

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  
4

# A Bill

HOUSE BILL 2956

5 By: Representatives Davis, Willis  
6  
7

## For An Act To Be Entitled

9 AN ACT TO CLARIFY THE PROCEDURE FOR THE MERGER OF  
10 CITIES AND INCORPORATED TOWNS; AND FOR OTHER  
11 PURPOSES.  
12

### Subtitle

14 TO CLARIFY THE PROCEDURE FOR THE MERGER  
15 OF CITIES AND INCORPORATED TOWNS.  
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17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

20 SECTION 1. Arkansas Code § 14-43-601 is amended to read as follows:

21 14-43-601. Municipal affairs delineated.

22 (a)(1) For the purposes of this subchapter, the term "municipal  
23 affairs" means all matters and affairs of government germane to, affecting,  
24 or concerning the municipality or its government, except the following, which  
25 are state affairs and subject to the general laws of the State of Arkansas:

26 (A) Public information and open meetings;

27 (B) Uniform requirements for competitive bidding on  
28 contracts;

29 (C) Claims against a municipality;

30 (D) Requirements of surety bonds for financial officers;

31 (E) Collective bargaining;

32 (F) Pension and civil service systems;

33 (G) Hours and vacations, holidays, and other fringe  
34 benefits of employees;

35 (H) The definition, use, and control of surplus revenues  
36 of municipally owned utilities;



- 1 (I) Vacation of streets and alleys;
- 2 (J) Matters coming within the police power of the state
- 3 including minimum public health, pollution, and safety standards;
- 4 (K) Gambling and alcoholic beverages;
- 5 (L) Traffic on or the construction and maintenance of
- 6 state highways;
- 7 (M) Regulations of intrastate commerce including rates and
- 8 terms of service of railroad, bus, and truck lines, cooperatives, and non-
- 9 municipally owned utilities;
- 10 (N) The incorporation and merger of municipalities and
- 11 annexation of territory thereto, including the allowance for the retirement
- 12 of officials who are sixty-five (65) years of age or older at the time of a
- 13 merger; and
- 14 (O) Procedure for the passage of ordinances by the
- 15 governing body.

16 (2) The municipality may exercise any function or legislative  
 17 power upon the foregoing state affairs if not in conflict with state law.

18 (b)(1) Matters of public health, which concern emergency medical  
 19 services, emergency medical technicians, and ambulances, as defined in §§ 20-  
 20 13-201 - 20-13-209 and 20-13-211, and ambulance companies, shall be included  
 21 in the term "municipal affairs" of cities of the first class.

22 (2)(A) These cities shall have the authority to enact and  
 23 establish standards, rules, or regulations which are equal to, or greater  
 24 than, those established by the state concerning emergency medical services,  
 25 emergency medical technicians, ambulances, and ambulance companies.

26 (B) The standards, rules, or regulations shall not be less  
 27 than those established by the state for the rating of the service offered.

28  
 29 SECTION 2. Arkansas Code Title 14, Chapter 40, Subchapter 12 is  
 30 amended to read as follows:

31 14-40-1201. Petition for consolidation.

32 (a)(1)(A) Beginning July 1, 1995, when the inhabitants of any city or  
 33 incorporated town adjoining or contiguous to another smaller municipal  
 34 corporation of any class in the same county shall desire that the city or  
 35 incorporated town annex to it or consolidate with it the smaller municipal  
 36 corporation, they may apply, by a petition in writing signed by a number of

1 qualified electors from each of the municipal corporations equal to not less  
2 than fifteen percent (15%) of the total vote cast for the office of mayor in  
3 the respective city or town in the last preceding general election, to the  
4 city or town council of the larger municipal corporation.

5 (B) Municipal corporations separated by a river shall be  
6 deemed contiguous.

7 (2) The petition shall:

8 (A) Describe the municipal corporations to be  
9 consolidated; and

10 (B) Name the persons authorized to act in behalf of the  
11 petitioners presenting the petition as provided in this section.

12 (3)(A) Beginning July 1, 1995, the petitions shall be filed with  
13 the city clerk or town recorder of each municipal corporation, who shall  
14 determine the sufficiency of the petitions in each municipality.

15 (B)(i) If any petition is determined insufficient, he or  
16 she shall notify the petitioners in writing without delay, and the  
17 petitioners shall be permitted ten (10) days from the notification to solicit  
18 additional signatures or to prove any rejected signatures.

19 (ii) If the city clerk or town recorder of the  
20 respective municipalities decides the petitions are sufficient, he or she  
21 each shall notify the petitioners in writing and shall present the petitions  
22 to the city or town council of the larger municipal corporation.

23 (b)(1)(A) When the petition is presented to the council, the council  
24 shall pass an ordinance in favor of the annexation and approving and  
25 ratifying the petition.

26 (B) If the council fails to pass the ordinance required  
27 under subdivision (b)(1)(A) of this section, then any interested party may  
28 apply for a writ of mandamus to require the performance of the requirement.

29 (2) In that event, it shall be the duty of the persons named in  
30 the petition authorized to act in behalf of the petitioners to file the  
31 petition, together with a certified copy of the ordinance, in the office of  
32 the county clerk of the county in which the municipal corporations are  
33 situated.

34  
35 14-40-1202. Special election called.

36 (a)(1)(A) Upon presentation of the petition to the county court by the

1 authorized persons, the court shall at once order and call a special election  
 2 in both of the municipal corporations on the question of the annexation and  
 3 the name of the proposed consolidated municipality.

4 (B) The court shall give thirty (30) days' notice of the  
 5 election by publication one (1) time a week in some newspaper with a bona  
 6 fide circulation in the territory and by notices posted in conspicuous places  
 7 in the territory.

8 (2) The court shall appoint one (1) judge and one (1) clerk in  
 9 each ward or other division of each municipal corporation, and the mayor and  
 10 city council of each of the municipal corporations shall select two (2)  
 11 judges and one (1) clerk for each of the wards or other divisions having the  
 12 qualifications of electors, to act as judges and clerks of election within  
 13 the respective wards.

14 (3) The court shall fix all polling places at which the voting  
 15 shall take place.

16 (b)(1) The election shall be held and conducted in each corporation in  
 17 the manner prescribed by law for holding elections for cities or incorporated  
 18 towns, so far as they are applicable. Election expenses are to be paid by the  
 19 larger city or incorporated town.

20 (2)(A) All elections held under this subchapter are made legal  
 21 elections.

22 (B)(i) The elections shall be governed by and subject to  
 23 all the laws relating to general elections so far as applicable.

24 (ii) All judges, clerks, and persons voting in the  
 25 elections shall be subject to the penalties prescribed by the general  
 26 election laws of the state for any violation of the general election laws to  
 27 the same extent as though the elections were specifically included in the  
 28 general election laws of the state.

29 (3) The returns of the elections shall be made to the court and  
 30 the result thereof declared by the court.

31 (c) In order to provide for an orderly transition of affairs if the  
 32 petition calls for a delay in the implementation of the consolidation, the  
 33 consolidation shall not take effect until the date specified in the petition,  
 34 except that the consolidation shall be delayed not longer than eighteen (18)  
 35 months from the date the election results are declared by the court.

36

1 14-40-1203. Election results.

2 (a) At any election held under this subchapter, all qualified electors  
 3 who are residents of either municipality shall be allowed to vote on the  
 4 adoption or rejection of the proposed annexation or consolidation and the  
 5 name of the proposed consolidated municipality.

6 (b)(1)(i) If a majority of the votes cast in each of the respective  
 7 municipalities, considered as a separate and distinct unit and without  
 8 reference to the vote cast in the other, shall be in favor of the  
 9 consolidation or annexation, then the county court shall declare, by an  
 10 appropriate order, the annexation or consolidation consummated unless the  
 11 petition has requested a delayed date for implementation of the  
 12 consolidation.

13 (ii) If the petition calls for a delay in the  
 14 implementation of the consolidation and if a majority of the votes cast in  
 15 each of the respective municipalities is in favor of the consolidation, then  
 16 the county court shall order the annexation or consolidation consummated on  
 17 the date specified in the petition, except that the date shall not be more  
 18 than eighteen (18) months after the date election results are declared by the  
 19 court.

20 (B)(i) If a majority of the votes cast in each of the  
 21 respective municipalities, considered as a separate and distinct unit and  
 22 without reference to the vote cast in the other, shall be in favor of the  
 23 same name of the municipality, then the county court shall declare, by  
 24 appropriate order, the name of the consolidated municipality.

25 (ii) If a majority of the votes cast in each of the  
 26 respective municipalities, considered as a separate and distinct unit and  
 27 without reference to the vote cast in the other, shall not be in favor of the  
 28 same name of the municipality, then the county court shall declare, by  
 29 appropriate order, the name of the consolidated municipality to be the name  
 30 of the larger municipality.

31 (C)(i) Upon the making of the order, the smaller municipal  
 32 corporation and the territory comprising it shall, in law, be deemed and be  
 33 taken to be included and shall be a part of the larger municipal corporation.

34 (ii) The inhabitants thereof shall in all respects  
 35 be citizens of the larger municipal corporation.

36 (2) If a majority of the votes of either municipal corporation

1 shall be against annexation, then the city or incorporated town shall not be  
 2 again permitted to attempt the consolidation for two (2) years.

3

4 14-40-1204. Contest of election.

5 Any elector shall have the right to test the legality and fairness of  
 6 the election and the declared results in a proceeding before the circuit  
 7 court without being required to give bond for costs. However, no such contest  
 8 shall interfere with the consolidation until finally decided.

9

10 14-40-1205. Division of smaller municipality into wards.

11 (a) As soon as practicable after the annexation, the council of the  
 12 larger city or incorporated town shall, by ordinance, form the territory of  
 13 the smaller municipality into such number of wards as shall seem to be to the  
 14 best interest of the combined city or incorporated town, or shall change the  
 15 number and boundaries of all the wards of the entire city or incorporated  
 16 town, or any part of them, as shall seem to be to the best interests of the  
 17 combined city or incorporated town. In such way, however, the wards shall  
 18 have as nearly an equal population and assessed valuation of property as  
 19 practicable and as, in the opinion of the council, would best subserve the  
 20 true interest of the citizens and taxpayers of the combined city or  
 21 incorporated town.

22 (b) The territory and inhabitants of the smaller municipal corporation  
 23 shall receive that fair and just representation in the city council as the  
 24 size, population, and assessed valuation of property demands, as compared  
 25 with the representation accorded to other wards of the city or incorporated  
 26 town.

27 (c) If inhabitants of the smaller municipal corporation feel aggrieved  
 28 at the number of wards, or in any manner dissatisfied with the division of  
 29 the territory into wards, upon petition of fifty (50) qualified electors, the  
 30 circuit court is authorized to make changes in the number of wards as the  
 31 justice of the case requires, in the manner provided in § 14-43-311, so far  
 32 as applicable.

33

34 14-40-1206. Plat of consolidated municipality.

35 (a) The council of the larger city or incorporated town shall cause a  
 36 plat to be made of the entire city or incorporated town after the annexation

1 thereto and the division into wards of the smaller municipal corporation.

2 (b)(1) A certified copy of the plat shall be filed and recorded in the  
3 office of the circuit court and ex officio recorder of the county and with  
4 the Secretary of State.

5 (2)(A) Thereafter, the plat shall stand, be, and remain the  
6 division of the city or incorporated town into wards, and the number and  
7 boundaries thereof, until such time as it may be afterwards changed according  
8 to law.

9 (B) However, no change in the boundaries of the wards of  
10 the larger city or incorporated town shall determine or affect the time of  
11 service of any previously elected alderman of any ward in the larger city or  
12 incorporated town.

13  
14 14-40-1207. Special election of aldermen or all city officials.

15 (a)(1)(A) Except as provided under subdivision (a)(1)(B) of this  
16 section, the city or town council shall call a special election of aldermen,  
17 to be held at such times and places as it may direct in the wards of the  
18 smaller municipality and for the election of aldermen from any other new  
19 wards that may be created by the council out of territory included in the  
20 larger city or incorporated town before the annexation, as provided in this  
21 subchapter.

22 (B) If the petition calls for a citywide election for all  
23 officials of the new consolidated city or incorporated town, then the city or  
24 town council shall call a special election for all city or town officials to  
25 be held at the times and places as it may direct throughout each ward of the  
26 consolidated city or incorporated town.

27 (2) If the implementation of the consolidation of the cities or  
28 towns is delayed, the special election for new aldermen or all city officials  
29 shall be held at least forty-five (45) days before the effective date of the  
30 consolidation.

31 (b) Each ward of the consolidated city or incorporated town shall have  
32 two (2) aldermen, to be elected in the same manner and for the same term as  
33 aldermen are elected in cities and incorporated towns.

34  
35 14-40-1208. Existing officers, etc.

36 (a) The term of office of all officers, aldermen, and employees of the

1 smaller municipality and all laws in force therein shall cease upon and after  
 2 the consolidation.

3 (b) If a municipality is subject to merger, then the resulting  
 4 municipality may allow for the retirement of officials who are sixty-five  
 5 (65) years of age or older at the time of a merger.

6  
 7 14-40-1209. Public property.

8 All public property of the smaller municipality shall belong to the  
 9 consolidated city or incorporated town.

10  
 11 14-40-1210. Payment of existing debts.

12 (a)(1) The debts of each municipality owing prior to or at the time of  
 13 the consolidation shall be paid by the consolidated municipality by  
 14 appropriating the revenues derived from year to year from the territory and  
 15 the inhabitants of what was formerly the larger municipality to the payment  
 16 of the debts of the larger municipality owing before the consolidation.

17 (2) In like manner, the debts of the smaller municipality owing  
 18 prior to and at the time of the consolidation shall be paid by appropriating  
 19 the revenues derived from what was formerly the smaller municipality in such  
 20 manner as to do the least injustice to the inhabitants of each former  
 21 municipality in the way of a decrease in the improving or bettering of the  
 22 territory as it formerly existed.

23 (b) In appropriating the revenues of either municipality to pay its  
 24 own debts existing prior to the consolidation, neither the territory nor  
 25 inhabitants of what was formerly the larger or smaller municipality shall be  
 26 discriminated against in the distribution of police protection, board of  
 27 health service, fire protection, public lighting, or other like public  
 28 service.

29  
 30 14-40-1211. Prior debts not preferred.

31 (a) Creditors of either municipal corporation, on account of  
 32 obligations made prior to consolidation, shall not be paid sooner or shall  
 33 not be permitted to enforce the collection of their debts sooner against the  
 34 consolidated city or incorporated town than the separate municipality prior  
 35 to consolidation could have paid its own debts or could have been forced to  
 36 do so.



1 (b) In any proceeding in court, by mandamus or otherwise, against a  
 2 consolidated city or incorporated town to enforce the obligations created by  
 3 either municipal corporation prior to consolidation, no greater part of the  
 4 revenue of the consolidated city or incorporated town shall be subject to be  
 5 applied by the court at the instance of the creditor to the payment of the  
 6 obligations than could have been subjected against the revenues of the  
 7 particular city or incorporated town creating the obligation prior to  
 8 consolidation if the particular municipal corporation having so created the  
 9 obligation had not been annexed.

10  
 11 14-40-1212. Rights of annexed territory to benefits of its revenues.

12 (a) The wards formed out of the territory comprising the former  
 13 territory of the smaller municipal corporation annexed under the provisions  
 14 of this subchapter shall always receive betterments and improvements in an  
 15 amount equal to the amount of revenue derived by the consolidated  
 16 municipality from the territory and inhabitants of the smaller municipal  
 17 corporation, after having deducted the pro rata share of the territory of the  
 18 running expenses necessary to be expended in maintaining the government of  
 19 the entire city or incorporated town and after having taken into  
 20 consideration the amount of revenues necessarily appropriated to pay the  
 21 indebtedness due by the smaller municipality before consolidation, until the  
 22 indebtedness is paid. In addition, those wards shall always receive their  
 23 fair and equitable proportion of the police, board of health, fire  
 24 protection, and lighting service of the larger city or incorporated town.  
 25 They shall in all other ways receive fair and liberal treatment and their  
 26 fair proportion of the expenditure of moneys made by the larger city or  
 27 incorporated town.

28 (b)(1) Aldermen representing the wards composing the territory of the  
 29 smaller municipal corporation before consolidation shall have a right, at all  
 30 times, to demand of the city council the benefit of the revenue collected  
 31 from the wards, as provided for in this section.

32 (2) On the refusal of the council, the aldermen shall have a  
 33 right to enforce the revenue rights by mandamus or other appropriate  
 34 proceedings.

35 (c) In the event the aldermen, or fifty (50) qualified electors of the  
 36 territory annexed, feel aggrieved in reference to the amount of revenue

1 expended on the territory or as to the other rights guaranteed in this  
2 section to the annexed municipality, they may submit the matter to the  
3 circuit court, which is authorized by appropriate orders to compel the  
4 consolidated city or incorporated town to give the former territory of the  
5 smaller municipal corporation the full benefit of its revenue as provided in  
6 this section.

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14-40-1213. Franchises, contracts, and other obligations.

No franchises, contracts, or other obligations of an extraordinary nature, or other than those necessary for the ordinary and usual running of the affairs of either municipal corporation, which have been granted, made, or created by either municipal corporation after the passage of an ordinance favoring annexation, and prior to the consummation of the annexation, shall be valid and binding against the consolidated municipality, or any part thereof, in the event that a consolidation is effected within sixty (60) days after passage of the ordinance, unless they shall be afterward ratified by the consolidated city or incorporated town.