

**ARKANSAS SENATE**  
91st General Assembly - Regular Session, 2017  
**Amendment Form**

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**Subtitle of Senate Bill No. 138**

TO CREATE A PROCEDURE FOR THE REVOCATION OF A CHARTER OF A MUNICIPAL  
CORPORATION AS A RESULT OF THE MUNICIPAL CORPORATION'S NONCOMPLIANCE WITH THE  
LAW.

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**Amendment No. 1 to Senate Bill No. 138**

Amend Senate Bill No. 138 as originally introduced:

Add Senators Caldwell, L. Chesterfield, J. Cooper, Hester, B. King, B. Sample, G. Stubblefield, D. Wallace, E. Williams as cosponsors of the bill

AND

Add Representatives E. Armstrong, Baltz, Drown, Eaves, M.J. Gray, M. Gray, Nicks, Rushing, Sorvillo, Wardlaw as cosponsors of the bill

AND

Page 1, line 27, delete "municipality or a" and substitute "municipality, a"

AND

Page 1, line 28, delete "municipality." and substitute "municipality, or an improvement district of a public utility created under § 14-62-109(c)(5)."

AND

Page 1, line 35, delete "boards or through" and substitute "boards, through"

AND

Page 1, delete line 36, and substitute the following:  
"102(D)(vi), or through an improvement district under § 14-74-102(D)(vi)."

AND

Page 2, line 16, delete "determines that a" and substitute "concludes the process under"



AND

Page 2, delete lines 17 through 19, and substitute the following:  
"§ 14-59-117 on a municipal corporation, and in the immediately subsequent three-year period the Legislative Joint Auditing Committee concludes the process a second time, the Legislative Joint Auditing Committee may notify the Attorney General and the Governor of its actions."

AND

Page 2, line 22, delete "findings" and substitute "notification"

AND

Page 2, delete line 23, and substitute the following:  
"(b) Upon a finding that the conditions under subsection (a) of this section have been met, the circuit court of the Sixth Judicial Circuit shall revoke the"

AND

Page 2, line 24, delete "section, the" and substitute "section, and the"

AND

Page 3, line 27, delete "§ 14-62-111" and substitute "§ 14-62-114"

AND

Page 3, line 32, delete "and"

AND

Page 3, delete line 34, and substitute the following:  
"corporation; and  
(3) Any other funds, revenues, or fees as otherwise provided under this chapter."

AND

Page 3, delete lines 35 and 36

AND

Page 4, delete lines 1 and 2

AND

Page 4, line 17, delete "taxes; and" and substitute "taxes of the extinct municipal corporation; and"

AND

Page 5, line 2, delete "§ 14-62-111" and substitute "§ 14-62-114"

AND

Page 5, line 13, delete "fees and" and substitute "fees, taxes, and"

AND

Page 5, delete line 32, and substitute the following:

"to be collected and settled.

(b)(1) The Department of Finance and Administration shall continue to administer and to collect as provided by law all sales and use taxes of the extinct municipal corporation.

(2) The department shall remit collection of the taxes under subdivision (b)(1) of this section to the receiver appointed under § 14-62-104."

AND

Page 5, delete line 33, and substitute the following:

"(c)(1)(A) At least one (1) time per month, the receiver shall pay into the"

AND

Page 6, line 3, delete "Treasury in order that the Treasurer of State may pay" and substitute "Treasury."

AND

Page 6, delete lines 4 and 5

AND

Page 6, line 6, delete "the end of each" and substitute "least one (1) time per"

AND

Page 6, line 11, delete "(b)(2)(A) of this section in order" and substitute "(c)(2)(A) of this section."

AND

Page 6, delete lines 12 through 19

AND

Page 6, delete line 24, and substitute the following:

"of the Sixth Judicial Circuit.

(b) As the circuit court may allow, a receiver shall have credit for

all taxes, expenses, attorney's fees, and other necessary disbursements in the execution of the receiver's duties, to be paid out of the funds collected by the receiver."

AND

Page 6, line 25, delete "(b)" and substitute "(c)"

AND

Page 6, line 26, delete "order" and substitute "request"

AND

Page 6, line 27, delete "the Long Term Reserve Fund" and substitute "available funds."

AND

Page 6, delete line 28

AND

Page 7, line 7, delete "corporation." and substitute "corporation, in cooperation with the Department of Finance and Administration under § 14-62-111."

AND

Page 7, line 13, delete "section." and substitute "section, in cooperation with the Department of Finance and Administration under § 14-62-111."

AND

Page 7, line 28, delete "as provided under §" and substitute "as otherwise provided under this chapter"

AND

Page 7, line 29, delete "14-62-103(c)"

AND

Page 7, delete lines 34 through 36

AND

Page 8, delete lines 1 through 17, and substitute the following:

"14-62-109. Public utilities.

(a) A public utility operating and organized as an improvement district and serving residents of the extinct municipal corporation shall continue in operation.

(b)(1)(A) A public utility operated by the extinct municipal corporation is transferred to the receiver.

(B) Funds held by the extinct municipal corporation in connection with the operation of the public utility are transferred to the receiver, including without limitation customer deposits and debt reserve funds.

(2) The receiver shall continue to:

(A) Operate the public utility;

(B) Collect all fees and taxes due to and all funds associated with the public utility; and

(C) Continue to pay any bonded indebtedness of the public utility.

(3) The transfer of the public utility to the receiver is subject to any liens held on the public utility that existed at the time of the transfer under this chapter, including without limitation mortgages and security interests.

(4) If a public utility is transferred under this section, the Department of Finance and Administration shall continue to collect as provided by law pledged or dedicated sales and use taxes levied for bonded indebtedness of the public utility and remit the collections to the receiver under § 14-62-105(b) until the indebtedness is satisfied.

(c) Within sixty (60) days of the appointment of the receiver under § 14-62-104, the receiver shall publish a notice in a newspaper with general circulation in the county in which the municipal corporation is located that the opportunity for the acquisition of the public utility shall:

(1)(A) Be first extended to an adjacent municipality located within five (5) miles of the extinct municipal corporation, and if a majority of the governing body of the adjacent municipality votes to acquire the public utility under this subdivision (c)(1)(A), the acquisition transaction shall be completed within one hundred eighty (180) days of the appointment of the receiver under § 14-62-104.

(B) If more than one (1) adjacent municipality located within five (5) miles of the extinct municipal corporation votes to acquire the public utility under subdivision (c)(1)(A) of this section, the adjacent municipalities shall be given priority based on population from largest to smallest;

(2)(A) Be next extended to the county in which the extinct municipal corporation is located if the public utility is not acquired by an adjacent municipality under subdivision (c)(1) of this section.

(B) If a majority of the governing body of the county in which the extinct municipal corporation is located votes to acquire the public utility under subdivision (c)(2)(A) of this section, the acquisition transaction shall be completed within two hundred seventy (270) days of the appointment of the receiver under § 14-62-104;

(3)(A)(i) Be next extended to an adjacent public utility operated and organized as an improvement district and located within five (5) miles of the extinct municipal corporation if the public utility is not acquired by the county in which the extinct municipal corporation is located under subdivision (c)(2) of this section.

(ii) If a majority of the governing body of the adjacent public utility improvement district votes to acquire the public utility under subdivision (c)(3)(A)(i) of this section, the acquisition

transaction shall be completed within three hundred sixty (360) days of the appointment of the receiver under § 14-62-104.

(B) If more than one (1) adjacent public utility improvement district located within five (5) miles of the extinct municipal corporation votes to acquire the public utility under subdivision (c)(3)(A) of this section, the adjacent public utility improvement districts shall be given priority based on evidence of economic viability and the number of customers served from largest to smallest;

(4) Be next extended to an entity other than the entities listed in subdivisions (c)(1)-(3) of this section if none of the entities listed in subdivisions (c)(1)-(3) of this section acquire the public utility of the extinct municipal corporation, and the acquisition transaction shall be completed within four hundred fifty (450) days of the appointment of the receiver under § 14-62-104; and

(5)(A)(i)(a) Not be further extended and remain with the receiver if none of the entities in subdivisions (c)(1)-(4) of this section acquire the public utility of the extinct municipal corporation.

(b) The receiver shall establish a suburban improvement district to operate the public utility using the authority set out in § 14-92-201 et seq. for the purpose of the institution of bankruptcy proceedings for the public utility.

(ii)(a) A suburban improvement district created under subdivision (c)(5)(A)(i) of this section is created by operation of law without the statutory requirements under § 14-92-201 et seq. concerning petitions or hearings or other statutory requirements at the discretion of the circuit court of the Sixth Judicial District.

(b) The receiver shall serve as the board of commissioners, and the boundaries of the suburban improvement district created under subdivision (c)(5)(A)(i) of this section shall include the service area of the public utility of the extinct municipal corporation.

(iii) A suburban improvement district created under subdivision (c)(5)(A)(i) of this section is considered an instrumentality of the state for purposes of bankruptcy proceedings.

(B) At the conclusion of any bankruptcy proceeding instituted under subdivision (c)(5)(A) of this section, the public utility shall be transferred to the county.

(d) The receiver may request a reasonable extension of time from the circuit court of the Sixth Judicial District for the purpose of the completion of an acquisition of a public utility under subsection (c) of this section.

#### 14-62-110. Retirement.

(a) Moneys due and owing the Arkansas Local Police and Fire Retirement System under § 24-10-101 et seq. or due and owing a local firemen's relief and pension fund or a local policemen's pension and relief fund under § 24-11-101 et seq. are not subject to the proceedings under this chapter and are transferred to the control of the system.

(b)(1)(A) A local firemen's relief and pension fund or a local policemen's pension and relief fund created under § 24-11-101 et seq. that is not subject to the administration of the system at the time of the order entered under § 14-62-102 is consolidated with the system.

(B)(i)(a) The actuary under contract to the system shall

compute the retirement reserve for vested and active members and for eligible beneficiaries of a local firemen's relief and pension fund or a local policemen's pension and relief fund.

(b) After receiving the report of the actuary, the receiver shall transfer the computed reserve to the system to be held in an account designated as the retirement reserve for a local firemen's relief and pension fund or a local policemen's pension and relief fund and from which the system shall pay eligible beneficiaries.

(ii) If the retirement reserve of a local firemen's relief and pension fund or a local policemen's pension and relief fund is inadequate to pay full benefits to eligible recipients, the receiver may reduce benefits based on such actuarially computed amounts as are necessary to pay eligible recipients, without impairing contracts and to the extent allowed under law.

(iii)(a) The receiver shall continue to collect such millages, fines, fees, state insurance tax turnbacks, and other revenues as allowed by law for the support of a local firemen's relief and pension fund or a local policemen's pension and relief fund.

(b) When a final order of dissolution is entered under § 14-62-114, the millages, fees, state insurance tax turnbacks, and other revenues as allowed by law shall be paid to the system.

(2)(A) Pledged or dedicated taxes levied by the extinct municipal corporation at the time of the order under § 14-62-102 for a local firemen's relief and pension fund or a local policemen's pension and relief fund shall continue to be collected until the indebtedness is satisfied.

(B) When a final order of dissolution is entered under § 14-62-114, pledged or dedicated taxes collected under subdivision (b)(2)(A) of this section shall continue to be collected and remitted to the system until the indebtedness is satisfied.

(c)(1) The system shall refund all member contributions made to the system or fund applicable to the extinct municipal corporation to a member who has not yet vested in the system or in a local firemen's relief and pension fund or a local policemen's pension and relief fund at the time of the order entered under § 14-62-102.

(2) Service credit earned with the extinct municipal corporation by a nonvested member under the system is cancelled, and any member contributions relating only to the extinct municipal corporation shall be refunded to the nonvested member.

14-62-111. Department of Finance and Administration – Collection of sales and use taxes.

(a) If a receiver is appointed under § 14-62-104, sales and use taxes of the extinct municipal corporation shall continue to be collected in the manner provided by law by the Department of Finance and Administration, with the collections paid to the receiver for the benefit of the extinct municipal corporation.

(b) At the time a final order of dissolution is entered under § 14-62-114, the collection of sales and use taxes of the extinct municipal corporation shall cease, except as otherwise provided under this chapter.

(c) Delinquent sales and use taxes of the extinct municipal corporation shall continue to be collected in the manner provided by law, and the Department of Finance and Administration and the receiver shall cooperate

in the collection of the delinquent sales and use taxes."

AND

Page 8, line 19, delete "14-62-109." and substitute "14-62-112."

AND

Page 8, line 33, delete "14-62-110." and substitute "14-62-113."

AND

Page 9, line 4, delete "14-62-111." and substitute "14-62-114."

The Amendment was read the first time, rules suspended and read the second time and \_\_\_\_\_

By: Senator Hickey

KLC/JNS - 02-23-2017 10:00:19

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Secretary