13 ANNEXED BEFORE AN ANNEXATION IS EFFECTIVE; AND FOR OTHER
14 PURPOSES."

Subtitle

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17 "TO REQUIRE BOTH A MAJORITY VOTE FROM
18 VOTERS OF THE ANNEXING CITY AND A 60%
19 MAJORITY FROM THE VOTERS OF THE PROPOSED
20 AREA TO BE ANNEXED IN A CITY ANNEXATION
21 ELECTION."

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

24
25 SECTION 1. Arkansas Code § 14-40-303 is amended to read as follows:
26 "14-40-303. Annexation ordinance - Election - Procedures.

27 (a) The annexation ordinance shall:

28 (1) Contain an accurate description of the lands desired to be
29 annexed;

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

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

34 (b)(1)(A) The annexation ordinance shall not become effective until the
35 question of annexation is submitted to the qualified electors of the annexing
36 municipality and of the area to be annexed at the next general election or at

1 a special election. The special election shall be conducted no earlier than
 2 sixty (60) days after the date of enactment of the ordinance.

3 (B)(i) If a majority of the qualified electors in the
 4 municipality and a sixty percent (60%) or more majority of the qualified
 5 electors in the area to be annexed voting in the election shall both vote for
 6 the annexation, the county clerk shall, no later than seven (7) days following
 7 the election, certify the election results, record the same, along with the
 8 description and a map of the annexed area, in the county records, and file a
 9 certified copy thereof with the Secretary of State.

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

16 (2) If, either a majority of the qualified electors in the
 17 municipality vote against the annexation, or less than a sixty percent (60%)
 18 majority of the qualified voters in the area to be annexed voting on the issue
 19 at the election vote for the annexation, the annexation ordinance shall be
 20 null and void.

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

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

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

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

36 (D) The city clerk shall give notice of the election by

1 publication by at least one (1) insertion in some newspaper having general
2 circulation in the city.

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

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

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

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

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

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

35 (2) If the annexation election held first is approved by the
36 voters of both the municipality and by sixty percent (60%) of the voters of

1 the area to be annexed, the results of it shall be stayed until the second
 2 annexation election is held.

3 (A) If only one (1) of the annexation elections is approved
 4 by the voters of both the municipality and sixty percent (60%) of the area to
 5 be annexed, then the city which called that election shall proceed with the
 6 annexation of the land.

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

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

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

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

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

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

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

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

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