

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

State of Arkansas
95th General Assembly
Regular Session, 2025

As Engrossed: S4/2/25

A Bill

SENATE BILL 525

By: Senator M. Johnson
By: Representative Brooks

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING INCORPORATION AND ORGANIZATION OF MUNICIPALITIES; TO TRANSFER INCORPORATION DUTIES TO THE SECRETARY OF STATE; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING INCORPORATION AND ORGANIZATION OF MUNICIPALITIES; AND TO TRANSFER INCORPORATION DUTIES TO THE SECRETARY OF STATE.

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

SECTION 1. Arkansas Code § 14-38-101 is amended to read as follows:

14-38-101. Petition for incorporation.

(a)(1) When the inhabitants of a part of any county not embraced within the limits of any city or incorporated town shall desire to be organized into a city or incorporated town, they may apply, by a petition in writing, signed by the greater of either ~~two hundred (200)~~ seventy-five (75) or a majority of the qualified voters residing within the described territory, to the county court of the proper county.

(2) The petition shall:

(A) Describe the territory proposed to be embraced in the incorporated town and have annexed to it an accurate map or plat of the territory;

(B) State the name proposed for the incorporated town; and



(C) Name the persons authorized to act in behalf of the petitioners in prosecuting the petition.

(b)(1) Unless the governing body of the municipal corporation has affirmatively consented to the incorporation by written resolution or the area that seeks to be incorporated contains a population of one thousand five hundred (1,500) or more, the ~~court~~ Secretary of State shall not approve the incorporation of a municipality if any portion of the territory proposed to be embraced in the incorporated town lies within:

(A) Three (3) miles of an existing municipal corporation;
or

(B) The area in which that existing municipal corporation is exercising its planning territorial jurisdiction.

(2) The planning territorial jurisdiction limitation shall not apply if the area proposed to be incorporated is land upon which a real estate development by a single developer, containing not less than four thousand (4,000) acres, has been or is being developed under a comprehensive plan for a community containing streets and other public services, parks, and other recreational facilities for common use by the residents of the community, churches, schools, and commercial and residential facilities, and which has been subdivided into sufficient lots for residential use to accommodate a projected population of not fewer than one thousand (1,000) persons, and for which a statement of record has been filed with the United States Secretary of Housing and Urban Development under the Interstate Land Sales Full Disclosure Act.

(c)(1) When any petition shall be presented to the court, it shall be filed in the office of the county clerk, to be kept there, subject to the inspection of any persons interested, until the time appointed for the hearing of it.

(2) The county clerk shall verify the signatures of the petition within thirty (30) days of receipt of the petition.

(3) If the petition is verified by the county clerk under subdivision (c)(2) of this section, the county clerk shall submit a copy of the verified petition to the Secretary of State.

(d)(1) At or before the time of the filing, the ~~court~~ Secretary of State shall fix and communicate to the petitioners, or their agent, a time and place for the hearing of the petition, which time shall not be less than

thirty (30) days after the filing of the petition.

(2)(A)(i) ~~Thereupon, the~~ The petitioners or their agent shall cause a notice to be published in some newspaper of general circulation in the county for not less than three (3) consecutive weeks.

(ii) If there is no newspaper of general circulation in the county, a notice shall be posted at some public place within the limits of the proposed incorporated town for at least three (3) weeks before the time of the hearing.

(B) The notice shall contain the substance of the petition and state the time and place appointed for the hearing.

(3) The Secretary of State shall publish notice of the hearing at least three (3) weeks before the hearing on the Secretary of State's website.

SECTION 2. Arkansas Code § 14-38-103 is amended to read as follows:
14-38-103. Hearing on petition.

(a)(1) Every incorporation hearing under this chapter shall be public and may be adjourned from time to time.

(2) Any person interested may appear and contest the granting of the prayer of the petition, and affidavits in support of or against the petition, which may be prepared and submitted, shall be examined by the ~~county court~~ Secretary of State.

(b)(1) ~~In its~~ At his or her discretion, the ~~court~~ Secretary of State may permit the agent named in the original petition to amend or change it.

(2) ~~However, no~~ No amendment shall be permitted whereby territory not before embraced shall be added or the character of the proposed city or incorporated town changed from special to general, or from general to special, without appointing another time for a hearing and requiring new notice to be given as provided in § 14-38-101.

SECTION 3. Arkansas Code § 14-38-104 is amended to read as follows:
14-38-104. Order of incorporation – Transcript.

(a) The ~~county court~~ Secretary of State shall make out and endorse on the petition an order to the effect that the city or incorporated town as named and described in the petition may be organized if the ~~court~~ Secretary of State shall be satisfied after hearing the petition that:

(1) The greater of either ~~two hundred (200)~~ seventy-five (75) or a majority of the qualified voters residing within the described territory have signed the petition;

(2) The limits have been accurately described and an accurate map or plat of the limits made and filed;

(3) The name proposed for the city or incorporated town is proper and sufficient to distinguish it from others of like kind in the state; and

(4) ~~Moreover, that it shall be deemed right and proper in the judgment and discretion of the court that the petition shall be granted~~ The proposed business plan sufficiently addresses the continuation of services which may include without limitation:

(A) Police services;

(B) Fire services;

(C) Utilities; and

(D) Trash services.

(b)(1) The order shall be signed and delivered by the ~~court~~ Secretary of State, together with the petition and the map or plat, to the recorder of the county, whose duty it shall be to record it as soon as possible in the proper book or records and to file and preserve in his or her office the original papers, having certified thereon that it has been properly recorded.

(2)(A) It shall also be the duty of the recorder to make out and certify, under his or her official seal, two (2) transcripts of the record.

(B) The recorder shall forward one (1) copy to the Secretary of State and deliver one (1) copy to the agent of the petitioners, with a certificate thereon that a similar transcript has been forwarded to the Secretary of State as provided by this section.

(c) A petition for incorporation under this chapter shall not be denied because the proposed boundaries of the municipality fall within more than one (1) county.

SECTION 4. Arkansas Code § 14-38-107(b), concerning hearing on a complaint for incorporation, is amended to read as follows:

(b) If it shall appear to the satisfaction of the court or judge that the proposed city or incorporated town does not contain the requisite number of inhabitants, that a majority of them have not signed the original

petition, or that the limits of the proposed city or incorporated town are ~~unreasonably large or small or are not properly and sufficiently not~~ accurately described, then the court or judge shall order the record of the incorporated town to be annulled.

SECTION 5. Arkansas Code § 14-38-117 is amended to read as follows:

14-38-117. Effective date of incorporation required.

(a)(1) The ~~county court~~ order of incorporation affecting territory under this chapter shall include the effective date upon which the petition for incorporation is granted and the municipality is considered organized.

(2) ~~County court orders~~ An order issued under this chapter that ~~fail~~ fails to include a specified effective date in the order shall require using the date of the county clerk's file mark as the effective date for all purposes.

(b) The effective date specified in the order of incorporation issued under § 14-38-104 is the official effective date to be used by any county or state official charged with recording, forwarding, maintaining, or instituting the order of incorporation.

(c)(1) In the event of a circuit court challenge to the ~~county court~~ order of incorporation, the final order of the circuit court shall specify a change to the effective date, if any.

(2) In the absence of a specific attestation, the ~~county court-~~
~~ordered~~ effective date that appears on the signed order of incorporation is the effective date.

SECTION 6. Arkansas Code Title 14, Chapter 38, Subchapter 1, is amended to add an additional section to read as follows:

14-38-118. Rules.

The Secretary of State may promulgate rules to implement this subchapter.

/s/M. Johnson