

State of Arkansas

82nd General Assembly

Regular Session, 1999

# A Bill

HOUSE BILL 1996

By: Representative Elliott

## For An Act To Be Entitled

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

## Subtitle

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

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

SECTION 1. Arkansas Code 14-40-303 is amended to read as follows:

"14-40-303. Annexation ordinance - Election - Procedures.

(a) The annexation ordinance shall:

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

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

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

(b)(1)(A) The annexation ordinance shall not become effective until the  
question of annexation is submitted to the qualified electors of the annexing

1 municipality and of the area to be annexed at the next general election or at  
2 a special election. The special election shall be conducted no earlier than  
3 sixty (60) days after the date of enactment of the ordinance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (2) If the annexation election held first is approved by the

1 voters of both the municipality and by sixty percent (60%) of the voters of  
2 the area to be annexed, the results of it shall be stayed until the second  
3 annexation election is held.

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

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

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

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

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

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

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

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

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

act are declared to be severable.

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