1   State of Arkansas   *As Engrossed: H2/27/03*

2   84th General Assembly   A Bill

3   Regular Session, 2003   HOUSE BILL 1708

4

5   By: Representative Hutchinson

6   *By: Senator Broadway*

7

8

9   **For An Act To Be Entitled**

10   AN ACT TO REQUIRE A MUNICIPALITY TO PROVIDE

11   ADEQUATE MUNICIPAL SERVICES TO ITS CURRENT

12   MUNICIPAL CITIZENS BEFORE ANNEXING ANY ADDITIONAL

13   AREAS TO THE MUNICIPALITY; TO PROVIDE FOR A LEGAL

14   ACTION TO DETERMINE IF ADEQUATE SERVICES ARE

15   BEING PROVIDED TO CURRENT CITIZENS AND TO THE

16   ANNEXED AREAS; AND FOR OTHER PURPOSES.

17

18   **Subtitle**

19   TO REQUIRE A MUNICIPALITY TO PROVIDE

20   ADEQUATE MUNICIPAL SERVICES TO ITS

21   CURRENT CITIZENS BEFORE ANNEXING ANY NEW

22   AREAS TO THE MUNICIPALITY AND TO PROVIDE

23   FOR A LEGAL ACTION TO DETERMINE IF

24   MUNICIPAL SERVICES ARE ADEQUATE.

25

26

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

28

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

30   14-40-302. Authority - Exceptions.

31   (a) By vote of two-thirds (2/3) of the total number of members making

32   up its governing body, any municipality that provides adequate services to

33   the existing municipal residents as described under subsection (c) of this

34   section may adopt an ordinance to annex lands contiguous to the municipality

35   if the lands are any of the following:

36   (1) Platted and held for sale or use as municipal lots;

1   (2) Whether platted or not, if the lands are held to be sold as

2   suburban property;

3   (3) When the lands furnish the abode for a densely settled

4   community or represent the actual growth of the municipality beyond its legal

5   boundary;

6   (4) When the lands are needed for any proper municipal purposes

7   such as for the extension of needed police regulation; or

8   (5) When they are valuable by reason of their adaptability for

9   prospective municipal uses.

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

11   (A) Have a fair market value, at the time of the adoption

12   of the ordinance, of lands used only for agricultural or horticultural

13   purposes and the highest and best use of the lands is for agricultural or

14   horticultural purposes; or

15   (B) Are lands upon which a new community is to be

16   constructed with funds guaranteed, in whole or in part, by the federal

17   government under Title IV of the Housing and Urban Development Act of 1968 or

18   under Title VII of the Housing and Urban Development Act of 1970.

19   (2) Any person, firm, corporation, partnership, or joint

20   venturer desiring to come within this exclusion must have received from the

21   Department of Housing and Urban Development a letter of preliminary

22   commitment to fund the new community under one (1) of the federal acts.

23   (3) If any lands are annexed which are being used exclusively

24   for agricultural purposes, the lands may continue to be used for such

25   purposes so long as the owner desires and the lands shall be assessed as

26   agricultural lands.

27   (c)(1) Before a municipality may annex lands to enlarge the size of

28   the present municipality, the municipality shall provide all persons residing

29   within the present corporate limits with adequate municipal services.

30   (2)(A) The municipal services to be provided are police

31   services, fire protection services, sanitation services, and code enforcement

32   or housing inspection services.

33   (B) In municipalities that provide water and sewer

34   services and other utility services, municipal services include the

35   availability of water service, sewage collection and treatment services, and

36   the other utility services to all municipal citizens.

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

2   is to be supplied to, or available for, all municipal residents and shall be

3   readily available to supply or hookup in all areas of the present

4   municipality.

5   (c)(d) However, a municipality having a population of fewer than one

6   thousand (1,000) persons shall not annex in any one (1) calendar year

7   contiguous lands in excess of ten percent (10%) of the current land area of

8   the municipality.

9

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

11   14-40-304. Judicial review.

12   (a) If it is alleged that adequate municipal services are not being

13   provided to all residents of the current municipality or that the area

14   proposed to be annexed does not conform to the requirements and standards

15   prescribed in § 14-40-302, a legal action may be filed in the circuit court

16   of the county where the lands lie, within thirty (30) days after the

17   election, to nullify the election and to prohibit further proceedings

18   pursuant to the election.

19   (b) In any such action filed in the circuit court of the county where

20   the lands lie, the court shall have jurisdiction and the authority to

21   determine whether the procedures outlined in this subchapter have been

22   complied with, and whether the municipality has used the proper standards

23   outlined in § 14-40-302 in determining the lands to be annexed, and whether

24   the municipality was providing adequate municipal services to all residents

25   of the current municipality.

26   (c)(1) Within the three (3) years after the date the annexation

27   becomes final, if the municipality fails to extend the municipal services to

28   the annexed area as prescribed in the schedule listed in the annexation

29   ordinance under § 14-40-303(a)(2), then a legal action may be filed in the

30   circuit court of the county where the lands lie, to nullify the annexation

31   and to remove the annexed area from the municipality.

32   (2) The legal action under this subsection (c) is to be filed

33   within four (4) years after the date the annexation becomes final.

34

35   /s/ Hutchinson

36