

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: H4/1/13
A Bill

HOUSE BILL 1542

By: Representative Kizzia

For An Act To Be Entitled

AN ACT TO CLARIFY THE PROCEDURE FOR CERTAIN
ANNEXATION MATTERS; AND FOR OTHER PURPOSES.

Subtitle

TO CLARIFY THE PROCEDURE FOR CERTAIN
ANNEXATION MATTERS.

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

SECTION 1. Arkansas Code § 14-40-2002 is amended to read as follows:
14-40-2002. Annexation into adjoining municipality.

(a)(1) A landowner or group of landowners seeking additional municipal services may have ~~their~~ its land detached from the municipality in which it is located and annexed into another municipality that borders the land.

(2) However, before annexation is allowed, the municipality in which the land is located shall have an opportunity to provide the additional services.

(b) The following procedure shall apply:

(1) The landowner or landowners shall file a statement with the municipality in which the land is located listing the additional municipal service or services being sought and stating that:

(A) The municipality is not providing services necessary to create improvements, provide employment or additional employment, subdivide, or otherwise maximize the use and value of the property;

(B) All the land in the request must compose one (1) area that is contiguous to another municipality;



(C) The additional services are available in another municipality that borders the land subject to the request; and

(D)(i) The municipality is requested to make a commitment to take substantial steps, within one hundred eighty (180) days after the statement is filed, toward ~~making~~ providing the additional services ~~available~~ and, within each thirty-day period thereafter to continue taking steps to demonstrate a consistent commitment to provide the service within a reasonable time, as determined by the kind of services requested.

(ii) The commitment must be made in writing to the landowner within thirty (30) calendar days of the filing of the statement, or the landowner may seek to have the land detached from the municipality and annexed into the other municipality.

(iii) The landowner must take appropriate steps to make the land accessible to the service and comply with reasonable requests of the municipality that are necessary for the service to be provided;

(2) The landowner or landowners may request the annexation of the land into the other municipality and thereby detach the land from the boundaries of the municipality in which the land is currently located, if:

(A) The municipality in which the land is located fails to execute a commitment to services within thirty (30) days after the statement is filed; or

(B) The municipality executes the commitment to services but fails to take the action required under subdivision (b)(1)(D) of this section;

(3)(A) The land shall be annexed into the other municipality if, after a request by the landowner or landowners, the governing body of the municipality into which annexation is sought indicates by ordinance, resolution, or motion its commitment to make the services available and ~~approves~~ its approval of the request for annexation.

(B)(i) The annexation shall be void and the land shall be returned to the original municipality if the annexing municipality fails to take substantial steps within one hundred eighty (180) days after the passage of the ordinance, resolution, or motion to make the services available and, within each thirty-day period thereafter, continues taking steps demonstrating a consistent commitment to ~~provide~~ make the additional service available within a reasonable time, as determined by the kind of services

requested.

(ii) The landowner must have taken appropriate steps to make the land accessible to the service and complied with the reasonable requests of the municipality that are necessary for the service to be provided.

(iii) However, if the requested services are not ~~provided, accepted, and in place~~ available within twelve (12) months after the property is accepted by the annexing jurisdiction or substantial steps are not taken to ~~provide, accept, and have~~ make the services ~~in place~~ available within this time period, then the detachment and annexation shall be void and all property returned to its original jurisdiction; and

(4) The land shall remain in the original municipality until it is annexed into the other municipality.

(c) Land annexed pursuant to this section shall not be eligible for reannexation under this section for a period of two (2) years.

(d) This section shall apply to residential, commercial, industrial, and unimproved land.

(e) For the purposes of this section, "services" means electricity, water, sewer, fire protection, police protection, drainage and storm water management, or any other offering by the municipality that materially affects a landowner's ability to develop, use, or expand the uses of the landowner's property.

SECTION 2. Arkansas Code § 14-40-2004(b)-(d), concerning hearings in circuit court related to municipal services, is amended to read as follows:

(b)(1)(A) Upon ~~request~~ petition of either affected municipality, the landowner or group of landowners, or ~~their~~ its representatives, the circuit judge shall hold a hearing or series of hearings related to the provisions of this subchapter.

(B) The municipalities, the landowner who requested annexation, and a landowner who began owning land after the annexation request are parties to the hearings.

(2) The circuit judge shall make findings as are necessary to determine whether there has been substantial compliance or noncompliance with the requirements of this subchapter.

(c) ~~At any time, but in no event~~ The petition under subdivision (b)(1)

of this section shall be filed no later than twenty (20) days, after the adoption or rejection of the ordinance, resolution, or motion bringing the subject property into the annexing jurisdiction, ~~the affected municipalities, landowners, or their representatives may request a hearing before the circuit court on any matter related to this subchapter.~~

(d) In the event an action is brought in circuit court by any party, the time period for the requested services to be ~~provided, accepted, and in place~~ available as provided in § 14-40-2002(b)(3)(B)(iii) shall be tolled until entry of a ruling by the circuit judge and the conclusion of any appeals from that court.

/s/Kizzia

APPROVED: 04/22/2013