

SECOND REGULAR SESSION

HOUSE BILL NO. 1647

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WOOD (Sponsor) AND WASSON (Co-sponsor).

Read 1st time February 2, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5007L.011

AN ACT

To repeal section 72.080, RSMo, and to enact in lieu thereof one new section relating to incorporation of cities.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 72.080, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 72.080, to read as follows:

72.080. 1. Any unincorporated city, town or other area of the state may, except as otherwise provided in sections 72.400 to 72.420, become a city of the class to which its population would entitle it pursuant to this chapter, and be incorporated pursuant to the law for the government of cities of that class, in the following manner:

(1) Whenever a number of voters equal to [fifteen] **twenty-five** percent of the [votes cast in the last gubernatorial election] **registered voters** in the area proposed to be incorporated shall present a petition to the governing body of the county in which such city or town or area is situated, such petition shall describe, by metes and bounds, the area to be incorporated and be accompanied by a plat thereof, shall state the approximate population and the assessed valuation of all real and personal property in the area and shall state facts showing that the proposed city shall have the ability to furnish normal municipal services within a reasonable time after its incorporation is to become effective and praying that the question be submitted to determine if it may be incorporated[. If the governing body shall be satisfied that a number of voters equal to fifteen percent of the votes cast in the last gubernatorial election in the area proposed to be incorporated have signed such petition,];

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (2) The governing body shall submit the question to the voters **if the governing body**
17 **is satisfied that:**

18 (a) **A number of voters equal to twenty-five percent of the registered voters in the**
19 **area proposed to be incorporated properly signed the petition;**

20 (b) **The area sought to be incorporated is contiguous territory that contains at least**
21 **one square mile and one hundred inhabitants residing in permanent dwellings; and**

22 (c) **The area sought to be incorporated has sufficient assessed valuation of property**
23 **for an ad valorem tax base, the potential ability to function as a municipality, and the**
24 **ability to furnish normal municipal services within a reasonable time after its**
25 **incorporation is to become effective.**

26 2. The [county] **governing body** may make changes in the petition to correct technical
27 errors or to redefine the metes and bounds of the area to be incorporated to reflect other boundary
28 changes occurring within six months prior to the time of filing the petition. Petitions submitted
29 by proposing agents may be submitted with exclusions for the signatures collected in areas
30 originally included in the proposal but subsequently annexed or incorporated separately as a city,
31 town or village, although the governing body shall be satisfied as to the sufficiency of the
32 signatures for the final proposed area. If a majority of the voters voting on the question vote for
33 incorporation, the governing body shall declare such city, town or other area incorporated,
34 designating in such order the metes and bounds thereof, and thenceforth the inhabitants within
35 such bounds shall be a body politic and incorporate, by the name and style of "the city of",
36 or "the town of", and the first officers of such city or town shall be designated by the order
37 of the governing body, who shall hold their offices until the next municipal election and until
38 their successors shall be duly elected and qualified. The county shall pay the costs of the
39 election.

40 3. In any county with a charter form of government where fifty or more cities, towns and
41 villages have been incorporated, an unincorporated city, town or other area of the state shall not
42 be incorporated except as provided in sections 72.400 to 72.420.

43 4. Any unincorporated area with a private eighteen hole golf course community and with
44 at least a one hundred acre lake located within any county of the first classification with more
45 than eighty-two thousand but less than eighty-two thousand one hundred inhabitants may
46 incorporate as a city of the class to which its population would entitle it pursuant to this chapter
47 notwithstanding any proposed annexation of the unincorporated area by any city of the third or
48 fourth classification or any home rule city with more than four hundred thousand inhabitants and
49 located in more than one county. If any city of the third or fourth classification or any home rule
50 city with more than four hundred thousand inhabitants and located in more than one county
51 proposes annexation by ordinance or resolution of any unincorporated area as defined in this

52 subsection, no such annexation shall become effective until and only after a majority of the
53 qualified voters in the unincorporated area proposed to be incorporated fail to approve or oppose
54 the proposed incorporation by a majority vote in the election described in subsection 2 of this
55 section.

56 5. Prior to the election described in subsection 2 of this section, if the owner or owners
57 of either the majority of the commercial or the majority of the agricultural classification of real
58 property in the proposed area to be incorporated object to such incorporation, such owner or
59 owners may file an action in the circuit court of the county in which such unincorporated area
60 is situated, pursuant to chapter 527, RSMo, praying for a declaratory judgment requesting that
61 such incorporation be declared unreasonable by the court. As used in this subsection, a "majority
62 of the commercial or agricultural classification" means a majority as determined by the assessed
63 valuation of the tracts of real property in either classification to be determined by the assessments
64 made according to chapter 137, RSMo. The petition in such action shall state facts showing that
65 such incorporation including the real property owned by the petitioners is not reasonable based
66 on the same criteria as specified in subsection 3 of section 72.403 and is not necessary to the
67 proper development of the city or town. If the circuit court finds that such inclusion is not
68 reasonable and necessary, it may enjoin the incorporation or require the petition requesting the
69 incorporation to be resubmitted excluding all or part of the property of the petitioners from the
70 proposed incorporation.

✓