

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

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1922

By: Representative Lundstrum

By: Senator L. Eads

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING THE PROCEDURES FOR ANNEXATION INTO AN ADJOINING MUNICIPALITY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING THE PROCEDURES FOR ANNEXATION INTO AN ADJOINING MUNICIPALITY.

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

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

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

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

(b) The following procedure shall apply:

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

(A) The municipality is not providing the specific



municipal services, or the property does not receive the specific municipal services, necessary to create improvements, provide employment or additional employment, subdivide, or otherwise maximize the use and value of the property;

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

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

(D)(i) The municipality is requested to make a commitment to take substantial steps, within ~~one hundred eighty (180)~~ ninety (90) days after the ~~statement~~ commitment is filed, toward providing the additional municipal services and, within each thirty-day period thereafter, to ~~continue taking~~ take the steps to demonstrate a consistent commitment to provide the municipal service within a reasonable time, as determined by the kind of municipal services requested.

(ii) The commitment ~~must~~ shall be made in writing to the landowner, with a copy of the commitment filed with the city clerk or recorder of the other municipality, within thirty (30) calendar days of the filing of the statement, or the landowner may seek to have the land detached from the municipality and annexed into the other municipality.

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

(E) The costs of additional municipal services shall be the responsibility of the landowner or landowners to the extent required by the municipality's regulations for the development of land or the provisions of municipal services being requested;

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

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

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

this section;

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

(B)(i) The annexation shall be void and the land shall be returned to the original municipality if the annexing municipality fails to take substantial steps within ~~one hundred eighty (180)~~ ninety (90) days after the passage of the ordinance, ~~resolution, or motion~~ to make the municipal services available and, within each thirty-day period thereafter, continues taking steps demonstrating a consistent commitment to make the additional municipal service available within a reasonable time, as determined by the kind of municipal services requested.

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

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

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

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

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

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

SECTION 2. Arkansas Code § 14-40-2004 is amended to read as follows:
14-40-2004. Hearing in circuit court – Appeal.

(a)(1) The circuit courts of the state shall have exclusive jurisdiction to hear all matters related to this subchapter.

(2) The circuit court of the county in which the municipalities are located or, in the event that the municipalities are located in different counties or judicial districts, the circuit court of the county or judicial district that has within the county's or judicial district's boundaries the smallest of the two (2) municipalities in population according to the latest federal decennial census, shall have exclusive jurisdiction to hear all matters related to this subchapter.

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

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

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

(c) The petition under subdivision (b)(1) of this section shall be filed no later than ~~twenty (20)~~ thirty (30) days after the adoption or rejection of the ordinance, ~~resolution, or motion~~ bringing the subject property into the annexing jurisdiction.

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

SECTION 3. Arkansas Code § 14-40-2006 is repealed.

~~14-40-2006. Provision of municipal services.~~

~~In a municipal services matter under this subchapter, if a city or incorporated town from which the inhabitants detached determines that the scheduled services are available or became available to the detaching inhabitants by the city or incorporated town to which the inhabitants were~~

~~annexed into, the inhabitants shall automatically be detached and annexed back into the original city or incorporated town after the expiration of one hundred eighty (180) days following the date the schedule of services became available to the inhabitants and the inhabitants have not used the services.~~