

SECOND REGULAR SESSION

HOUSE BILL NO. 1336

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WOOD (Sponsor), WETER, WASSON, SATER, WALLACE, VIEBROCK, VOGT, LAMPE, NORR, HARRIS (110), OXFORD, WHORTON, McGHEE, DENISON, LIPKE AND PAGE (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

3260L.02I

AN ACT

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

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Section A. Section 72.080, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 72.080, to read as follows: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. [Notwithstanding any provision of law to the contrary, and as an alternative to, and not in lieu of, the procedure established in section 80.020, RSMo,] Any unincorporated city, town, [village,] or other area of the state may, except as otherwise provided in sections 72.400 to 72.420, become a city[, town, or village] 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[, towns, or villages] of that class, in the following manner:

[(1)] Whenever a number of voters equal to fifteen percent of the [registered voters] **votes cast in the last gubernatorial election** in the area proposed to be incorporated shall present a petition to the governing body of the county in which such city[, or town[, village,] 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[, town, or village, if such village has at least one hundred inhabitants residing in

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.

14 it,] shall have the ability to furnish normal municipal services within a reasonable time after its
15 incorporation is to become effective and praying that the question be submitted to determine if
16 it may be incorporated[;

17 (2) The governing body shall submit the question to the voters if it is satisfied the
18 number of voters signing such petition is equal to fifteen percent of the registered voters in the
19 area proposed to be incorporated.

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21 As used in this section, "village" means any small group or assemblage of houses in an
22 unincorporated area, being generally less than in a town or city, or any small group or
23 assemblages of houses or buildings built for dwelling or for business, or both, in an
24 unincorporated area, regardless of whether they are situated upon regularly laid out streets or
25 alleys dedicated to public use, having no minimum number of registered voters in the area, and
26 without regard to the existence of churches, parks, schools, or commercial establishments in that
27 area or whether the proposed village is devoted to community purposes]. **If the governing body
28 shall be satisfied that a number of voters equal to fifteen percent of the votes cast in the last
29 gubernatorial election in the area proposed to be incorporated have signed such petition,
30 the governing body shall submit the question to the voters.**

31 2. The [governing body] **county** may make changes in the petition to correct technical
32 errors or to redefine the metes and bounds of the area to be incorporated to reflect other boundary
33 changes occurring within six months prior to the time of filing the petition. Petitions submitted
34 by proposing agents may be submitted with exclusions for the signatures collected in areas
35 originally included in the proposal but subsequently annexed or incorporated separately as a city,
36 town or village, although the governing body shall be satisfied as to the sufficiency of the
37 signatures for the final proposed area. If a majority of the voters voting on the question vote for
38 incorporation, the governing body shall declare such city, town, [village,] or other area
39 incorporated, designating in such order the metes and bounds thereof, and thenceforth the
40 inhabitants within such bounds shall be a body politic and incorporate, by the name and style of
41 "the city of", **or** "the town of", ["the village of
42"] **and** the first officers of such city[,] **or** town[, or village] shall be
43 designated by the order of the governing body, who shall hold their offices until the next
44 municipal election and until their successors shall be duly elected and qualified. [The city, town,
45 or village shall have perpetual succession, unless disincorporated; may sue and be sued; may
46 plead and be impleaded; may defend and be defended in all courts and in all actions, pleas, and
47 matters whatsoever; may grant, purchase, hold, and receive property, real and personal, within
48 such place and no other, burial grounds and cemeteries excepted; and may lease, sell, and dispose

49 of such property for the benefit of the city, town, or village; and may have a common seal, and
50 alter such seal at pleasure.] The county shall pay the costs of the election.

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

54 4. Any unincorporated area with a private eighteen-hole golf course community and with
55 at least a one hundred acre lake located within any county of the first classification with more
56 than eighty-two thousand but less than eighty-two thousand one hundred inhabitants may
57 incorporate as a city of the class to which its population would entitle it pursuant to this chapter
58 notwithstanding any proposed annexation of the unincorporated area by any city of the third or
59 fourth classification or any home rule city with more than four hundred thousand inhabitants and
60 located in more than one county. If any city of the third or fourth classification or any home rule
61 city with more than four hundred thousand inhabitants and located in more than one county
62 proposes annexation by ordinance or resolution of any unincorporated area as [defined]
63 **described** in this subsection, no such annexation shall become effective until and only after a
64 majority of the qualified voters in the unincorporated area proposed to be incorporated fail to
65 approve or oppose the proposed incorporation by a majority vote in the election described in
66 subsection 2 of this section.

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

Section B. Because immediate action is necessary to return the power to incorporate
2 villages to the governing bodies of the counties of this state, section A of this act is deemed
3 necessary for the immediate preservation of the public health, welfare, peace, and safety, and is

4 hereby declared to be an emergency act within the meaning of the constitution, and section A of
5 this act shall be in full force and effect upon its passage and approval.

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