

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 87th General Assembly  
3 Regular Session, 2009

# A Bill

HOUSE BILL 1695

4  
5 By: Representative M. Martin  
6  
7

## For An Act To Be Entitled

8  
9 AN ACT TO MODIFY THE LAW CONCERNING MUNICIPAL  
10 ANNEXATION OF CONTIGUOUS LANDS; AND FOR OTHER  
11 PURPOSES.  
12

### Subtitle

13  
14 TO MODIFY THE LAW CONCERNING MUNICIPAL  
15 ANNEXATION OF CONTIGUOUS LANDS.  
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17

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

20 SECTION 1. Arkansas Code § 14-40-203, concerning assignment of annexed  
21 territory to a ward, is amended to add an additional subsection to read as  
22 follows:

23 (c) Within sixty (60) days after the annexation of a territory is  
24 effective, the incorporated town or city shall hold an alderman election  
25 under applicable law for the wards affected under this section.  
26

27 SECTION 2. Arkansas Code § 14-40-302, concerning the authority of a  
28 governing body to annex contiguous lands, is amended to add an additional  
29 subsection to read as follows:

30 (d) The governing body of a municipality shall schedule and hold a  
31 public hearing on the issue of annexing lands contiguous to the municipality  
32 at least fifteen (15) days before a vote to adopt an ordinance under this  
33 section.  
34

35 SECTION 3. Arkansas Code § 14-40-303 is amended to read as follows:

36 14-40-303. Annexation ordinance – Election – Procedures.



1 (a) ~~The~~ An annexation ordinance under § 14-40-302 shall:

2 (1) Contain an accurate description of the contiguous lands  
3 desired to be annexed;

4 (2)(A) Include a schedule of the services of the annexing  
5 municipality that will be extended to the annexed area within ~~three (3) years~~  
6 ninety (90) days after the date the annexation becomes final; ~~and~~

7 (B)(i) The schedule of services shall include all existing  
8 services the annexing municipality currently provides to its citizens.

9 (ii) If the annexing municipality did not provide  
10 electricity, water, sewer, fire protection, or police protection to its  
11 citizens before the annexation, the annexing municipality shall provide at  
12 least one (1) of these services within three (3) years of the date the  
13 annexation becomes final; and

14 (3) Fix the date for the election provided in this section.

15 (b)(1) The annexation ordinance shall not become effective until the  
16 question of annexation is submitted to the qualified electors of the annexing  
17 municipality and of the area to be annexed at the next general election or at  
18 a special election. The special election shall be called by ordinance or  
19 proclamation of the mayor of the annexing municipality in accordance with §  
20 7-5-103(b).

21 (2)(A) If a majority of the qualified electors in the annexing  
22 municipality and a majority of the qualified electors in the area to be  
23 annexed voting in the election both vote for the annexation, no later than  
24 fifteen (15) days following the election, the county clerk ~~shall certify the~~  
25 ~~election results and record the same~~ shall certify and record the election  
26 results in the county records, along with the description and a map of the  
27 annexed area, ~~in the county records~~, and file a certified copy thereof with  
28 the Secretary of State.

29 (B) The annexation shall be effective, and the lands  
30 annexed shall be included within the corporate limits of the annexing  
31 municipality thirty (30) days following the date of recording and filing of  
32 the description and map, as provided in this section, or in the event an  
33 action is filed with the circuit court as provided in § 14-40-304, on the  
34 date the judgment of the court becomes final.

35 (3) If either a majority of the qualified electors in the  
36 annexing municipality voting on the issue at the election vote against the

1 annexation or less than a majority of the qualified electors in the area to  
 2 be annexed voting on the issue at the election vote for the annexation, the  
 3 annexation ordinance shall be null and void.

4 (c)(1)(A) The city clerk shall certify two (2) copies of the  
 5 annexation ordinance and a plat or map of the area to be annexed and convey  
 6 one (1) copy to the county clerk and one (1) copy to the county election  
 7 commission at least sixty (60) days before the election.

8 (B)(i) No later than forty-five (45) days ~~prior to~~ before  
 9 the election, the city shall identify all persons who reside within the area  
 10 proposed to be annexed, and the county clerk shall assist the city in  
 11 determining the names and addresses of all qualified electors residing within  
 12 that area by using the ad valorem tax records of the county.

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

17 (C) All of the qualified electors residing within the  
 18 territory to be annexed shall be entitled to vote in the election.

19 (D) The city 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 city.

22 (2)(A) The county clerk shall give notice of the voter  
 23 registration deadlines and of the proposed annexation at least forty (40)  
 24 days before the election by ordinary mail to those persons whose names and  
 25 addresses are on the list provided by the city clerk.

26 (B) The county clerk shall prepare a list by precinct of  
 27 all those qualified electors residing within the area to be annexed who are  
 28 qualified to vote in that precinct and furnish that list to the election  
 29 officials at the time the ballot boxes are delivered.

30 (3) If the county clerk or the county election commission ~~shall~~  
 31 ~~fail~~ fails to perform any duties required of it, then any interested party  
 32 may apply for a writ of mandamus to require the performance of the duties.  
 33 The failure of the county clerk or the county election commission to perform  
 34 the duties shall ~~not~~ void the annexation election unless a court finds that  
 35 the failure to perform the duties did not substantially ~~prejudice~~ prejudice  
 36 an interested party.

1 (d) If the annexation is approved and becomes final, the governing  
 2 body of the city ~~shall, by ordinance, as soon as practical after the~~  
 3 ~~annexation, attach~~ by ordinance shall attach as soon as practical after the  
 4 annexation and incorporate ~~such~~ the annexed territory to and in one (1) or  
 5 more wards of the city lying adjacent ~~thereto~~ to the annexed territory, and  
 6 the annexed territory so assigned and attached to a ward shall thereafter be  
 7 considered and become a part ~~thereof~~ of the city as fully as any other part  
 8 of the city.

9 (e) From the map or plat provided by city ordinance of the wards  
 10 assigned, the county clerk shall proceed to ascertain and determine the  
 11 ~~voters'~~ voters's proper precinct and shall enter the same upon the voter  
 12 registration records of those inhabitants of the ~~territory~~ so annexed  
 13 territory and give notice of that change within thirty (30) days after the  
 14 adoption of the city ordinance assigning the annexed territory to wards.

15 (f)(1) ~~In the event that~~ If within thirty (30) days of the date that  
 16 one (1) city calls for an annexation election, another city calls for an  
 17 annexation election on all or part of the same land proposed to be annexed by  
 18 the first city, then both annexation elections shall be held, provided that  
 19 the second city must call for its annexation election to be held on the next  
 20 available date in accordance with § 7-5-103(b) before or after the holding of  
 21 the first city's election.

22 (2)(A) If the annexation election held first is approved by the  
 23 voters of both the annexing municipality and the area to be annexed, the  
 24 results of it shall be stayed until the second annexation election is held.

25 (B)(i) If only one (1) of the annexation elections is  
 26 approved by the voters of both the annexing municipality and the area to be  
 27 annexed, then the city that called that election shall proceed with the  
 28 annexation of the land.

29 (ii) If both annexation elections are approved by  
 30 the voters, then a third election shall be held three (3) weeks after the  
 31 second annexation election. The provisions of § 7-5-103(b) governing the  
 32 procedures and dates on which special elections may be held shall not apply  
 33 to the third annexation election provided in this subsection.

34 (iii) Notice of the third election shall be  
 35 published in a newspaper circulated in the area to be annexed during the  
 36 three-week period following the second election.

1 (iv) Only the residents of the area proposed to be  
2 annexed by both cities shall vote in the third election.

3 (v) The issue on the ballot in the third election  
4 shall be into which of the two (2) cities the residents of the area want to  
5 be annexed.

6 (vi) The area shall be annexed into the city  
7 receiving the most votes in the third election.

8 (vii) In the event of a tie vote in the third  
9 election, the area shall be annexed to the city that had the highest  
10 percentage vote in favor of the annexation from voters in the area to be  
11 annexed in the first or second election.

12 (3) If the city that does not get to annex the area voted on by  
13 both cities included land in its annexation election other than the land  
14 voted on by both cities, then that land shall be annexed into ~~such~~ the city  
15 if it is still contiguous to ~~such~~ the city after the other land is annexed to  
16 the other city, but ~~such~~ the land shall remain part of the county if ~~it~~ the  
17 land is not ~~so~~ still contiguous to the city.

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