

FIRST REGULAR SESSION

# SENATE BILL NO. 238

92ND GENERAL ASSEMBLY

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INTRODUCED BY SENATOR CASKEY.

Read 1st time January 13, 2003, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0806S.011

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## AN ACT

To repeal sections 72.080 and 72.130, RSMo, and to enact in lieu thereof two new sections relating to incorporation of cities, with an emergency clause.

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

Section A. Sections 72.080 and 72.130, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 72.080 and 72.130, to read as follows: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: whenever a number of voters equal to fifteen percent of the 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 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, the governing body shall submit the question to the voters.

2. The county may make changes in the petition to correct technical errors or to redefine the metes and bounds of the area to be incorporated to reflect other boundary changes occurring

within six months prior to the time of filing the petition. Petitions submitted by proposing agents may be submitted with exclusions for the signatures collected in areas originally included in the proposal but subsequently annexed or incorporated separately as a city, town or village, although the governing body shall be satisfied as to the sufficiency of the signatures for the final proposed area. If a majority of the voters voting on the question vote for incorporation, the governing body shall declare such city, town or other area incorporated, designating in such order the metes and bounds thereof, and thenceforth the inhabitants within such bounds shall be a body politic and incorporate, by the name and style of "the city of .....", or "the town of .....", and the first officers of such city or town shall be designated by the order of the governing body, who shall hold their offices until the next municipal election and until their successors shall be duly elected and qualified. The county shall pay the costs of the election.

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

**4. Any unincorporated area located within any county of the first classification with more than eighty-two thousand but less than eighty-two thousand one hundred inhabitants may incorporate as a city of the class to which its population would entitle it pursuant to this chapter notwithstanding any proposed annexation of the unincorporated area by any city of the third or fourth classification or any home rule city with more than four hundred thousand inhabitants and located in more than one county. If any city of the third or fourth classification or any home rule city with more than four hundred thousand inhabitants and located in more than one county proposes annexation by ordinance or resolution of any unincorporated area as defined in this subsection, no such annexation shall become effective until after the qualified voters in the unincorporated area proposed to be incorporated fail to approve the proposed incorporation by a majority vote in the election described in subsection 2 of this section.**

[4.] 5. Prior to the election described in subsection 2 of this section, if the owner or owners of either the majority of the commercial or the majority of the agricultural classification of real property in the proposed area to be incorporated object to such incorporation, such owner or owners may file an action in the circuit court of the county in which such unincorporated area is situated, pursuant to [the provisions of] chapter 527, RSMo, praying for a declaratory judgment requesting that such incorporation be declared unreasonable by the court. As used in this subsection, a "majority of the commercial or agricultural classification" means a majority as determined by the assessed valuation of the tracts of real property in either classification to be determined by the assessments made according to chapter 137, RSMo. The petition in such action shall state facts showing that such incorporation including the real property owned by the

petitioners is not reasonable based on the same criteria as specified in subsection 3 of section 72.403 and is not necessary to the proper development of the city or town. If the circuit court finds that such inclusion is not reasonable and necessary, it may enjoin the incorporation or require the petition requesting the incorporation to be resubmitted excluding all or part of the property of the petitioners from the proposed incorporation.

72.130. Except as provided in sections 72.400 to 72.420, no city, town, village or other area shall be organized within this state under and by virtue of any law thereof, adjacent to or within two miles of the limits of any city of the first, second, third or fourth classification or any constitutional charter city, unless the city, town, village or other area be in a different county from the city **or unless the city, town, or village is located within any county of the first classification with more than eighty-two thousand but less than eighty-two thousand one hundred inhabitants**, except that a city, town, village or other area may be incorporated within the two-mile area if a petition signed by a number of voters equal to fifteen percent of the votes cast in the last gubernatorial election in the area proposed to be incorporated is presented to the existing city requesting that the boundaries of the existing city be extended to include the area proposed to be incorporated and if action taken thereon by the existing city is unfavorable to the petition, or if no action is taken by the existing city on the petition, then the city, town, village or other area may be incorporated after the expiration of one year from the date of the petition and upon a favorable majority vote on the question.

Section B. Because of the need to preserve existing property rights for owners of property in unincorporated areas, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

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