

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

SENATE BILL 1018

By: Senator Irvin

For An Act To Be Entitled

AN ACT TO AMEND THE PROCEDURES FOR ANNEXATION; AND
FOR OTHER PURPOSES.

Subtitle

TO AMEND THE PROCEDURES FOR ANNEXATION.

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

SECTION 1. Arkansas Code § 14-40-302(b), concerning exceptions to annexation proceedings, is amended to read as follows:

(b)(1) Contiguous lands shall not be annexed ~~when they~~ if the lands either:

(A) Have a fair market value, at the time of the adoption of the ordinance, of lands used only for agricultural or horticultural purposes and the highest and best use of the lands is for agricultural or horticultural purposes; or

(B) Are lands upon which a new community is to be constructed with funds guaranteed, in whole or in part, by the federal government under Title IV of the Housing and Urban Development Act of 1968 or under Title VII of the Housing and Urban Development Act of 1970.

(2) Any person, firm, corporation, partnership, or joint venturer desiring to come within this exclusion must have received from the Department of Housing and Urban Development a letter of preliminary commitment to fund the new community under one (1) of the federal acts.

(3) If any lands are annexed that are being used ~~exclusively~~ for agricultural purposes, the lands shall be protected under § 2-4-101 et seq., and the lands may continue to be used for such purposes so long as the owner



desires and the lands shall be assessed as agricultural lands.

SECTION 2. Arkansas Code § 14-40-303 is amended to read as follows:

14-40-303. Annexation ~~ordinance~~—~~Election~~—~~Procedures~~ initiated by municipalities.

~~(a) The annexation ordinance shall:~~

~~(1) Contain an accurate description of the lands desired to be annexed;~~

~~(2) Include a schedule of the services of the annexing municipality that will be extended to the area within three (3) years after the date the annexation becomes final; and~~

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

~~(b)(1) The annexation ordinance shall not become effective until the question of annexation is submitted to the qualified electors of the annexing municipality and of the area to be annexed at the next general election or at a special election. The special election shall be called by ordinance or proclamation of the mayor of the annexing municipality in accordance with § 7-11-201 et seq.~~

~~(2)(A) If a majority of the qualified electors voting in the election vote for the annexation, no later than fifteen (15) days following the election, the county clerk shall certify the election results and record the same, along with the description and a map of the annexed area, in the county records, and file a certified copy thereof with the Secretary of State.~~

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

~~(3) If a majority of the qualified electors voting on the issue at the election vote against the annexation, the annexation ordinance shall be null and void.~~

~~(c)(1)(A) The city clerk shall certify two (2) copies of the annexation ordinance and a plat or map of the area to be annexed and convey one (1) copy to the county clerk and one (1) copy to the county election~~

~~commission at least sixty (60) days before the election.~~

~~(B)(i) No later than forty five (45) days prior to the election, the city shall identify all persons who reside within the area proposed to be annexed, and the county clerk shall assist the city in determining the names and addresses of all qualified electors residing within that area.~~

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

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

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

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

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

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

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

~~(e) From the map or plat provided by city ordinance of the wards~~

~~assigned, the county clerk shall proceed to ascertain and determine the voters' proper precinct and shall enter the same upon the voter registration records of those inhabitants of the territory so annexed and give notice of that change within thirty (30) days after the adoption of the city ordinance assigning the territory to wards.~~

~~(f)(1) In the event that within thirty (30) days of the date that one (1) city calls for an annexation election, another city calls for an annexation election on all or part of the same land proposed to be annexed by the first city, then both annexation elections shall be held, provided that the second city must call for its annexation election to be held on the next available date in accordance with § 7-11-201 et seq. before or after the holding of the first city's election.~~

~~(2)(A) If the annexation election held first is approved by the voters, the results of it shall be stayed until the second annexation election is held.~~

~~(B)(i) If only one (1) of the annexation elections is approved by the voters, then the city that called that election shall proceed with the annexation of the land.~~

~~(ii)(a) Except as provided in subdivisions (f)(2)(B)(ii)(b) and (c) of this section, if both annexation elections are approved by the voters, then a third election shall be held three (3) weeks after the second annexation election. The provisions of § 7-11-201 et seq., governing the procedures and dates on which special elections may be held shall not apply to the third annexation election provided in this subsection.~~

~~(b) If the date of the third election falls upon a legal holiday, the election shall be held four (4) weeks after the second annexation election.~~

~~(c) If the date of the election under subdivision (f)(2)(B)(ii)(b) of this section is a legal holiday, the election shall be held five (5) weeks after the second annexation election.~~

~~(iii) Notice of the third election shall be published in a newspaper circulated in the area to be annexed during the period following the second election.~~

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

~~(v) The issue on the ballot in the third election~~

~~shall be into which of the two (2) cities the residents of the area want to be annexed.~~

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

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

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

(a) It is declared that:

(1) Sound urban development is essential to the continued economic development of Arkansas;

(2) Municipalities are created to provide the governmental services essential for sound urban development and for the protection of health, safety, and welfare in areas being intensively used for residential, commercial, industrial, institutional, and governmental purposes or in areas undergoing development;

(3) Municipal boundaries should be extended using uniform statutory standards that apply throughout the state to include such areas and to provide the high quality of governmental services needed therein for the public health, safety, and welfare;

(4) Areas annexed to municipalities using uniform statutory standards should receive the services provided by the annexing municipality;

(5) The provision of services to protect the health, safety, and welfare is a public purpose; and

(6) It is essential for citizens to have an effective voice in annexations initiated by municipalities.

(b) As used in this section:

(1)(A) "Contiguous area" means any area that, at the time annexation procedures are initiated, either abuts directly on the municipal boundary or is separated from the municipal boundary by a street or street right-of-way, a creek or river, the right-of-way of a railroad or other

public service corporation, lands owned by the municipality or some other political subdivision, or lands owned by the State of Arkansas.

(B) A connecting corridor consisting solely of the length of a street or street right-of-way may not be used to establish contiguity;

(2) "Eligible property owner" means a property owner who is eligible to be notified of the opportunity to have water lines and sewer lines and connections installed at no cost to the property owner because he or she held a freehold interest in the real property to be annexed as of the date of the combined notice of public informational meeting and public hearing;

(3) "Necessary land connection" means an area that does not exceed twenty-five percent (25%) of the total area to be annexed; and

(4) "Property owner" means a person having a freehold interest in real property;

(5)(A) "Used for residential purposes" means any lot or tract five (5) acres or less in size on which is constructed a habitable dwelling unit.

(B) "Used for residential purposes" also means any lot or tract that is used in common for social or recreational purposes by either owners of lots with habitable dwelling units or owners of lots intended for occupation by dwelling units and the lot owners have a real property interest in the commonly used property that attaches to or is appurtenant to the owners' lots.

(c) The governing body of a municipality may extend the corporate limits of the municipality under this section.

(d) A municipality exercising authority under this section shall make plans for the extension of services to the area proposed to be annexed and before the public hearing under this subchapter shall prepare a report setting forth the plans to provide services to the area proposed to be annexed. The report shall include the following:

(1) A map of the municipality and adjacent territory to show the following:

(A) The present and proposed boundaries of the municipality;

(B) The present major trunk water mains and sewer interceptors and outfalls, and the proposed extensions of such mains,

outfalls, and lines as required in this section. The water and sewer map shall bear the seal of a registered professional engineer; and

(C) The general land use pattern in the area proposed to be annexed;

(2) A statement showing that the area proposed to be annexed meets the requirements of this subchapter;

(3) A statement setting forth the plans for extending to the area proposed to be annexed each major municipal service on substantially the same basis and in the same manner as the services are provided within the rest of the municipality before annexation and the method to finance the extension of major municipal services into the area proposed to be annexed as follows:

(A)(i) Provision of police protection, fire protection, solid waste collection, and street maintenance services on the effective date of annexation.

(ii) A contract with a rural fire department to provide fire protection shall be an acceptable method of providing fire protection.

(iii) A contract with a private firm to provide solid waste collection services shall be an acceptable method of providing solid waste collection services; and

(B) Extension of water and sewer services to each lot or parcel, if an installation easement is provided by the affected property owner, with a proposed timetable for construction of such mains, outfalls, and lines within three and one-half (3 ½) years of the effective date of annexation, in accordance with this subchapter;

(4)(A) A statement of the impact of the annexation on any rural fire department providing service in the area proposed to be annexed and a statement of the impact of the annexation on fire protection and fire insurance rates in the area proposed to be annexed, if the area where service is provided is in a rural fire protection district or a fire service district.

(B) The rural fire department shall make available to the municipality not later than thirty (30) days following a written request from the municipality all information in its possession or control, including operational, financial, and budgetary information necessary for preparation

of a statement of impact.

(C) The municipality shall in a timely fashion supply the rural fire department with information requested by the rural fire department to respond to the written request.

(D) The rural fire department forfeits its rights under this subchapter if it fails to make a good faith response within forty-five (45) days following receipt of the written request for information from the municipality, provided that the municipality's written request makes specific reference to this section; and

(5)(A) A statement concerning how the proposed annexation will affect the municipality's finances and services, including without limitation municipal revenue change estimates.

(B) This statement shall be delivered to the county clerk at least thirty (30) days before the date of the public informational meeting on any annexation under this section.

(e) The governing body of a municipality may extend the municipal corporate limits to include any area that meets all of the following criteria:

(1) It shall be adjacent or contiguous to the municipality's boundaries at the time the annexation proceeding begins, except if the entire territory of a county water and sewer district is being annexed, the annexation shall include any noncontiguous pieces of the district as long as the part of the district with the greatest land area is adjacent or contiguous to the municipality's boundaries at the time the annexation proceeding begins;

(2) At least one-eighth (1/8) of the aggregate external boundaries of the area shall coincide with the municipal boundary;

(3) No part of the area shall be included within the boundary of another incorporated municipality; and

(4) The total area to be annexed shall meet the requirements of the following:

(A) Part or all of the area to be annexed must be an area developed for urban purposes at the time of approval of the report provided for in this subchapter. The area of streets and street rights-of-way shall not be used to determine total acreage under this subdivision. "Area developed for urban purposes" means any area which meets any one (1) of the

following standards:

(i) Has a total resident population equal to at least two and three-tenths (2 3/10) persons for each acre of land included within its boundaries;

(ii) Has a total resident population equal to at least one (1) person for each acre of land included within its boundaries and is subdivided into lots and tracts such that at least sixty percent (60%) of the total acreage consists of lots and tracts three (3) acres or less in size and such that at least sixty-five percent (65%) of the total number of lots and tracts are one (1) acre or less in size;

(iii) Is so developed that at least sixty percent (60%) of the total number of lots and tracts in the area at the time of annexation are used for residential, commercial, industrial, institutional, or governmental purposes, and is subdivided into lots and tracts so that at least sixty percent (60%) of the total acreage, not counting the acreage used at the time of annexation for commercial, industrial, governmental, or institutional purposes, consists of lots and tracts three (3) acres or less in size;

(iv) Is the entire area of any county water and sewer district, if all of the following apply:

(a) The municipality has provided in a contract with that district that the area is developed for urban purposes;

(b) The contract provides for the municipality to operate the sewer system of that county water and sewer district; and

(c) The municipality is annexing in one (1) ordinance the entire territory of the district not already within the corporate limits of a municipality; and

(v) Is so developed that, at the time of the approval of the annexation report, all tracts in the area to be annexed are used for commercial, industrial, governmental, or institutional purposes; or

(B) Part or all of the area to be annexed meets at least one (1) of the following:

(i) Lies between the municipal boundary and an area developed for urban purposes so that the area developed for urban purposes is either not adjacent to the municipal boundary or cannot be served by the municipality without extending major municipal services, including water or

sewer lines, through such sparsely developed area;

(ii) Is adjacent, on at least sixty percent (60%) of its external boundary, to any combination of the municipal boundary and the boundary of an area or areas developed for urban purposes as defined in this section. The purpose is to permit the governing body of a municipality to extend corporate limits to include all nearby areas developed for urban purposes and where necessary to include areas which at the time of annexation are not yet developed for urban purposes but which constitute necessary land connections between the municipality and areas developed for urban purposes or between two (2) or more areas developed for urban purposes; or

(iii) The total area to be annexed is completely surrounded by the municipality's primary corporate limits.

(f) In fixing new municipal boundaries and determining whether land is an area developed for urban purposes, the governing body of a municipality shall:

(1) Use recorded property lines and streets as boundaries. Some or all of the boundaries of a county water and sewer district may also be used when the entire district is not already within the corporate limits of the municipality;

(2) Use whole parcels of property. If any portion of that parcel is included, the entire parcel of real property as recorded in the deed transferring title shall be included;

(3) Not use a connecting corridor consisting solely of the length of a street or street right-of-way to establish contiguity;

(4) Not consider property in use for a commercial, industrial, institutional, or governmental purpose if the lot or tract is used only temporarily, occasionally, or on an incidental or insubstantial basis in relation to the size and character of the lot or tract;

(5) Include acreage actually occupied by buildings or other man-made structures together with all areas that are reasonably necessary and appurtenant to such facilities for purposes of parking, storage, ingress and egress, utilities, buffering, and other ancillary services and facilities when determining acreage in use for commercial, industrial, institutional, or governmental purposes; and

(6) Consider the area of an abolished water and sewer district to be a water and sewer district for the purpose of this section following

its abolition.

SECTION 3. Arkansas Code § 14-40-304 is repealed.

~~14-40-304. Judicial review.~~

~~(a) If it is alleged that the area proposed to be annexed does not conform to the requirements and standards prescribed in § 14-40-302, a legal action may be filed in the circuit court of the county where the lands lie, within thirty (30) days after the election, to nullify the election and to prohibit further proceedings pursuant to the election.~~

~~(b) In any such action filed in the circuit court of the county where the lands lie, the court shall have jurisdiction and the authority to determine whether the procedures outlined in this subchapter have been complied with and whether the municipality has used the proper standards outlined in § 14-40-302 in determining the lands to be annexed.~~

SECTION 4. Arkansas Code Title 14, Chapter 40, Subchapter 3, is amended to add additional sections to read as follows:

14-40-305. Procedure for annexation.

(a)(1) The governing body of a municipality desiring to annex territory under this section first shall pass a resolution of consideration identifying the area under consideration for annexation by either a metes and bounds description or a map. The resolution of consideration shall remain effective for two (2) years after adoption and be filed with the municipal clerk.

(2) A new resolution of consideration adopted before expiration of the two-year period for a previously adopted resolution covering the same area shall relate back to the date of the previous resolution.

(3) Adoption of a resolution of consideration under this section does not confer prior jurisdiction over the area as to any other municipality.

(b)(1) A notice of the adoption of the resolution of consideration shall be published one (1) time a week for two (2) successive weeks, with each publication being on the same day of the week, in a newspaper having general circulation in the municipality.

(2) The second notice shall be published no more than thirty (30) days after adoption of the resolution of consideration.

(3) The resolution of consideration shall contain a map or description of the area under consideration and a summary of the annexation process and time lines.

(4) A copy of the resolution of consideration shall be mailed within thirty (30) days after the adoption of the resolution of consideration by first class mail to the owners of real property located within the area under consideration for annexation as shown by the tax records of the county.

(5) If a proposed annexation extends across a county border into a county other than the county where the majority of the area of the existing municipality is located, a copy of the resolution of consideration shall be mailed within thirty (30) days after the adoption of the resolution of consideration by first class mail to the county clerk of that county.

(c)(1) At least one (1) year after adoption of the resolution of consideration, the governing body of a municipality may adopt a resolution of intent to proceed with the annexation of some or all of the area described in the resolution of consideration.

(2) The resolution of intent shall:

(A) Describe the boundaries of the area proposed for annexation;

(B) Fix a date for a public informational meeting;

(C) Fix a date for a public hearing on the question of annexation; and

(D) Fix a date for the referendum on annexation.

(3) The date for the public informational meeting shall be not less than forty-five (45) days and not more than fifty-five (55) days following passage of the resolution of intent.

(4) The date for the public hearing shall be not less than one hundred thirty (130) days and not more than one hundred fifty (150) days following passage of the resolution of intent.

(5) The date of the referendum on annexation shall be set for the next municipal general election that is more than forty-five (45) days from the date of the resolution of intent.

(d) A combined notice of public informational meeting and public hearing shall be issued under this section as follows:

(1) The notice shall be a combined notice that includes a minimum of:

(A) The date, hour, and place of the public informational meeting;

(B) The date, hour, and place of the public hearing;

(C) A clear description of the boundaries of the area under consideration, including a legible map of the area;

(D) A statement that the report required by this subchapter will be available at the office of the municipal clerk;

(E) An explanation of property owner's rights under this section;

(F) A summary of the annexation process with time lines;

(G) A summary of the opportunity to vote in the referendum, available statutory remedies appealing the annexation, and the failure to provide services;

(H) Information on how to request water and sewer service, all forms to request that service, and the consequences of opting in or opting out, as provided in this subchapter; and

(I) A clear description of the distinction between the public informational meeting and the public hearing.

(2)(A) The combined notice shall be given by publication of the information required by this section and a statement regarding the availability of the information required by this section in a newspaper having general circulation in the municipality one (1) time a week for at least two (2) successive weeks before the date of the public informational meeting, with each publication being on the same day of the week.

(B)(i) The date of the last publication shall be not more than ten (10) days preceding the date of the public informational meeting.

(ii) In addition, if the area proposed to be annexed lies in a county containing less than fifty percent (50%) of the land area of the municipality, the same publication shall be given in a newspaper having general circulation in the area of proposed annexation.

(iii) If there is no such newspaper, the municipality shall post the notice in at least five (5) public places within the municipality and at least five (5) public places in the area to be annexed for thirty (30) days before the date of public informational meeting.

(3)(A) The combined notice, together with the information about requesting water and sewer service, shall be mailed within five (5) business

days of the passage of the resolution of intent by first class mail to the owners of real property located within the area to be annexed as shown by the tax records of the county.

(B) The person or persons mailing the notices shall certify to the governing body of the municipality that fact, and the certificate shall become a part of the public record of the annexation proceeding and is conclusive in the absence of fraud.

(C) If a notice is returned to the municipality by the postal service by the tenth day before the informational meeting, a copy of the notice shall be sent by certified mail, return receipt requested, at least seven (7) days before the informational meeting.

(D) Failure to comply with the mailing requirement of this section does not invalidate the annexation unless it is shown that the requirements were not substantially complied with by the municipality.

(4)(A) If the governing body of a municipality by resolution finds that the tax records are not adequate to identify the property owners within the area to be annexed after exercising reasonable efforts to locate the property owners, in lieu of the mail procedure required by this section, it may post the notice at least (thirty) 30 days before the date of the public informational meeting on all buildings, on such parcels, and in at least five (5) other places within the area to be annexed as to those parcels where the property owner could not be identified.

(B) In any case where notices are placed on property, the person placing the notice shall certify that fact to the governing body of a municipality.

(e) At least thirty (30) days before the date of the public informational meeting, the governing body of a municipality shall:

(1) Approve the report provided for in this subchapter;
(2) Prepare a summary of the approved report for public distribution;

(3) Post in the office of the county clerk:

(A) The approved report provided for in this subchapter;
(B) The summary of the approved report;
(C) A legible map of the area to be annexed;
(D) The list of the property owners and associated mailing addresses in the area to be annexed that the municipality has identified and

mailed notice; and

(E) Information for property owners on how to request water service or sewer service and all forms to request that service;

(4) If the municipality has a website, post on that website all of the information under this section together with any forms to apply for water and sewer service; and

(5) Prepare a summary of the opportunity to vote in the referendum and available statutory remedies for appealing the annexation for public distribution.

(f)(1) At the public informational meeting, a representative of the municipality shall make an explanation of the report required in this subchapter and an explanation of the provision of major municipal services.

(2) The explanation of the services shall include how to request water service or sewer service to individual lots, the average cost of a residential connection to the water and sewer system, and the opportunity for installation of a residential connection under this subchapter.

(3) The following shall be distributed at the public informational meeting:

(A) A summary of the annexation process with time lines;

(B) A summary of opportunity to vote in the referendum;

(C) A summary of available statutory remedies for appealing the annexation;

(D) An explanation of the provision of services; and

(E) Information for requesting water service or sewer service to individual lots and any forms to so request.

(4) After the distribution of information under subdivision (f)(3) of this section, all property owners and residents of the area proposed to be annexed as described in the notice of public informational meeting and hearing and all residents of the municipality shall be given the opportunity to ask questions and receive answers regarding the proposed annexation.

(g)(1) At the public hearing, a representative of the municipality shall first make an explanation of the report required in this subchapter.

(2) After the explanation, all property owners and residents of the area proposed to be annexed as described in the notice of public informational meeting and hearing and all residents of the municipality shall

be given an opportunity to be heard.

(h)(1) The governing body of the municipality shall take into consideration facts presented at the public hearing and shall have authority to amend the report required by this subchapter to make changes in the plans for serving the area proposed to be annexed so long as such changes meet the requirements of this subchapter.

(2) At any regular or special meeting held no sooner than ten (10) days after the certification of the election held under this subchapter, the governing body of a municipality may adopt an ordinance, subject to this section, extending the corporate limits of the municipality to include all or part of the area described in the notice of public hearing which the governing body of a municipality has concluded should be annexed. The annexation ordinance shall:

(A) Contain specific findings showing that the area to be annexed meets the requirements of this subchapter;

(B) Describe the external boundaries of the area to be annexed by metes and bounds;

(C) Include a statement of the intent of the municipality to provide services to the area being annexed as set forth in the report required by this subchapter and a time line for the provision of those services; and

(D)(i) Contain a specific finding that on the effective date of annexation, the municipality will have funds appropriated in sufficient amount to finance construction of any water and sewer lines stated in the report required by this subchapter to extend the water and sewer services into the area to be annexed, or that on the effective date of annexation the municipality will have authority to issue bonds in an amount sufficient to finance such construction.

(ii) If authority to issue the bonds is secured from the electorate of the municipality prior to the effective date of annexation, the effective date of annexation shall be no earlier than the day following the statement of the successful result of the bond election.

(3) The governing body of a municipality shall set the effective date for annexation as June 30 next following the adoption of the ordinance or the second June 30 following adoption of the ordinance, but not before the completion of the water and sewer request appeal periods are complete.

(4) The list of the property owners of parcels within the area described in the annexation ordinance to which a notice was mailed under this section shall be delivered within five (5) business days to the tax assessor and the board of elections of the county in which a majority of the municipality lies.

(5) If a public body has a website, conspicuously post notice of the referendum until after the certification of the election.

(i) The procedures in this subchapter shall apply to any annexation under this section. The municipality shall reimburse the county board of election commissioners the costs of the referendum required under this subchapter.

(j) From and after the effective date of the annexation ordinance, the citizens and property in the annexed area shall be subject to all debts, laws, ordinances, and regulations in force in the municipality and shall be entitled to the same privileges and benefits as other parts of the municipality.

(k) If a municipality is considering the annexation of two (2) or more areas which are all adjacent to the municipal boundary but are not adjacent to one another, it may undertake simultaneous proceedings under authority of this section for the annexation of the areas.

(l)(1) If not earlier than thirty (30) days after the effective date of annexation and not later than fifteen (15) months from the effective date of annexation any property owner in the annexed territory contends that the municipality has not followed through providing services under this subchapter and this section, the property owner may apply for a writ of mandamus.

(2) Relief may be granted by the judge of the circuit court if the municipality has not provided the services under this subchapter on substantially the same basis and in the same manner as the services were provided within the rest of the municipality before the effective date of annexation and those services are still being provided on substantially the same basis and in the same manner within the original corporate limits of the municipality.

(3) If a writ is issued, costs, including reasonable attorneys' fees for the aggrieved property owner, shall be charged to the municipality.

(o) The municipality shall report to the circuit court of the county:

(1)(A) If police protection, fire protection, solid waste services, and street maintenance services were provided under this subchapter, within (thirty) 30 days after the effective date of the annexation.

(B) The report shall be filed no more than thirty (30) days following the expiration of the thirty-day period.

(C) If the circuit court determines that the municipality failed to deliver police protection, fire protection, solid waste services, or street maintenance services under this subchapter within thirty (30) days after the effective date of the annexation, the circuit court shall notify the municipality that the municipality may not count any of the residents as part of the population of the municipality for the purpose of receiving any state, federal, or county dollars distributed based on population until all of the services are provided; and

(2)(A) If the extension of water and sewer lines was completed under this subchapter, within six (6) months after the effective date of the annexation ordinance and again within three and one-half (3 1/2) years of the effective date of the annexation ordinance or upon the completion of the installation, whichever occurs first.

(B) If the municipality failed to deliver either water or sewer services, or both, under this subchapter within three and one-half (3 1/2) years after the effective date of the annexation, the municipality shall stop any other annexations in progress and may not begin any other annexation until the water and sewer services are provided.

(C) The municipality shall adopt a resolution of consideration to begin again any annexation that is stopped under this section.

14-40-306. Provision of water and sewer service.

(a)(1) The municipality shall provide water and sewer service to the annexed area as required by plans for extension under this subchapter within three and one-half (3 1/2) years of the effective date of the annexation ordinance except as provided in this section if:

(A) The residents in the existing city boundaries are served by a public water or sewer system or by a combination of a public water or sewer system and one (1) or more nonprofit entities providing

service by contract with the public system;

(B) The annexing municipality does not provide that service within the existing city boundaries;

(C) The area to be annexed is in an area served by the public water or sewer system; and

(D) The municipality has no responsibility through an agreement with the public water or sewer system to pay for the extension of lines to areas annexed to the city, the city shall have no financial responsibility for the extension of water and sewer lines under this section;

(2) As used in this section, "public water or sewer system" means:

(A) A water or sewer authority;

(B) A water or sewerage district;

(C) A county water or sewer district;

(D) A sanitary district;

(E) A county-owned water or sewer system;

(F) A municipally owned water or sewer system;

(G) A water or sewer utility created by an act of the General Assembly; or

(H) A joint agency providing a water or sewer system by interlocal agreement.

(b) Prior to the adoption of the annexation ordinance, the municipality shall offer to each eligible owner of real property located within the area proposed to be annexed an opportunity to obtain water or sewer service, or both, at no cost other than periodic user fees based upon usage as follows:

(1)(A) After passage of the resolution of intent, the owner of real property located within the area proposed to be annexed shall be notified in writing under this subchapter within five (5) business days of the passage of the resolution of intent of the opportunity to have water and sewer lines and connections installed at no cost to the property owner.

(B) The notice shall state that a request for extending water and sewer lines does not waive the right to contest the annexation.

(C) The owners of real property located within the area proposed to be annexed shall be allowed sixty-five (65) days from the date of the passage of the resolution of intent to respond yes or no to the

opportunity.

(D) Any property owner of a parcel that is an existing customer of the municipality's water or sewer, whether provided by the municipality or by a third party under contract with the municipality, shall be deemed to respond yes to the opportunity, whether or not the property owner returns the notification;

(2)(A) At the close of the sixty-five-day period, the municipality shall determine if the eligible property owners of a majority of the parcels to be annexed have responded favorably.

(B) A majority of the owners of a single parcel of real property must respond favorably before the municipality may count that parcel of real property as responding favorably;

(3) If the property owners of a majority of the parcels located within the area proposed to be annexed respond favorably, the municipality shall:

(A)(i) Provide water and sewer lines, service lines, and connections at no cost other than periodic user fees to all real property that an owner responded favorably if the annexation ordinance is adopted.

(ii) The right to receive water and sewer lines shall run with the land; and

(B) Notify within five (5) days of the close of the sixty-five-day period under this subsection those owners of real property located within the area proposed to be annexed who failed to respond or responded negatively that the property owners of a majority of the parcels located within the area proposed to be annexed responded favorably and offer a second opportunity for that property owner to respond favorably within thirty (30) days; and

(4)(A) If the property owners of a majority of the parcels located within the area proposed to be annexed fail to respond favorably to the offer to obtain water and sewer services made under this section, the municipality may nevertheless proceed with the annexation.

(B) If the municipality proceeds with the annexation when the property owners of a majority of the parcels located within the area proposed to be annexed fail to respond favorably to the offer to obtain water and sewer services, the municipality is not required to provide water and sewer services to any property owners in the area that is annexed.

(C) If the municipality does provide water and sewer services, and if a property owner requests those services, the municipality may charge the property owner for the connection to a residential lot under this section during the first five (5) years following the effective date of the annexation.

(D) After five (5) years, and only if connection is requested by a property owner under this section, the municipality may charge for the connection according to the municipality's policy.

(c)(1) The process required by this section shall be completed by the municipality at least thirty (30) days prior to the public hearing.

(2) The report required by this subchapter shall include the results of the process required by this section.

(d)(1) Any owner of real property located within the area described in the annexation ordinance may apply to participate in the water and sewer system after the completion of the process required by this section.

(2) The following costs of installation of water and sewer for a residential lot may be charged to an owner of real property located within the area described in the annexation ordinance who applies:

(A) Within the first year, an amount not to exceed fifty percent (50%) of average cost of installation;

(B) Within the second year, an amount not to exceed sixty percent (60%) of average cost of installation;

(C) Within the third year, an amount not to exceed seventy percent (70%) of average cost of installation;

(D) Within the fourth year, an amount not to exceed eighty percent (80%) of average cost of installation; and

(E) Within the fifth year, an amount not to exceed ninety percent (90%) of average cost of installation;

(3) Charges under this section shall be made when the water and sewer connection is operable.

(e)(1) The municipality may not charge for any reason any property owner within the area described in the annexation ordinance for the installation or use of the water or sewer system unless that property owner is or has requested to become a customer of the water or sewer system.

(2)(A) The initial installation of water or sewer connection lines to property shall be completed without charge to the property owner.

(B) Title to water or sewer connection lines shall vest in the property owner following completion of the initial installation.

(C) The property owner shall be responsible for maintenance and repair of water and sewer connection lines on the owner's property following the initial installation.

(3) If the municipality is unable to provide water or sewer service within three and one-half (3 1/2) years, as required by this section, due to permitting delays that are caused through no fault of the municipality, the municipality may petition the circuit court for a reasonable time extension.

(f) As used in this section:

(1)(A) "At no cost other than periodic user fees" means the municipality may not charge the property owner who responded favorably under this section for any costs associated with the installation of the water or sewer system.

(B) The municipality may not charge a property owner who applies to participate in the water and sewer system under this section before the first periodic user fee charge, and on that bill the owner may be charged no more than as provided in this section; and

(2) "Average installation of a connection for a residential lot" means the average of the cost for residential installations from curb to residence, including connection and tap fees, in the area described in the annexation ordinance.

14-40-307. Contract with rural fire department.

(a) If the area to be annexed described in a resolution of intent passed under this subchapter includes an area in a rural fire protection district or a fire service district, and a rural fire department was on the date of adoption of the resolution of intent providing fire protection in the area to be annexed, the municipality is required to make a good faith effort to negotiate a five-year contract with the rural fire department to provide fire protection in the area to be annexed, if the rural fire department makes a written request for a good faith offer, and the request is signed by the chief officer of the fire department and delivered to the city clerk no later than fifteen (15) days before the public hearing.

(b) If the area is a rural fire protection district or a fire service

district, an offer to pay annually for the term of the contract the amount of money that the tax rate in the district in effect on the date of adoption of the resolution of intent would generate based on property values on January 1 of each year in the area to be annexed which is in such a district is deemed to be a good faith offer of consideration for the contract.

(c) Any offer by a municipality to a rural fire department that would compensate the rural fire department for revenue loss directly attributable to the annexation by paying the amount annually for five (5) years is a good faith offer of consideration for the contract.

(d) Under this section, if the good faith offer is for first responder service, an offer of one-half (1/2) the calculated amount under this section is deemed to be a good faith offer.

(e) This section does not obligate a municipality or rural fire department to enter into any contract.

(f)(1) If it feels that no good faith offer has been made, the rural fire department may appeal to the circuit court within thirty (30) days following the passage of an annexation ordinance.

(2) The rural fire department may apply to the circuit court for an order staying the operation of the annexation ordinance pending the outcome of the review.

(3) The circuit court may grant or deny the stay in its discretion upon such terms as it deems proper, and it may permit annexation of any part of the area described in the ordinance concerning which no question for review has been raised, provided that no other appeal under this subchapter is pending.

(g) The circuit court may affirm the ordinance, or if the circuit court finds that no good faith offer has been made, it shall remand the ordinance to the governing body of the municipality for further proceedings, and the ordinance shall then not become effective unless the circuit court finds that a good faith offer has been made.

14-40-308. Assumption of debt.

(a) If the municipality has annexed any area which is served by a rural fire department, a rural fire protection district, or a fire service district, upon the effective date of annexation if the municipality has not contracted with the rural fire department for fire protection, or when the

rural fire department ceases to provide fire protection under contract, the municipality shall pay annually a proportionate share of any payments due on any debt, including principal and interest, relating to facilities or equipment of the rural fire department if the debt was existing at the time of adoption of the resolution of intent, with the payments in the same proportion that the assessed valuation of the area of the district annexed bears to the assessed valuation of the entire district on the date the annexation ordinance becomes effective or another date for valuation mutually agreed upon by the municipality and the fire department.

(b) The municipality and rural fire department shall jointly present a payment schedule to the circuit court for approval and no payment may be made until the schedule is approved.

14-40-309. Contract with private solid waste collection firms.

(a) If the area to be annexed described in a resolution of intent passed under this subchapter includes an area that a private solid waste collection firm services and:

(1) It meets the requirements of this section;

(2) On the ninetieth day preceding the date of adoption of the resolution of intent or resolution of consideration was providing solid waste collection services in the area to be annexed;

(3) On the date of adoption of the resolution of intent is still providing the services; and

(4) By reason of the annexation the firm's franchise with a county or arrangements with third parties for solid waste collection will be terminated, the municipality shall:

(A) Contract with the firm for a period of two (2) years after the effective date of the annexation ordinance to allow the firm to provide collection services to the municipality in the area to be annexed for sums determined under this section;

(B)(i) Pay the firm for the firm's economic loss, with one-third (1/3) of the economic loss to be paid within thirty (30) days of the termination and the balance paid in twelve (12) equal monthly installments during the next succeeding twelve (12) months.

(ii) Any remaining economic loss payment is forfeited if the firm terminates service to customers in the annexation area

prior to the effective date of the annexation; or

(C) Make other arrangements satisfactory to the parties.

(b) To qualify for the options set forth in this section, a firm shall have:

(1) After receiving notice of the annexation under this section, filed with the city clerk at least ten (10) days before the public hearing a written request to contract with the municipality to provide solid waste collection services containing a certification, signed by an officer or owner of the firm, that the firm serves at least fifty (50) customers within the county at that time; or

(2)(A) Contacted the city clerk under the public notice published by the municipality under this subchapter at least ten (10) days before the hearing and provided to the city clerk a written request to contract with the municipality to provide solid waste collection services.

(B) The request shall contain a certification signed by an officer or owner of the firm that the firm serves at least fifty (50) customers within the county at that time.

(c) Firms shall file notice of provision of solid waste collection service with the city clerk of the municipality of each municipality located in the firm's collection area or within five (5) miles of the collection area.

(d)(1) At least four (4) weeks before the date of the informational meeting under subsection (c) of this section, the municipality shall provide written notice of the resolution of intent to all firms serving the area to be annexed.

(2) The notice shall be sent to all firms that filed notice under this section by certified mail, return receipt requested, to the address provided by the firm.

(e) The municipality may require that the contract contain:

(1) A requirement that the private solid waste collection firm post a performance bond and maintain public liability insurance coverage;

(2) A requirement that the private solid waste collection firm agree to service customers in the annexed area that were not served by that firm on the effective date of annexation;

(3) A provision that divides the annexed area into service areas if more than one (1) private solid waste collection firm is being contracted

within the area, such that the entire area is served by the firms, or by the municipality to customers not served by the firms;

(4) A provision that the municipality may serve customers not served by the firm on the effective date of annexation;

(5) A provision that the contract can be cancelled in writing, delivered by certified mail to the firm in question with thirty (30) days to cure substantial violations of the contract, but no contract may be cancelled on these grounds unless the circuit court finds that substantial violations have occurred, except that the municipality may suspend the contract for up to thirty (30) days if it finds substantial violations of health laws;

(6) Performance standards not exceeding municipal standards existing at the time of notice published under this subchapter with a provision that the contract may be cancelled for substantial violations of those standards, but no contract may be cancelled on those grounds unless the circuit court finds that substantial violations have occurred; and

(7) A provision for monetary damages if there are violations of the contract or of performance standards.

(f)(1) If the services to be provided to the municipality by reason of the annexation are substantially the same as rendered under the franchise with the county or arrangements with the parties, the amount paid by the municipality shall be at least ninety percent (90%) of the amount paid or required under the existing franchise or arrangements.

(2) If the services are required to be adjusted to conform to municipal standards or as a result of changes in the number of customers and as a result there are changes in disposal costs, including mileage and landfill charges, requirements for storage capacity like dumpsters or residential carts, or frequency of collection, the amount paid by the municipality for the service shall be increased or decreased to reflect the value of such adjusted services as if computed under the existing franchise or arrangements.

(3) If agreement cannot be reached between the municipality and the firm under this subsection, the matters shall be determined by the circuit court.

(g)(1) If it contends that no contract has been offered, the firm may appeal to the circuit court within thirty (30) days following passage of an annexation ordinance.

(2) The firm may appeal to the circuit court for an order staying the operation of the annexation ordinance pending the outcome of the review.

(3) The circuit court may grant or deny the stay upon such terms as it deems proper.

(4) If the circuit court finds that the municipality has not made an offer that complies with this section, it shall remand the ordinance to the governing body of the municipality for further proceedings, and the ordinance shall not become effective until the circuit court finds that such an offer has been made.

(h)(1) A firm that has given notice under this section that it desires to contract, and any firm that the municipality believes is eligible to give the notice, shall make available to the municipality not later than thirty (30) days following a written request of the municipality, sent by certified mail return receipt requested, all information in its possession or control, including without limitation operational, financial, and budgetary information, necessary for the municipality to determine if the firm qualifies for the benefits of this section and to determine the nature and scope of the potential contract or economic loss.

(2) The firm forfeits its rights under this section if it fails to make a good faith response within thirty (30) days following receipt of the written request for information from the municipality, provided that the municipality's written request makes specific reference to this section.

(i) As used in this section:

(1) "Economic loss" means a sum equal to fifteen (15) times the average gross monthly revenue for the three (3) months prior to the passage of the resolution of intent or resolution of consideration, as applicable under this section, collected or due the firm for residential, commercial, and industrial collection service in the area annexed or to be annexed, provided that revenues shall be included in calculations under this subdivision only if policies of the city will provide solid waste collection to those customers such that arrangements between the firm and the customers will be terminated; and

(2) "Firm" means a private solid waste collection firm.

14-40-310. Appeal to circuit court.

(a) Within sixty (60) days following the adoption of the annexation ordinance, any owner of real property located within the area described in the annexation ordinance who believes that the property owner will suffer material injury by reason of the failure of the governing body of the municipality to comply with the procedure or to meet the requirements set forth in this section as it applies to the annexation may file a petition in the circuit court of the county in which the municipality is located seeking review of the action of the governing body of the municipality.

(b)(1) The petition shall explicitly state what exceptions are taken to the action of the governing body of the municipality and what relief the petitioner seeks.

(2) Within ten (10) days after the petition is filed with the court, the person seeking review shall serve copies of the petition by registered mail, return receipt requested, upon the municipality.

(c) Within fifteen (15) days after receipt of the copy of the petition for review or within such additional time as the court may allow, the municipality shall transmit to the reviewing court the following:

(1) A transcript of the portions of the municipal journal or minute book in which the procedure for annexation is set forth; and

(2) A copy of the report setting forth the plans for extending services to the annexed area as required in this subchapter.

(d) If two (2) or more petitions for review are submitted to the court, the court may consolidate all the petitions for review at a single hearing, and the municipality shall be required to submit only one (1) set of minutes and one (1) report as required in this section.

(e)(1) At any time before or during the review proceeding, any petitioner may apply to the reviewing court for an order staying the operation of the annexation ordinance pending the outcome of the review.

(2) The court may grant or deny the stay in its discretion upon such terms as it deems proper and may permit annexation of any part of the area described in the ordinance concerning which no question for review has been raised.

(f)(1) The court shall fix the date for review of annexation proceedings under this section, and the review date shall be expeditious and without unnecessary delays.

(2) The review shall be conducted by the court without a jury.

(3) The court may hear oral arguments, receive written briefs, and take evidence intended to show:

(A) That the statutory procedure was not followed; or

(B) That the provisions of this subchapter were not met.

(g) The court may affirm the action of the governing body of the municipality without change or:

(1) Remand the ordinance to the governing body of the municipality for further proceedings if procedural irregularities are found to have materially prejudiced the substantive rights of any of the petitioners;

(2) Remand the ordinance to the governing body of the municipality for amendment of the boundaries to conform to the provisions of this subchapter if it finds that the provisions of this subchapter have not been met, provided that the court cannot remand the ordinance to the governing body of the municipality with directions to add area to the municipality which was not included in the notice of public hearing and not provided for in plans for service;

(3) Remand the report to the governing body of the municipality for amendment of the plans for providing services under this subchapter or to correct errors in estimates made by the governing body of the municipality that fall below the standards in this subchapter; or

(4)(A) Declare the ordinance null and void if the court finds that the ordinance cannot be corrected by remand as provided in this section.

(B) If any municipality fails to take action in accordance with the court's order upon remand within ninety (90) days following entry of the order embodying the court's instructions, the annexation proceeding shall be deemed null and void.

(h)(1) Any party to the review proceedings, including the municipality, may appeal from the final judgment of the circuit court under the Arkansas Rules of Civil Procedure.

(2) With the agreement of the municipality, the circuit court may permit annexation to be effective with respect to any part of the area that is not subject to the appeal and that can be incorporated into the municipality without regard to any part of the area that is subject to the appeal.

(i)(1) If part or all of the area annexed under the terms of an

annexation ordinance is the subject of an appeal on the effective date of the ordinance, the ordinance shall be deemed amended to make the effective date with respect to such area the first June 30 at least six (6) months following the date of the final judgment of the appeals court, or the first June 30 at least six (6) months from the date the governing body of the municipality completes action to make the ordinance conform to the court's order in the event of remand.

(2) For the purposes of this section, a denial of a petition for rehearing or for discretionary review shall be treated as a final judgment.

(j) If a petition for review is filed under this section or an appeal is filed under this subchapter and a stay is granted, the time period of three and one-half (3½) years or otherwise under this subchapter are each extended by the lesser of the length of the stay or one (1) year for that annexation.

(k) This section shall apply to any judicial review authorized in whole or in part by this subchapter.

(l)(1) In any proceeding related to an annexation ordinance appeal under this section, a municipality shall not state a claim for lost property tax revenue caused by the appeal.

(2) This subchapter shall not be construed to mean that as a result of an appeal a municipality may assert a claim for property tax revenue lost during the pendency of the appeal.

(m)(1) Any settlement reached by all parties in an appeal under this section may be presented to the circuit court in the county in which the municipality is located.

(2) If the circuit court, in its discretion, approves the settlement, it shall be binding on all parties without approval by the General Assembly.

(n) If a final court order is issued against the annexing municipality, costs in the action, including reasonable attorneys' fees for an aggrieved person having a freehold interest in the real property located within the area described in the annexation ordinance may be charged to the municipality.

14-14-311. Annexation recorded.

(a) Whenever the limits of a municipality are enlarged under this

section, it shall be the duty of the mayor of the municipality to cause an accurate map of the annexed territory, together with a copy of the certified ordinance, to be recorded in the office of the recorder of deeds of the county in which the territory is situated and in the office of the Secretary of State.

(b) The documents required to be filed with the Secretary of State under this section shall be filed not later than thirty (30) days following the effective date of the annexation ordinance.

(c) All documents shall have an identifying number and shall conform in size in accordance with rules prescribed by the Secretary of State.

(d) Failure to file within thirty (30) days shall not affect the validity of the annexation.

(e) Any annexation shall be reported as part of the Boundary and Annexation Survey of the United States Census Bureau.

14-40-312. Authorized expenditures.

(a) Municipalities initiating annexations under this subchapter are authorized to make expenditures for surveys required to describe the property under consideration or for any other purpose necessary to plan for the study or annexation of unincorporated territory adjacent to the municipality.

(b) Following final passage of the annexation ordinance, the annexing municipality may proceed with expenditures for construction of water and sewer lines and other capital facilities and for any other purpose calculated to bring services into the annexed area in a more effective and expeditious manner before the effective date of annexation.

14-14-313. Population and land estimates.

(a) In determining population and degree of land subdivision for purposes of meeting the requirements of this subchapter, the municipality shall use methods calculated to provide reasonably accurate results.

(b) In determining whether the standards under this subchapter have been met on appeal to the circuit court under this subchapter, the reviewing court shall accept the estimates of the municipality unless the actual population, total area, or degree of land subdivision falls below the standards in this subchapter:

(1)(A) As to population, if the estimate is based on the number

of dwelling units in the area multiplied by the average family size in the area or in the township of which the area is a part, as determined by the most recent federal decennial census; or

(B) If the estimate is based on a new enumeration carried out under reasonable rules and regulations by the annexing municipality, provided that the court shall not accept the estimates if the petitioners demonstrate that the estimates are in error in the amount of ten percent (10%) or more;

(2) As to total area, if the estimate is based on an actual survey, county tax maps or records, aerial photographs, or some other reasonably reliable map used for official purposes by a governmental agency, unless the petitioners on appeal demonstrate that such estimates are in error in the amount of five percent (5%) or more; and

(3) As to degree of land subdivision, if the estimates are based on an actual survey, county tax maps or records, aerial photographs, or some other reasonably reliable source, unless the petitioners on appeal show that such estimates are in error in the amount of five percent (5%) or more.

14-14-314. Referendum prior to involuntary annexation ordinance.

(a)(1) After the adoption of the resolution of intent under this section, the municipality shall place the question of annexation on the ballot.

(2) The governing body of the municipality shall notify the appropriate county board of election commissioners of the adoption of the resolution of intent and provide a legible map and clear written description of the proposed annexation area.

(b) The governing body of the municipality shall adopt a resolution setting the date for the referendum and notify the appropriate county board of election commissioners.

(c)(1) The county board of election commissioners shall cause legal notice of the election to be published.

(2) The notice shall include the general statement of the referendum.

(3) The referendum shall be conducted, returned, and the results declared as in other municipal elections in the municipality.

(4) Only registered voters of the proposed annexation area shall

be allowed to vote on the referendum.

(d) The referendum of any number of proposed involuntary annexations may be submitted at the same election, but each proposed involuntary annexation shall be in an entirely separate ballot question.

(e) The ballots used in a referendum shall submit the following proposition:

"[] FOR [] AGAINST

The annexation of (clear description of the proposed annexation area)."

(f)(1) If less than a majority of the votes cast on the referendum are for annexation, the governing body of the municipality shall not proceed with the adoption of the annexation ordinance or begin a separate involuntary annexation process with respect to that proposed annexation area for at least thirty-six (36) months from the date of the referendum.

(2) If a majority of the votes cast on the referendum are for annexation, the governing body of the municipality shall proceed with the adoption of the annexation ordinance under this subchapter.

SECTION 5. Arkansas Code Title 14, Chapter 40, Subchapter 5 is repealed.

~~14-40-501. Authority—Exceptions.~~

~~(a)(1)(A)(i) Whenever the incorporated limits of a municipality have completely surrounded an unincorporated area, the governing body of the municipality may propose an ordinance calling for the annexation of the land surrounded by the municipality.~~

~~(ii) Subdivision (a)(1)(A)(i) of this section shall include situations in which the incorporated limits of a municipality completely have surrounded an unincorporated area on only three (3) sides because the fourth side is a boundary line with another state.~~

~~(B) If the incorporated limits of two (2) or more municipalities have completely surrounded an unincorporated area, the governing body of the municipality with the greater distance of city limits adjoining the unincorporated area's perimeter may propose an ordinance calling for the annexation of the land surrounded by the municipalities, unless it is agreed by the adjoining municipalities that another of the adjoining municipalities should propose an ordinance calling for the~~

~~annexation.~~

~~(2) The ordinance will provide a legal description of the land to be annexed and describe generally the services to be extended to the area to be annexed.~~

~~(b)(1) The unincorporated area to be annexed shall comply with the standards for lands qualifying for annexation which are set forth in § 14-40-302.~~

~~(2) Privately owned lakes exceeding six (6) acres of water surface which are used exclusively for recreational purposes and lands adjacent to them not exceeding twenty (20) acres in size which are used exclusively for recreational purposes in relation to the lake shall not qualify for annexation under the provisions of this subchapter.~~

~~14-40-502. Hearing—Notice.~~

~~(a) A public hearing shall be conducted within sixty (60) days of the proposal of the ordinance calling for annexation.~~

~~(b) At least fifteen (15) days prior to the date of the public hearing, the governing body of the municipality shall publish a legal notice setting out the legal description of the territory proposed to be annexed and notify by certified mail all the property owners within the area proposed to be annexed of their right to appear at the public hearing to present their views on the proposed annexation.~~

~~14-40-503. Procedure for annexation.~~

~~(a)(1)(A) Except as provided in subdivision (a)(1)(B) of this section, at the next regularly scheduled meeting following the public hearing, the governing body of the municipality proposing annexation may bring the proposed ordinance up for a vote.~~

~~(B) An ordinance shall not be enacted within fifty-one (51) days of a scheduled election to consider annexing all or part of the area in question.~~

~~(2) If a majority of the total number of members of the governing body vote for the proposed annexation ordinance, then a prima facie case for annexation shall be established, and the city shall proceed to render services to the annexed area.~~

~~(b) The decision of the municipal council shall be final unless suit~~

~~is brought in circuit court of the appropriate county within thirty (30) days after passage to review the actions of the governing body.~~

SECTION 6. Arkansas Code § 14-40-601 is repealed.

~~14-40-601.—Application by petition.~~

~~(a) Whenever a majority of the real estate owners of any part of a county contiguous to and adjoining any city or incorporated town shall desire to be annexed to the city or town, they may apply, by petition in writing, to the county court of the county in which the city or town is situated and shall name the persons authorized to act on behalf of the petitioners.~~

~~(b) The “majority of real estate owners” referred to in this section shall mean a majority of the total number of real estate owners in the area affected, if the majority of the total number of owners shall own more than one-half (½) of the acreage affected.~~

SECTION 7. Arkansas Code § 14-40-602 is repealed.

~~14-40-602.—Hearing on petition.~~

~~(a)(1) When the petition shall be presented to the county court, the clerk shall file it, and the court shall set a date for a hearing on the petition.~~

~~(2) The date for the hearing shall not be less than thirty (30) days after the filing of the petition.~~

~~(b)(1)(A) Between the time of the filing of the petition and the date of the hearing, the petitioners shall cause a notice to be published in some newspaper of general circulation in the county.~~

~~(B) The notice shall be published one (1) time a week for three (3) consecutive weeks.~~

~~(2) If there is no newspaper of general circulation in the county, notice shall be posted at some public place within the limits of the incorporated town or city for at least three (3) weeks before the date of the hearing.~~

~~(3) The notice referred to in this subsection shall contain the substance of the petition and state the time and place appointed for the hearing thereof.~~

~~(c) The hearing procedure set forth in § 14-38-103 shall be followed in the proceedings concerned in this section insofar as such procedure is not~~

~~in conflict with any provision expressly set out in this subchapter.~~

SECTION 8. Arkansas Code § 14-40-603 is repealed.

~~14-40-603.—Order for annexation.~~

~~(a)—After the hearing, if the county court shall be satisfied that the allegations of the petition were sustained by the proof, if the court shall be satisfied that the requirements for signatures under § 14-40-601 have been complied with, and if the court shall be satisfied that the limits of the territory to be annexed have been accurately described and an accurate map thereof made and filed, and that the prayer of the petitioner is right and proper, then the court shall enter its order granting the petition and annexing the territory.~~

~~(b)—The order shall be recorded by the clerk of the county.~~

SECTION 9. Arkansas Code § 14-40-604 is repealed.

~~14-40-604.—Proceedings to prevent annexation.~~

~~(a)(1)—No further action shall be taken for a period of thirty (30) days after the order for annexation has been entered. Within that time any person interested may institute a proceeding in the circuit court to have the annexation prevented.~~

~~(2)(A)—If the court or judge hearing the proceeding shall be satisfied that the requirements for annexation as set out in this subchapter have not been complied with, that the territory proposed to be annexed is unreasonably large, or that the territory is not properly described, the court or judge shall make an order restraining any further action under the order of the county court and annulling it. However, such proceeding shall not bar any subsequent petition.~~

~~(B)—If the court or judge shall determine that the order of the county court was proper, then the order of the county court shall be affirmed, and the proceedings to prevent the annexation shall be dismissed.~~

~~(b)—When any complaint shall be made in accordance with this section to prevent an annexation of territory, notice thereof shall be given to the city or incorporated town authorities and the agent of the petitioners.~~

SECTION 10. Arkansas Code § 14-40-605 is repealed.

~~14-40-605.—Confirmation of annexation.~~

~~(a) If no notice shall be given within thirty (30) days from the making of the order of annexation by the county court, the proceeding before the court shall in all things be confirmed, if the city or incorporated town council shall, by ordinance or resolution, accept the territory.~~

~~(b)(1) If the council accepts the territory, the county clerk shall duly certify one (1) copy of the plat of the annexed territory and one (1) copy of the order of the court and the resolution or ordinance of the council. The clerk shall forward a copy of each document to the Secretary of State, who shall file and preserve them. The clerk shall forward one (1) copy of the plat of the annexed territory and one (1) copy of the order of the court to the Director of the Tax Division of the Arkansas Public Service Commission, who shall file and preserve them and shall notify all utility companies having property in the municipality of the annexation.~~

~~(2) The clerk shall forward a certified copy of the order of the court to the council.~~

SECTION 11. Arkansas Code § 14-40-606 is repealed.

~~14-40-606. Rights and privileges of new inhabitants.~~

~~As soon as the resolution or ordinance declaring the annexation has been adopted or passed, the territory shall be deemed and taken to be a part and parcel of the limits of the city or incorporated town, and the inhabitants residing therein shall have and enjoy all the rights and privileges of the inhabitants within the original limits of the city or incorporated town.~~

SECTION 12. Arkansas Code § 14-40-608 is repealed.

~~14-40-608. Right to detach certain lands after an annexation proceeding.~~

~~(a) Within eight (8) years after an annexation proceeding is completed under the provisions of this subchapter and the land remains the boundary of the city or town, the person owning all lands originally annexed into the city or town may be authorized to detach those annexed lands from the city or town under the provisions of this section, so long as the city or town has not provided utility services to those lands.~~

~~(b)(1) When a qualifying landowner notifies the municipality that he or she wishes to detach his or her land from the city or town under this~~

~~section, the governing body of the municipality may pass an ordinance within thirty (30) days to detach the annexed, qualifying land from the municipality.~~

~~(2)(A) In order to notify the city or town, the landowner shall file an affidavit with the city clerk or recorder stating that:~~

~~(i) His or her land was annexed;~~

~~(ii) His or her land is located inside the city or town along the municipal boundary; and~~

~~(iii) He or she desires the annexed land to be detached from the municipality.~~

~~(B) The affidavit shall be filed along with a certified copy of the plat of the annexed land he or she desires to be detached and a copy of the order of the county court approving the annexation and the resolution or ordinance of the municipal governing body accepting the annexation.~~

~~(c) If the municipal governing body approves the ordinance to detach the territory, the clerk or recorder of the municipality shall duly certify and send one (1) copy of the plat of the detached territory, one (1) copy of the ordinance detaching the territory, and one (1) copy of the qualifying affidavit to the county clerk.~~

~~(d)(1) The county clerk shall forward a copy of each document to the Secretary of State, who shall file and preserve them.~~

~~(2) The county clerk shall forward one (1) copy of the plat of the detached territory and one (1) copy of the ordinance detaching the territory to the Director of the Tax Division of the Arkansas Public Service Commission, who shall file and preserve them and shall notify all utility companies having property in the municipality of the detachment proceedings.~~

SECTION 13. Arkansas Code Title 14, Chapter 40, Subchapter 6, is amended to add an additional section to read as follows:

14-40-609. Annexation by petition.

(a)(1) The governing body of a municipality may annex by ordinance any area contiguous to its boundaries upon presentation to the governing body of a petition signed by the owners of all the real property located within the area.

(2) The petition shall be signed by each owner of real property

in the area and shall contain the address of each owner.

(b) The petition shall be prepared in substantially the following form:

DATE:

To the _____ (name of governing body) of the (City or Town) of _____.

1. We the undersigned owners of real property respectfully request that the area described in paragraph 2 below be annexed to the (City or Town) of _____.

2. The area to be annexed is contiguous to the (City or Town) of _____ and the boundaries of the territory are as follows:

(c)(1) If fifty-one percent (51%) of the households in an area petitioning for annexation under this section have incomes that are two hundred percent (200%) or less than the most recently published United States Census Bureau poverty thresholds, a governing body of the municipality shall annex by ordinance any area the population of which is no more than ten percent (10%) of that of the municipality and one-eighth (1/8) of the aggregate external boundaries of which are contiguous to its boundaries, upon presentation to the governing body of a petition signed by the owners of at least seventy-five percent (75%) of the parcels of real property in that area.

(2) A municipality shall not be required to adopt more than one (1) ordinance under this subsection within a thirty-six month period.

(d) The petition under this section shall be prepared in substantially the following form:

DATE:

To the _____ (name of governing body) of the (City or Town) of _____.

1. We the undersigned owners of real property believe that the area described in paragraph 2 below meets the requirements of law and respectfully request that the area described in paragraph 2 below be annexed to the (City or Town) of _____.

2. The area to be annexed is contiguous to the (City or Town) of _____, and the boundaries of the territory are as follows:

(e)(1) Upon receipt of the petition, the governing body of the municipality shall cause the city clerk to investigate the sufficiency

thereof and to certify the result of the investigation.

(2) For petitions received under this section, the clerk shall receive the evidence provided under this section before certifying the sufficiency of the petition.

(3) Upon receipt of the certification, the governing body of the municipality shall fix a date for a public hearing on the question of annexation and shall cause notice of the public hearing to be published one (1) time in a newspaper having general circulation in the municipality at least ten (10) days prior to the date of the public hearing, if there is no newspaper, the governing body of the municipality shall have notices posted in three (3) or more public places within the area to be annexed and three (3) or more public places within the municipality.

(f)(1) At the public hearing, persons residing or owning property in the area described in the petition and persons residing or owning property in the municipality shall be given an opportunity to be heard.

(2) The governing body of the municipality shall then determine whether the petition meets the requirements of this section.

(3) Upon a finding that the petition that was submitted under this section meets the requirements of this section, the governing body of the municipality shall have authority to pass an ordinance annexing the territory described in the petition.

(4) The governing body of the municipality shall have authority to make the annexing ordinance effective immediately or on the June 30 after the date of the passage of the ordinance or the June 30 of the following year after the date of passage of the ordinance.

(g) Upon a finding that a petition submitted under this section meets the requirements of this section, the governing body of the municipality shall have the authority to adopt an annexation ordinance for the area with an effective date no later than twenty-four (24) months after the adoption of the ordinance.

(h)(1)(A) Upon a finding that a petition submitted under this section meets the requirements of this section, the governing body of the municipality shall within sixty (60) days of the finding estimate the capital cost to the municipality of extending water and sewer lines to all parcels within the area covered by the petition and estimate the annual debt service payment that would be required if those costs were financed by a twenty-year

revenue bond.

(B) If the estimated annual debt service payment is less than five percent (5%) of the municipality's annual water and sewer systems revenue for the most recent fiscal year, then the governing body of the municipality within thirty (30) days shall adopt an annexation ordinance for the area with an effective date no later than twenty-four (24) months after the adoption of the ordinance.

(C) If the estimated annual debt service payment is greater than or equal to five percent (5%) of the municipality's annual water and sewer systems revenue for the most recent fiscal year, then the governing body of the municipality may adopt a resolution declining to annex the area.

(D) If a resolution is adopted, the governing body of the municipality shall immediately submit a request to the circuit court of the county to certify that its estimate of the annual debt service payment is reasonable based on established governmental accounting principles.

(2)(A) If the circuit court of the county certifies the estimate, the municipality is not required to annex the area and no petition to annex the area may be submitted under this section for thirty-six (36) months following the certification.

(B) During the thirty-six month period, the municipality shall make ongoing annual good faith efforts to secure Community Development Block Grants or other grant funding for extending water and sewer service to all parcels in the areas covered by the petition.

(C) If sufficient funding is secured so that the estimated capital cost to the municipality for extending water and sewer service, less the funds secured, would result in an annual debt service payment cost to the municipality of less than five percent (5%) of the municipality's annual water and sewer systems revenue for the most recent fiscal year, the governing body of the municipality shall within thirty (30) days adopt an annexation ordinance for the area with an effective date no later than twenty-four (24) months after the adoption of the ordinance.

(3) If the circuit court of the county notifies the governing body of the municipality that the estimates are not reasonable based on established governmental accounting principles and that a reasonable estimate of the annual debt service payment is less than five percent (5%) of the municipality's annual water and sewer systems revenue for the most recent

fiscal year, the governing body of the municipality within thirty (30) days of the notification shall adopt an annexation ordinance for the area with an effective date no later than twenty-four (24) months after the adoption of the ordinance.

(i) Municipal services shall be provided to an area annexed under this section in accordance with this subchapter.

(j)(1) From and after the effective date of the annexation ordinance, the annexed area and its citizens and property shall be subject to all debts, laws, ordinances, and regulations in force in the municipality and shall be entitled to the same privileges and benefits as other parts of the municipality.

(2) Real and personal property in the newly annexed territory on the January 1 immediately preceding the beginning of the fiscal year in which the annexation becomes effective is subject to municipal taxes as provided in this subchapter.

(3) If the effective date of annexation falls between June 1 and June 30, and the effective date of the privilege license tax ordinance of the annexing municipality is June 1, businesses in the area to be annexed shall be liable for taxes imposed in the ordinance from and after the effective date of annexation.

(k)(1) As used in this section, an area is "contiguous" if at the time the petition is submitted the area either abuts directly on the municipal boundary or is separated from the municipal boundary by the width of a street or street right-of-way, a creek or river, or the right-of-way of a railroad or other public service corporation, lands owned by the municipality or some other political subdivision, or lands owned by the State of Arkansas.

(2) A connecting corridor consisting solely of a street or street right-of-way may not be used to establish contiguity.

(3) In describing the area to be annexed in the annexation ordinance, the governing body of the municipality may include within the description any territory described in this section that separates the municipal boundary from the area petitioning for annexation.

(l)(1) The governing body of the municipality may initiate annexation of contiguous property owned by the municipality by adopting a resolution stating its intent to annex the property in lieu of filing a petition.

(2) The resolution shall contain an adequate description of the

property, state that the property is contiguous to the municipal boundaries, and fix a date for a public hearing on the question of annexation.

(3) Notice of the public hearing shall be published under this section.

(4) The governing body of the municipality may hold the public hearing and adopt the annexation ordinance under this section.

(m)(1) A governing body of a municipality that receives a petition for annexation under this section may by ordinance require that the petitioners file a signed statement declaring whether or not vested rights with respect to the properties subject to the petition have been established under this subchapter.

(2) If the statement declares that the rights have been established, the municipality may require petitioners to provide proof of the rights.

(3) A statement that declares no vested rights have been established under this subchapter are binding on the landowner and any vested right is terminated.

(n)(1) A municipality has no authority to adopt a resolution or petition itself under this section for annexation of property it does not own or have any legal interest in.

(2) For the purpose of this section, a municipality has no legal interest in a state-maintained street unless it owns the underlying fee and not just an easement.

(o)(1) Using the procedures under this section, the governing body of a municipality may annex by ordinance any distressed area contiguous to its boundaries upon presentation to the governing body of a municipality of a petition signed by at least one (1) adult resident of at least two-thirds (2/3) of the resident households located within such area.

(2) As used in this section, a "distressed area" is an area in which at least fifty-one percent (51%) of the households in the area petitioning to be annexed have incomes that are two hundred percent (200%) or less than the most recently published United States Census Bureau poverty thresholds.

(3) The municipality may require reasonable proof that the petitioner in fact resides at the address indicated.

(p) The petition under this section shall be prepared in substantially

the following form:

DATE:

To the _____ (name of governing body) of the (City or Town) of _____

1. We the undersigned residents of real property believe that the area described in paragraph 2 below meets the requirements of law and respectfully request that the area described in paragraph 2 below be annexed to the (City or Town) of _____.

2. The area to be annexed is contiguous to the (City or Town) of _____, and the boundaries of the territory are as follows:

(q)(1) For purposes of determining whether the percentage of households in the area petitioning for annexation meets the poverty thresholds under this section, the petitioners shall submit to the governing body of the municipality any reasonable evidence that demonstrates the area in fact meets the income requirements of this section.

(2) The evidence presented may include data from the most recent federal decennial census, other official census documents, signed affidavits by at least one (1) adult resident of the household attesting to the household size and income level, or any other documentation verifying the incomes for a majority of the households within the petitioning area.

(3) Petitioners may select to submit name, address, and social security number to the city clerk, who shall in turn submit the information to the Department of Finance and Administration.

(4) The information shall be kept confidential and is not a public record under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(5) The department shall provide the municipality with a summary report of income for households in the petitioning area.

(6) Information for the report shall be gathered from income tax returns, but the report submitted to the municipality shall not identify individuals or households.