

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 765**  
94TH GENERAL ASSEMBLY

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Reported from the Committee on Economic Development, Tourism and Local Government, February 14, 2008, with recommendation that the Senate Committee Substitute do pass.

3074S.03C

TERRY L. SPIELER, Secretary.

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**AN ACT**

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

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Section A. Section 72.080, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 72.080, to read as follows: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

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 incorporated[;

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

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

35           2. The [governing body] **county** may make changes in the petition to  
36 correct technical errors or to redefine the metes and bounds of the area to be  
37 incorporated to reflect other boundary changes occurring within six months prior  
38 to the time of filing the petition. Petitions submitted by proposing agents may  
39 be submitted with exclusions for the signatures collected in areas originally  
40 included in the proposal but subsequently annexed or incorporated separately as  
41 a city, town or village, although the governing body shall be satisfied as to the  
42 sufficiency of the signatures for the final proposed area. If a majority of the  
43 voters voting on the question vote for incorporation, the governing body shall  
44 declare such city, town, [village,] or other area incorporated, designating in such  
45 order the metes and bounds thereof, and thenceforth the inhabitants within such  
46 bounds shall be a body politic and incorporate, by the name and style of "the city  
47 of .....", **or** "the town of .....", ["the village of  
48 .....".] **and** the first officers of such city[, **or** town[, or village]  
49 shall be designated by the order of the governing body, who shall hold their  
50 offices until the next municipal election and until their successors shall be duly  
51 elected and qualified. [The city, town, or village shall have perpetual succession,  
52 unless disincorporated; may sue and be sued; may plead and be impleaded; may  
53 defend and be defended in all courts and in all actions, pleas, and matters  
54 whatsoever; may grant, purchase, hold, and receive property, real and personal,

55 within such place and no other, burial grounds and cemeteries excepted; and may  
56 lease, sell, and dispose of such property for the benefit of the city, town, or  
57 village; and may have a common seal, and alter such seal at pleasure.] The  
58 county shall pay the costs of the election.

59         3. In any county with a charter form of government where fifty or more  
60 cities, towns and villages have been incorporated, an unincorporated city, town  
61 or other area of the state shall not be incorporated except as provided in sections  
62 72.400 to 72.420.

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

78         5. Prior to the election described in subsection 2 of this section, if the  
79 owner or owners of either the majority of the commercial or the majority of the  
80 agricultural classification of real property in the proposed area to be incorporated  
81 object to such incorporation, such owner or owners may file an action in the  
82 circuit court of the county in which such unincorporated area is situated,  
83 pursuant to chapter 527, RSMo, praying for a declaratory judgment requesting  
84 that such incorporation be declared unreasonable by the court. As used in this  
85 subsection, a "majority of the commercial or agricultural classification" means a  
86 majority as determined by the assessed valuation of the tracts of real property in  
87 either classification to be determined by the assessments made according to  
88 chapter 137, RSMo. The petition in such action shall state facts showing that  
89 such incorporation including the real property owned by the petitioners is not  
90 reasonable based on the same criteria as specified in subsection 3 of section

91 72.403 and is not necessary to the proper development of the city or town. If the  
92 circuit court finds that such inclusion is not reasonable and necessary, it may  
93 enjoin the incorporation or require the petition requesting the incorporation to be  
94 resubmitted excluding all or part of the property of the petitioners from the  
95 proposed incorporation.

96 **6. Any village incorporated under this section after August 28,**  
97 **2007, and before the effective date of this act shall be deemed**  
98 **disincorporated.**

Section B. Because of the need to protect Missouri citizens' right to choose  
2 their form of government, section A of this act is deemed necessary for the  
3 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,  
5 and section A of this act shall be in full force and effect upon its passage and  
6 approval.

Section C. If any provision of section 72.080 or the application thereof to  
2 anyone or to any circumstances is held invalid, the remainder of section 72.080  
3 and the application of such provisions to others or other circumstances shall not  
4 be affected thereby.

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