

**Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.**

1 State of Arkansas *As Engrossed: S2/13/01 S2/21/01 H3/22/01*

2 83rd General Assembly

# A Bill

3 Regular Session, 2001

SENATE BILL 28

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5 By: Senators J. Jeffress, *B. Walker*

6 By: Representative Hunt

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## **For An Act To Be Entitled**

10 AN ACT TO AMEND ARKANSAS CODE 14-40-2002 TO  
11 INCREASE THE TIME FOR CITIES FILING AN ANSWER TO  
12 A STATEMENT REQUESTING MUNICIPAL SERVICES TO ONE  
13 HUNDRED EIGHTY (180) DAYS; TO AMEND ARKANSAS CODE  
14 TITLE 14, CHAPTER 40, SUBCHAPTER 20 TO ADD NEW  
15 SECTIONS TO PROVIDE FOR THE *CIRCUIT* JUDGE TO HOLD  
16 HEARINGS AND DECIDE ISSUES OF COMPLIANCE OR  
17 NONCOMPLIANCE AND TO PROHIBIT THE DIVISION OF  
18 MUNICIPALITIES INTO SEPARATE PARTS; AND FOR OTHER  
19 PURPOSES.

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## **Subtitle**

22 TO INCREASE THE TIME FOR CITIES TO FILE  
23 ANSWERS FOR REQUESTED MUNICIPAL SERVICES  
24 AND TO PROVIDE FOR THE *CIRCUIT* JUDGE TO  
25 HOLD HEARINGS AND DECIDE ISSUES OF  
26 COMPLIANCE OR NONCOMPLIANCE.

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

30

31 SECTION 1. Arkansas Code 14-40-2002(b), concerning procedures for  
32 annexation into an adjoining municipality, is amended to read as follows:

33 (b) The following procedure shall apply:

34 (1) The landowner or landowners shall file a statement with the  
35 municipality in which the land is located listing the municipal service or  
36 services being sought and stating that:

1 (A) The municipality is not providing services necessary to  
2 create improvements, provide employment or additional employment, subdivide,  
3 or otherwise maximize the use and value of the property;

4 (B) All the land in the request must comprise one (1) area  
5 which is contiguous to another municipality;

6 (C) The services are available in another municipality that  
7 borders the land subject to the request; and

8 (D)(i) The municipality is requested to make a commitment  
9 to take substantial steps, within ~~ninety (90) calendar~~ one hundred eighty  
10 (180) days after the statement is filed, towards making the services available  
11 and within each thirty-day period thereafter to continue taking steps to  
12 demonstrate a consistent commitment to provide the service within a reasonable  
13 time, as determined by the kind of services requested.

14 (ii) The commitment must be made in writing to the  
15 landowner within thirty (30) calendar days of the filing of the statement or  
16 the landowner may seek to have the land detached from the municipality and  
17 annexed into the other municipality.

18 (iii) The landowner must take appropriate steps to  
19 make the land accessible to the service and comply with reasonable requests of  
20 the municipality that are necessary for the service to be provided;

21 (2) The landowner or landowners may request the annexation of the  
22 land into the other municipality and thereby detach the land from the  
23 boundaries of the municipality in which the land is currently located, if:

24 (A) The municipality in which the land is located fails to  
25 execute a commitment to services within thirty (30) days after the statement  
26 is filed; or

27 (B) The municipality executes the commitment to services  
28 but fails to take the action required under subdivision (b)(1)(D) of this  
29 section;

30 (3)(A) The land shall be annexed into the other municipality if,  
31 after a request by the landowner or landowners, the governing body of the  
32 municipality into which annexation is sought, ~~signs a statement committing by~~  
33 ordinance, resolution, or motion, indicates its commitment to make the  
34 services available and approves the request for annexation.

35 (B)(i) The annexation shall be void and the land shall be  
36 returned to the original municipality if the annexing municipality fails to

1 take substantial steps within ~~ninety (90) calendar~~ one hundred eighty (180)  
2 ~~days after the statement is filed towards making~~ the passage of the ordinance,  
3 resolution, or motion to make the services available and within each thirty-  
4 day period thereafter, continues taking steps demonstrating a consistent  
5 commitment to provide the service within a reasonable time, as determined by  
6 the kind of services requested.

7 (ii) ~~However, the~~ The landowner must have taken  
8 appropriate steps to make the land accessible to the service and complied with  
9 the reasonable requests of the municipality that are necessary for the service  
10 to be provided; ~~and.~~

11 (iii) However, if the requested services are not  
12 provided, accepted, and in place within twelve (12) months after the property  
13 is accepted by the annexing jurisdiction or substantial steps are not taken to  
14 provide, accept, and have the services in place within this time period, then  
15 the detachment and annexation shall be void and all property returned to its  
16 original jurisdiction; and

17 (4) The land shall remain in the original municipality until it  
18 is annexed into the other municipality.

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20 SECTION 2. Arkansas Code 14-40-2002(e), concerning the definition of  
21 services for which land may be detached and annexed into an adjoining  
22 municipality, is amended to read as follows:

23 (e) For the purposes of this section, "services" means electricity,  
24 water, sewer, fire protection, police protection, drainage and storm water  
25 management, or any other offering by the municipality that materially affects  
26 a landowner's ability to develop, use, or expand the uses of the landowner's  
27 property.

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29 SECTION 3. Arkansas Code Title 14, Chapter 40, Subchapter 20, concerning  
30 the annexation by municipalities for municipal services, is amended to add  
31 additional sections to read as follows:

32 14-40-2003. No split or island.

33 In no event shall the provisions of this subchapter allow a municipality  
34 to be split in half or to have any of its land separately encircled thereby  
35 creating an island of that city within the boundaries of another city. After  
36 the effective date of this section, any detachment and annexation occurring

1 that creates a split or island shall be void and all properties returned to  
2 their original municipality.

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4 14-40-2004. Hearing in circuit court; appeal.

5 (a)(1) The circuit courts of the state shall have exclusive  
6 jurisdiction to hear all matters related to this subchapter.

7 (2) The circuit court of the county in which the municipalities  
8 are located, or in the event that the municipalities are located in different  
9 counties or judicial districts, the circuit court of the county or judicial  
10 district which has within the county's or district's boundaries the smallest  
11 of the two (2) municipalities in population according to the latest federal  
12 decennial census, shall have exclusive jurisdiction to hear all matters  
13 related to this subchapter.

14 (b) Upon request of either affected municipality, the landowner or  
15 group of landowners, or their representatives, the circuit judge shall hold a  
16 hearing or series of hearings related to the provisions of this subchapter.  
17 The circuit judge shall make findings as are necessary to determine whether  
18 there has been substantial compliance or non-compliance with the requirements  
19 of this subchapter.

20 (c) At anytime, but in no event later than twenty (20) days, after the  
21 adoption or rejection of the ordinance bringing the subject property into the  
22 annexing jurisdiction, the affected municipalities, landowners, or their  
23 representatives may request a hearing before the circuit court on any matter  
24 related to this subchapter.

25 (d) In the event an action is brought in circuit court by any party,  
26 the time period for the requested services to be provided, accepted, and in  
27 place as provided in subdivision (b)(3)(B)(iii) of § 14-40-2002 shall be  
28 tolled until entry of a ruling by the circuit judge and the conclusion of any  
29 appeals therefrom.

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31 14-40-2005. Filing.

32 All documents produced by landowners, municipalities or others relating  
33 to detachment and annexation as enumerated in this subchapter shall be filed  
34 with the circuit clerk with copies served upon the municipality and  
35 landowners. The circuit clerk shall establish a system of filing for these  
36 matters upon action having been taken by a landowner or group of landowners

1 pursuant to the provisions of this subchapter. The circuit clerk's file shall  
2 be considered the official record of all matters and proceedings under this  
3 subchapter.

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5 SECTION 4. Emergency Clause. It is found and determined by the Eighty-  
6 third General Assembly of the State of Arkansas that Act 779 of 1999 was  
7 enacted because certain lands were being inadequately served by the  
8 municipality in which they were located while the needed services existed in a  
9 bordering municipality and the act authorized a landowner to annex into  
10 another municipality for new services to put the land to its best use; that  
11 Act 779 lacked sufficient safeguards in its time limits and lacked a fact  
12 finding process and decision-maker to determine certain issues; and that these  
13 weaknesses need to be addressed and implementation of these safeguards should  
14 take effect as soon as possible to eliminate any further situations which must  
15 be remedied. It is also determined that it would be inequitable to apply  
16 these changes in law to any detachment which was requested prior to its  
17 effective date. Therefore an emergency is declared to exist and this act  
18 being immediately necessary for the preservation of the public peace, health  
19 and safety shall become effective on the date of its approval by the Governor.  
20 If the bill is neither approved nor vetoed by the Governor, it shall become  
21 effective on the expiration of the period of time during which the Governor  
22 may veto the bill. If the bill is vetoed by the Governor and the veto is  
23 overridden, it shall become effective on the date the last house overrides the  
24 veto.

25 */s/ J. Jeffress, et al.*  
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