

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
2 84th General Assembly
3 Regular Session, 2003
4

A Bill

HOUSE BILL 1708

5 By: Representative Hutchinson
6
7

For An Act To Be Entitled

9 AN ACT TO REQUIRE A MUNICIPALITY TO PROVIDE
10 ADEQUATE MUNICIPAL SERVICES TO ITS CURRENT
11 MUNICIPAL CITIZENS BEFORE ANNEXING ANY ADDITIONAL
12 AREAS TO THE MUNICIPALITY; TO PROVIDE FOR A LEGAL
13 ACTION TO DETERMINE IF ADEQUATE SERVICES ARE
14 BEING PROVIDED TO CURRENT CITIZENS AND TO THE
15 ANNEXED AREAS; AND FOR OTHER PURPOSES.
16

Subtitle

17 TO REQUIRE A MUNICIPALITY TO PROVIDE
18 ADEQUATE MUNICIPAL SERVICES TO ITS
19 CURRENT CITIZENS BEFORE ANNEXING ANY NEW
20 AREAS TO THE MUNICIPALITY AND TO PROVIDE
21 FOR A LEGAL ACTION TO DETERMINE IF
22 MUNICIPAL SERVICES ARE ADEQUATE.
23
24
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code § 14-40-302 is amended to read as follows:
29 14-40-302. Authority - Exceptions.

30 (a) By vote of two-thirds (2/3) of the total number of members making
31 up its governing body, any municipality that provides adequate services to
32 the existing municipal residents as described under subsection (c) of this
33 section may adopt an ordinance to annex lands contiguous to the municipality
34 if the lands are any of the following:

- 35 (1) Platted and held for sale or use as municipal lots;
36 (2) Whether platted or not, if the lands are held to be sold as



1 suburban property;

2 (3) When the lands furnish the abode for a densely settled
3 community or represent the actual growth of the municipality beyond its legal
4 boundary;

5 (4) When the lands are needed for any proper municipal purposes
6 such as for the extension of needed police regulation; or

7 (5) When they are valuable by reason of their adaptability for
8 prospective municipal uses.

9 (b)(1) Contiguous lands shall not be annexed when they either:

10 (A) Have a fair market value, at the time of the adoption
11 of the ordinance, of lands used only for agricultural or horticultural
12 purposes and the highest and best use of the lands is for agricultural or
13 horticultural purposes; or

14 (B) Are lands upon which a new community is to be
15 constructed with funds guaranteed, in whole or in part, by the federal
16 government under Title IV of the Housing and Urban Development Act of 1968 or
17 under Title VII of the Housing and Urban Development Act of 1970.

18 (2) Any person, firm, corporation, partnership, or joint
19 venturer desiring to come within this exclusion must have received from the
20 Department of Housing and Urban Development a letter of preliminary
21 commitment to fund the new community under one (1) of the federal acts.

22 (3) If any lands are annexed which are being used exclusively
23 for agricultural purposes, the lands may continue to be used for such
24 purposes so long as the owner desires and the lands shall be assessed as
25 agricultural lands.

26 (c)(1) Before a municipality may annex lands to enlarge the size of
27 the present municipality, the municipality shall provide all persons residing
28 within the present corporate limits with adequate municipal services.

29 (2)(A) The municipal services to be provided are police
30 services, fire protection services, sanitation services, and code enforcement
31 or housing inspection services.

32 (B) In municipalities that provide water and sewer
33 services and other utility services, municipal services include the
34 availability of water service, sewage collection and treatment services, and
35 the other utility services to all municipal citizens.

36 (3) In order for a municipal service to be adequate, the service

1 is to be supplied to, or available for, all municipal residents and shall be
 2 readily available to supply or hookup in all areas of the present
 3 municipality.

4 ~~(e)~~(d) However, a municipality having a population of fewer than one
 5 thousand (1,000) persons shall not annex in any one (1) calendar year
 6 contiguous lands in excess of ten percent (10%) of the current land area of
 7 the municipality.

8
 9 SECTION 2. Arkansas Code § 14-40-304 is amended to read as follows:
 10 14-40-304. Judicial review.

11 (a) If it is alleged that adequate municipal services are not being
 12 provided to all residents of the current municipality or that the area
 13 proposed to be annexed does not conform to the requirements and standards
 14 prescribed in § 14-40-302, a legal action may be filed in the circuit court
 15 of the county where the lands lie, within thirty (30) days after the
 16 election, to nullify the election and to prohibit further proceedings
 17 pursuant to the election.

18 (b) In any such action filed in the circuit court of the county where
 19 the lands lie, the court shall have jurisdiction and the authority to
 20 determine whether the procedures outlined in this subchapter have been
 21 complied with, ~~and~~ whether the municipality has used the proper standards
 22 outlined in § 14-40-302 in determining the lands to be annexed, and whether
 23 the municipality was providing adequate municipal services to all residents
 24 of the current municipality.

25 (c)(1) Within the three (3) years after the date the annexation
 26 becomes final, if the municipality fails to extend the municipal services to
 27 the annexed area as prescribed in the schedule listed in the annexation
 28 ordinance under § 14-40-303(a)(2), then a legal action may be filed in the
 29 circuit court of the county where the lands lie, to nullify the annexation
 30 and to remove the annexed area from the municipality.

31 (2) The legal action under this subsection (c) is to be filed
 32 within four (4) years after the date the annexation becomes final.