

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 85th General Assembly  
3 Regular Session, 2005

# A Bill

HOUSE BILL 2573

4  
5 By: Representative Borhauer  
6  
7

## For An Act To Be Entitled

9 AN ACT TO PROVIDE AN ALTERNATIVE METHOD OF  
10 INCORPORATION AS A CITY OR TOWN; AND FOR OTHER  
11 PURPOSES.  
12

## Subtitle

13  
14 TO PROVIDE AN ALTERNATIVE METHOD OF  
15 INCORPORATION AS A CITY OR TOWN.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 SECTION 1. Arkansas Code Title 14, Chapter 38, Subchapter 1 is amended  
21 to add an additional section to read as follows:

22 14-38-115. Alternative method of incorporation - Petition and  
23 election.

24 (a)(1) In addition to the procedures for incorporating a city or town  
25 under §§ 14-38-101 through 14-38-108, if the inhabitants of a part of any  
26 county not embraced within the limits of any city or incorporated town desire  
27 to be organized into a city or incorporated town, they may apply, by a  
28 petition in writing, signed by twenty-five percent (25%) of the qualified  
29 voters residing within the described territory, to the county judge of the  
30 proper county to call for an election on the issue of incorporating a city or  
31 town and for electing municipal officers.

32 (2) The petition shall:

33 (A) Describe the territory proposed to be embraced in the  
34 incorporated city or town and have attached to it an accurate map or plat of  
35 the territory;

36 (B) State the name proposed for the incorporated city or



1 town; and

2 (C) Name the persons authorized to act in behalf of the  
3 petitioners in prosecuting the petition.

4 (b) The county judge shall not approve a petition for incorporation of  
5 any city or town if any portion of the territory proposed to be incorporated  
6 is ineligible under the criteria in § 14-38-101(b).

7 (c) If a petition for incorporation is presented to the county judge,  
8 it shall be filed in the office of the county clerk, to be kept there,  
9 subject to the inspection of any persons interested, until the time appointed  
10 for a public hearing on the petition.

11 (d)(1) Upon the filing of a petition for incorporation, the county  
12 judge shall set the time for a public hearing on the petition and shall  
13 communicate to the petitioners, or their agent, a time and place for the  
14 hearing, that shall not be less than thirty (30) days after the filing of the  
15 petition.

16 (2)(A) The petitioners or their agent shall publish a notice in  
17 some newspaper of general circulation in the county for not less than three  
18 (3) consecutive weeks.

19 (B) The notice shall contain the substance of the petition  
20 and state the time and place set for the public hearing.

21 (e) The county judge shall hold the public hearing at the time and  
22 place determined and the procedure for a hearing set forth in § 14-38-103  
23 shall be followed in the proceedings concerned in this section to the extent  
24 applicable.

25 (f)(1) After the hearing, if the county judge is satisfied that the  
26 procedures for filing the petition for incorporation were followed, that the  
27 requirements for signatures under subsection (a) of this section have been  
28 complied with, that the limits of the territory to be incorporated have been  
29 accurately described and an accurate map was made and filed, and if the  
30 prayer of the petitioner is right and proper, then the county judge shall  
31 enter an order that:

32 (A) Grants the petition to hold an election on the date of  
33 the next general election; and

34 (B) Sets the date of the election on the issue of  
35 incorporating the city or town and electing officers as the date of the next  
36 general election.

1           (2) The order shall be recorded by the clerk of the county.

2           (g)(1)(A) If the county judge orders an election on the issue of  
 3 incorporation, the county clerk shall notify the county election commission  
 4 at least sixty (60) days before the election that the issue of incorporation  
 5 shall also appear on the election ballot for a proposed city or incorporated  
 6 town.

7           (B)(i) No later than forty-five (45) days prior to the  
 8 election, the county clerk shall identify all persons who reside within the  
 9 territory proposed to be incorporated, and the county clerk shall determine  
 10 the names and addresses of all qualified electors residing within that  
 11 territory.

12           (ii) The failure to identify all persons residing  
 13 within the territory proposed to be incorporated or the failure to determine  
 14 the names and addresses of all qualified electors residing within that  
 15 territory shall not invalidate or otherwise affect the results of the  
 16 election.

17           (C) All of the qualified electors residing within the territory  
 18 to be incorporated shall be entitled to vote on the issue of incorporation.

19           (D) The county clerk shall give notice of the election by  
 20 publication by at least one (1) insertion in some newspaper having a general  
 21 circulation in the county.

22           (2)(A) The county clerk shall prepare a list by precinct of all  
 23 those qualified electors residing within the territory to be incorporated who  
 24 are qualified to vote in that precinct and furnish that list to the election  
 25 officials.

26           (B) The county clerk shall give notice of the voter  
 27 registration deadlines at last forty (40) days before the election by  
 28 ordinary mail to those persons whose names and addresses are on the list.

29           (3) The election on the issue of incorporation shall be held in  
 30 accordance with the procedures established for other municipal elections and  
 31 the ballot for the election shall be printed substantially as follows:

32           "[    ] FOR THE INCORPORATION OF THE CITY (OR TOWN) OF (NAME OF  
 33 PROPOSED CITY OR INCORPORATED TOWN), ARKANSAS.

34           [    ] AGAINST THE INCORPORATION OF THE CITY (OR TOWN) OF (NAME OF  
 35 PROPOSED CITY OR INCORPORATED TOWN), ARKANSAS."

36           (4) The county clerk shall, no later than seven (7) days

1 following the election, certify the election results, record the same in the  
2 county records, and file a certified copy with the county judge.

3 (h)(1)(A) If a majority of the qualified electors voting on the issue  
4 of incorporation in the election vote for the issue, then the county clerk  
5 shall, no later than seven (7) days following the election, certify the  
6 election results, record the same in the county records, and file a certified  
7 copy with the Secretary of State.

8 (B) Upon the county clerk's filing of the election  
9 results, the county judge shall approve the petition of incorporation as  
10 ratified by the voters and shall endorse on the petition an order that the  
11 city or incorporated town as named and described in the petition is organized  
12 and that the petition shall be granted.

13 (C)(i) The order, petition, and the map or plat shall be  
14 signed and delivered to the county recorder to record them in the proper  
15 records and to file and preserve in his or her office the original papers,  
16 having certified on the papers that they have been properly recorded.

17 (ii) It shall also be the duty of the recorder to  
18 make out and certify, under his or her official seal, two (2) transcripts of  
19 the record. The recorder shall forward one (1) copy to the Secretary of State  
20 and deliver one (1) copy to the agent of the petitioners, with a certificate  
21 on the transcript that a similar transcript has been forwarded to the  
22 Secretary of State.

23 (D) The incorporation shall be effective on the date the  
24 order of the county judge is filed and recorded and the election of municipal  
25 officers shall be effective upon that date.

26 (2) If a majority of the qualified electors voting on the issue  
27 at the election vote against the issue of incorporation, the incorporation  
28 petition is null and void.

29 (i)(1) If an order of the county judge provides for an election on the  
30 issue of incorporation, then the election of officers for the proposed city  
31 or town is to take place at the same time as the election on the issue of  
32 incorporation at the next general election.

33 (2) The county clerk shall notify the county election commission  
34 at least sixty (60) days before the election that the election of city or  
35 town officers shall also appear on the election ballot along with the issue  
36 of incorporation of the proposed city or incorporated town.

1           (3)(A) The county election commission is responsible for holding  
2 the first election of officers for the proposed city or town.

3           (B) The type of officers to be elected and qualified and  
4 the election itself shall be conducted in the manner prescribed by law in  
5 like cases for a city or town of like size or class.

6           (4) If the election is held at any other time than that  
7 prescribed by law for the regular election of the officers of the city or  
8 town of like size or class, the officers elected shall continue in office as  
9 long as and in the same manner as if they had been elected at the preceding  
10 period of the regular election of officers of the city or town of same size  
11 or class.

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