

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997  
4

As Engrossed: S3/14/97 S3/21/97 H4/1/97

## A Bill

SENATE BILL 662

5 By: Senators Brown and Everett  
6 By: Representative Hunton  
7

### For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED §§ 14-235-203 AND  
10 14-235-204 TO LIMIT *THE* POWER OF A MUNICIPALITY TO CONDEMN  
11 PROPERTY OUTSIDE ITS CORPORATE LIMITS FOR A SEWAGE  
12 COLLECTION SYSTEM OR SEWAGE TREATMENT PLANT; AND FOR OTHER  
13 PURPOSES."

### Subtitle

14  
15 "TO LIMIT *THE* POWER OF A MUNICIPALITY TO  
16 CONDEMN PROPERTY OUTSIDE ITS CORPORATE  
17 LIMITS FOR A SEWAGE COLLECTION SYSTEM OR  
18 SEWAGE TREATMENT PLANT."  
19

20  
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 SECTION 1. Arkansas Code Annotated § 14-235-203 is amended to read as  
24 follows:

25 "14-235-203. Authority generally.

26 (a) The authority given in this subchapter shall be in addition to, and  
27 not in derogation of, any power existing in any municipality under any  
28 statutory or charter provisions which it may adopt.

29 (b) For all purposes of this subchapter, all municipalities shall have  
30 jurisdiction for ten (10) miles outside their corporate limits.

31 (c)(1) Every municipality in the State of Arkansas is authorized and  
32 empowered to own, acquire, construct, equip, operate, and maintain, within or  
33 without the corporate limits of the city or town, a sewage collection system  
34 or a sewage treatment plant, intercepting sewers, outfall sewers, force mains,  
35 pumping stations, ejector stations, and all other appurtenances necessary or  
36 useful and convenient for the collection and treatment, purification, and

1 disposal in a sanitary manner of the liquid and solid waste, sewage, night  
2 soil, and industrial waste of the municipality. However, before a municipality  
3 may construct, operate, or maintain a sewage collection system or sewage  
4 treatment plant outside the corporate limits, it must be demonstrated in  
5 accordance with subsection (d) that such construction, operation, or  
6 maintenance within the corporate limits is not feasible. If it is determined  
7 that it is not feasible to construct, operate, or maintain the sewage  
8 collection system or sewage treatment plant within the corporate limits, the  
9 feasibility of constructing, operating, or maintaining the sewage collection  
10 system or sewage treatment plant within the municipalitys seven (7) year  
11 growth area must be determined in accordance with subsection (d).

12           (2)(A) A municipality shall not seek placement of a sewage  
13 collection system or sewage treatment plant within its seven (7) year growth  
14 area if it is feasible to locate the sewage collection system or sewage  
15 treatment plant within the corporate limits of the municipality.

16           (B) A municipality shall not seek placement of a sewage  
17 collection system or sewage treatment plant outside its seven (7) year growth  
18 area if it is feasible to locate the sewage collection system or sewage  
19 treatment plant within the seven (7) year growth area of the municipality.

20           (d) The determination of feasibility shall include the municipalitys  
21 best efforts to locate the sewage collection system or sewage treatment plant  
22 within the corporate limits of the municipality. The question of feasibility  
23 in regard to placing a sewage collection system or sewage treatment plant  
24 outside the corporate limits of the municipality shall address all criteria  
25 required by applicable state and federal laws and regulations, applicable  
26 financing requirements, physical possibility, cost of construction or  
27 maintenance, and any material adverse effect on real property outside the  
28 corporate limits of the municipality. The determination of material adverse  
29 effect on real property outside the corporate limits of the municipality shall  
30 be made by a state certified appraiser and shall be in conformance with the  
31 Uniform Standards of Professional Appraisal Practice of the Appraisal  
32 Foundation. The determination of feasibility shall be made by a certified  
33 engineer appointed by the municipalitys governing body.

34           (e) All feasibility determinations shall be made in good faith without  
35 a predisposition to any proposed or feasible locations. Any engineer or  
36 engineering firm hired to determine feasibility as provided in this section

1 shall consider not only locations proposed by the municipality, but any  
2 location within the corporate limits that *may* be suitable."

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4 SECTION 2. Arkansas Code Annotated § 14-235-204 is amended to read as  
5 follows:

6 "14-235-204. Extent of authority.

7 (a) ~~This~~ Except as provided in § 14-235-203, this subchapter shall,  
8 without reference to any other statute, be deemed full authority for the  
9 construction, acquisition, improvement, equipment, maintenance, operation, and  
10 repair of the works provided for in this subchapter and for the issuance and  
11 sale of the bonds authorized by this subchapter and shall be construed as an  
12 additional and alternative method for them and for the financing of them.

13 (b) No petition or election or other or further proceeding in respect  
14 to the construction or acquisition of the works or to the issuance or sale of  
15 bonds under this subchapter, and no publication or any resolution, ordinance,  
16 notice, or proceeding relating to such construction or acquisition or to the  
17 issuance or sale of such bonds shall be required except such as are prescribed  
18 by this subchapter, any provisions of other statutes of the state to the  
19 contrary notwithstanding. However, all functions, powers, and duties of the  
20 State Board of Health shall remain unaffected by this subchapter."

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22 SECTION 3. All provisions of this act of a general and permanent nature  
23 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
24 Revision Commission shall incorporate the same in the Code.

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26 SECTION 4. If any provision of this act or the application thereof to  
27 any person or circumstance is held invalid, such invalidity shall not affect  
28 other provisions or applications of the act which can be given effect without  
29 the invalid provision or application, and to this end the provisions of this  
30 act are declared to be severable.

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32 SECTION 5. All laws and parts of laws in conflict with this act are  
33 hereby repealed.

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*/s/Brown et al*