

Regular Session, 2014

HOUSE BILL NO. 768

BY REPRESENTATIVES PRICE, BARROW, AND SMITH

MUNICIPAL/INCORPORATION: Provides relative to incorporation petitions

1 AN ACT

2 To amend and reenact R.S. 33:1, relative to the incorporation of municipalities; to provide  
3 relative to the process of petitioning for incorporation; to provide relative to the time  
4 petitioners have to obtain signatures for incorporation; to provide for approval of  
5 petitions by the secretary of state; to provide relative to petitions that contain a  
6 certain number of signatures prior to the effective date of the Act; and to provide for  
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S.33:1 is hereby amended and reenacted to read as follows:

10 §1. Petition for incorporation; contents; circulation; required signatures

11 A. Residents of any unincorporated area with a population in excess of two  
12 hundred inhabitants may propose the incorporation of the area by petition for an  
13 incorporation election as provided in this Subpart. The secretary of state shall  
14 provide a form approved by the attorney general to be used for the petition for an  
15 incorporation election. All incorporation petitions shall be on an approved form or  
16 on a form which contains the same information as required on the approved form,  
17 and any petition not on such a form shall be invalid. The form shall include the  
18 following information ~~A petition proposing the incorporation of the area shall be~~  
19 ~~prepared and shall contain the following:~~

20 (1) A legal description of the area proposed for incorporation and the  
21 statement that all lands included in the area constitute a contiguous area. The  
22 description shall also include a list of every parish in which the proposed area of  
23 incorporation is wholly or partially situated.

1 (2) A statement of the number of inhabitants residing in the unincorporated  
2 area. Such statement shall be based on the latest federal decennial census or another  
3 current population report or count which is verifiable.

4 (3) A statement of the assessed value of the ~~real~~ immovable property located  
5 in the unincorporated area.

6 (4) A listing of the public services the municipal corporation proposes to  
7 render to the area and a plan for the provision of these services.

8 (5) A statement of the corporate name desired for the new municipality.

9 (6) The names of two or more chairpersons for the petition for incorporation  
10 who shall serve as agents for the petitioners in all legal matters, including the receipt  
11 of notices. Notice will be sufficient if served on any one of the chairpersons.

12 (7) A copy of the incorporation petition that will be used to obtain the  
13 requisite number of signatures for incorporation.

14 B.(1)(a) Prior to entering any signatures, the petitioners shall file the initial  
15 petition with the secretary of state. Upon the filing of the initial petition for  
16 incorporation, the secretary of state shall review for compliance and certify that the  
17 petition meets the requirements of this Section and endorse thereon the fact and the  
18 date of filing. The secretary of state shall notify the petitioners of the endorsement  
19 and certification of the initial petition and shall transmit a copy of the petition to the  
20 registrar of voters for each parish in which the proposed incorporated area is situated.  
21 The petitioners shall have the number of days specified in Paragraph (2) of this  
22 Subsection from the day on which the petition was endorsed by the secretary of state  
23 to obtain ~~The the required~~ signatures of twenty-five percent of the electors residing  
24 in the area proposed for incorporation shall be required in order to file the petition  
25 as provided in R.S. 33:2(A). The petitioners shall not collect any signatures for  
26 incorporation until they have received notice of the certification and endorsement of  
27 the petition for incorporation. The signed and dated petition shall be submitted to  
28 the registrar of voters as required by R.S. 33:2 not later than one hundred eighty days  
29 after the day on which the petition was endorsed by the secretary of state.

1           (2)(a) If fewer than five thousand qualified electors reside within an area  
2           proposed for incorporation, the petitioners shall have twelve months from the day on  
3           which the initial petition for incorporation was endorsed by the secretary of state to  
4           obtain the required signatures.

5           (b) If five thousand or more qualified electors reside within an area proposed  
6           for incorporation, the petitioners shall have eighteen months from the day on which  
7           the initial petition for incorporation was endorsed by the secretary of state to obtain  
8           the required signatures.

9           C.(1) If the secretary of state determines that the initial petition for  
10          incorporation fails to meet all of the requirements of Subsection A of this Section,  
11          the petitioners shall have an additional thirty days from the date they are notified of  
12          the rejection of the petition to resubmit the petition for incorporation.

13          (2) If the petitioners fail to resubmit an amended petition within thirty days  
14          or if the amended petition is rejected by the secretary of state, no petition for  
15          incorporation of all or part of the area proposed for incorporation shall be submitted  
16          to the secretary of state for two years after the expiration of the thirty day period or  
17          upon the notification of the rejection of the amended petition.

18          D. If the final day for submitting the signed and dated petition falls on a  
19          Saturday, Sunday, or legal holiday, the deadline for submitting such petition shall be  
20          on the next day which is not a Saturday, Sunday, or legal holiday.

21          E. The handwritten signatures of the electors must reasonably correspond  
22          with their signatures on file in the office of the registrar of voters. All electors shall  
23          be eligible to sign the petition. More than one copy of the petition may be circulated,  
24          and signatures of electors on any copy of the petition shall be counted.

25          ~~(b) All electors, whether or not they own land, shall be eligible to sign the~~  
26          ~~petition.~~

27          ~~(c) The handwritten signatures of the electors must reasonably correspond~~  
28          ~~with their signatures on file in the office of the registrar of voters.~~

1           ~~(d) More than one copy of the petition may be circulated and signatures of~~  
2           ~~electors on any copy of the petition shall be counted as part of the required twenty-~~  
3           ~~five percent.~~

4           ~~(2)E.~~ Any elector may withdraw his name from the petition by filing a signed  
5           statement of withdrawal with the registrar of voters at any time before the registrar  
6           of voters certifies that twenty-five percent of the electors residing in the area  
7           proposed for incorporation have signed the petition as provided by R.S. 33:2(C).

8           Section 2. The provisions of this Act shall not apply to any petition proposing the  
9           incorporation of an area that contains, on the effective date of this Act, the signatures of at  
10          least one thousand electors residing in the unincorporated area. Any such petition shall be  
11          submitted to the registrar of voters for the parish or parishes in which the unincorporated  
12          area is located within sixty days after the effective date of this Act. The registrar of voters  
13          for the parish or parishes, as the case may be, shall determine whether the petition contains  
14          the signatures of at least one thousand electors residing in the unincorporated area and shall  
15          notify the petitioners of his determination within sixty days after receiving the petition. If  
16          the petitioners fail to submit the petition to the registrar of voters within the time period  
17          required in this Section or the registrar of voters determines that the petition does not contain  
18          the requisite number of signatures, the petition proposing the incorporation shall be null and  
19          void and the provisions of this Act shall be applicable to any subsequent proposed  
20          incorporation of the area.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Price

HB No. 768

**Abstract:** Provides with respect to the procedures and time limits relative to the filing of a petition for the incorporation of an unincorporated area.

Present law provides that residents of any unincorporated area with a population of at least two hundred people may propose the incorporation of the area. The petitioners must submit to the secretary of state a petition for incorporation that contains the following information:

- (1) A legal description of the area proposed for incorporation and the statement that all lands included in the area constitute a contiguous area.

- (2) A statement of the number of inhabitants residing in the unincorporated area, based on the latest federal decennial census or another current population report or count which is verifiable.
- (3) A statement of the assessed value of the real property located in the unincorporated area.
- (4) A listing of the public services the municipal corporation proposes to render to the area and a plan for the provision of these services.
- (5) A statement of the corporate name desired for the new municipality.
- (6) The names of two or more chairpersons for the petition for incorporation who shall serve as agents for the petitioners in all legal matters, including the receipt of notices.
- (7) The signatures of 25% of the electors residing in the area proposed for incorporation.

Proposed law generally retains present law and additionally provides the following with respect to such a petition: requires that the legal description include a list of every parish in which the proposed area of incorporation is wholly or partially situated. Requires the secretary of state to provide a form for such a petition. Requires, prior to the collection of signatures, submission of the proposed petition to the secretary of state. Provides that the secretary of state shall review the petition for compliance with present law and proposed law and certify that the petition meets all legal requirements and endorse the fact and the date of filing. Requires the secretary of state to transmit a copy of the petition to the registrar of voters for each parish in which the proposed incorporated area is situated. Provides that if the petitioners fail to get secretary of state approval of the petition after two attempts, no proposal for incorporation of the area shall be submitted for two years thereafter. Prohibits collection of signatures until notification of such endorsement. Provides that petitioners have 12 months from the date of endorsement to collect the requisite number of signatures if fewer than 5,000 qualified electors reside in the unincorporated area and 18 months if 5,000 or more qualified electors reside in the unincorporated area.

Proposed law provides that proposed law provisions are not applicable to petitions that contain, on the effective date of proposed law, the signatures of at least 1,000 electors residing in the unincorporated area. Requires petitioners to submit such a petition, for verification, to the registrar of voters within 60 days after the effective date of proposed law. Provides that the registrar of voters has 60 days to make his determination and notify the petitioners. Provides that the petition is null and void if petitioners fail to submit the petition to the registrar of voters within the required time period or if the registrar determines that the petition does not contain the requisite number of signatures and makes proposed law provisions applicable to any subsequent proposed incorporation.

(Amends R.S. 33:1)

#### Summary of Amendments Adopted by House

##### House Floor Amendments to the engrossed bill.

1. Removes provisions that provide that petitioners have 180 days from the date of endorsement to collect the requisite number of signatures or 90 days if fewer than 1,000 electors reside in the area and instead provides that they have 12 months if fewer than 5,000 qualified electors reside in the unincorporated area and 18 months if 5,000 or more qualified electors reside in the unincorporated area.

2. Adds provisions that provide that proposed law provisions are not applicable to petitions that contain, on the effective date of the Act, the signatures of at least 1,000 electors residing in the unincorporated area. Adds provisions relative to verification of such petitions and otherwise relative to applicability of proposed law.