

1 State of Arkansas  
2 95th General Assembly  
3 Regular Session, 2025  
4

As Engrossed: S4/2/25

# A Bill

SENATE BILL 525

5 By: Senator M. Johnson  
6 By: Representative Brooks  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE LAW CONCERNING INCORPORATION AND  
10 ORGANIZATION OF MUNICIPALITIES; TO TRANSFER  
11 INCORPORATION DUTIES TO THE SECRETARY OF STATE; AND  
12 FOR OTHER PURPOSES.  
13

### Subtitle

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15 TO AMEND THE LAW CONCERNING  
16 INCORPORATION AND ORGANIZATION OF  
17 MUNICIPALITIES; AND TO TRANSFER  
18 INCORPORATION DUTIES TO THE SECRETARY OF  
19 STATE.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. Arkansas Code § 14-38-101 is amended to read as follows:

25 14-38-101. Petition for incorporation.

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

32 (2) The petition shall:

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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15 SECTION 2. Arkansas Code § 14-38-103 is amended to read as follows:  
16 14-38-103. Hearing on petition.

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

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

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

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

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31 SECTION 3. Arkansas Code § 14-38-104 is amended to read as follows:  
32 14-38-104. Order of incorporation – Transcript.

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

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

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

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

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

13 (A) Police services;

14 (B) Fire services;

15 (C) Utilities; and

16 (D) Trash services.

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

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

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

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

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

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

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

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

7 14-38-117. Effective date of incorporation required.

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

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

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

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

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

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

28 14-38-118. Rules.

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

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32 /s/M. Johnson  
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