

2015 Regular Session

HOUSE BILL NO. 744

BY REPRESENTATIVE ARNOLD

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

LOCAL GOVERNMENT: Provides for the incorporation of the fifteenth ward of the parish of Orleans as a municipality within the parish of Orleans

1 AN ACT

2 To enact Subpart C of Part 1 of Chapter 1 of Title 33 of the Louisiana Revised Statutes of  
3 1950, to be comprised of R.S. 33:11.1 through 11.8, relative to municipal  
4 incorporation; to provide for the incorporation of the fifteenth ward of the parish of  
5 Orleans as a municipality within the parish of Orleans; to provide for the governance  
6 of the newly created municipality; to change the boundaries of the city of New  
7 Orleans; and to provide for related matters.

8 Notice of intention to introduce this Act has been published  
9 as provided by Article III, Section 13 of the Constitution of  
10 Louisiana.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Subpart C of Part 1 of Chapter 1 of Title 33 of the Louisiana Revised  
13 Statutes of 1950, comprised of R.S. 33:11.1 through 11.8, is hereby enacted to read as  
14 follows:

15 SUBPART C. MUNICIPAL INCORPORATION; FIFTEENTH WARD OF  
16 THE PARISH OF ORLEANS

17 §11.1. Petition for incorporation of the fifteenth ward; contents; circulation;  
18 required signatures

19 A. Residents of the fifteenth ward of the parish of Orleans may propose the  
20 incorporation of the area as a municipality within the parish of Orleans as provided

1 in this Subpart. A petition proposing the incorporation of the area shall be prepared  
2 and shall contain the following:

3 (1) A legal description of the territory included within the fifteenth ward of  
4 the parish of Orleans and a statement that all lands included in the area constitute a  
5 contiguous area.

6 (2) A statement of the number of inhabitants residing in the fifteenth ward  
7 of the parish of Orleans. Such statement shall be based on the latest federal  
8 decennial census or another current population report or count which is verifiable.

9 (3) A statement of the assessed value of the real property located in the  
10 fifteenth ward of the parish of Orleans.

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

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

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

17 B.(1)(a) The signatures of ten percent of the electors residing in the fifteenth  
18 ward of the parish of Orleans shall be required in order to file the petition as  
19 provided in R.S. 33:11.2(A).

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

22 (c) The signatures of the electors must reasonably correspond with their  
23 signatures on file in the office of the registrar of voters.

24 (d) More than one copy of the petition may be circulated and signatures of  
25 electors on any copy of the petition shall be counted as part of the required ten  
26 percent.

27 (2) Any elector may withdraw his name from the petition by filing a signed  
28 statement of withdrawal with the registrar of voters at any time before the registrar

1 of voters certifies that ten percent of the electors residing in the fifteenth ward of the  
2 parish of Orleans have signed the petition as provided by R.S. 33:11.2(B).

3 §11.2. Filing of petition; certification; forwarding to governor

4 A. When the proponents of the petition for incorporation believe they have  
5 the signatures of at least ten percent of the electors residing in the fifteenth ward of  
6 the parish of Orleans, they shall file the petition with the registrar of voters for the  
7 parish of Orleans. The registrar of voters shall determine if ten percent or more of  
8 the electors residing in the fifteenth ward of the parish of Orleans have signed the  
9 petition. The required percentage shall be determined on the basis of the number of  
10 electors on the rolls of the registrar of voters at the time the petition was filed with  
11 the registrar of voters.

12 B. If the registrar of voters determines that the required ten percent of  
13 electors have signed the petition, the registrar of voters shall issue a certificate  
14 stating that ten percent or more of the electors residing in the fifteenth ward of  
15 Orleans Parish have signed the petition. The registrar of voters shall forward this  
16 certificate to the governor.

17 C. If the registrar of voters determines that less than ten percent of the  
18 electors have signed the petition, the proponents of the incorporation shall have  
19 additional time in which to obtain additional signatures to the petition to meet the ten  
20 percent requirement.

21 §11.3. Governor's determination; special election

22 A. Upon receipt of the certificate from the registrar of voters, the governor  
23 shall determine if the petition complies with the provisions of this Subpart. If the  
24 governor finds that there has been compliance with the provisions of this Subpart,  
25 he shall call a special election to be held on the next possible date for special  
26 elections specified in R.S. 18:402.

27 B. The special election shall be for the purpose of determining whether the  
28 fifteenth ward of the parish of Orleans shall become a municipality. All qualified  
29 electors residing within the fifteenth ward of the parish of Orleans shall be entitled

1 to vote in the special election, and the election shall be held in accordance with the  
2 procedures specified in R.S. 18:1300. The costs of the special election shall be borne  
3 by the parish of Orleans.

4 C. If a majority of electors voting in the special election approve the  
5 incorporation, a chairperson for the petition shall publish the results of the election  
6 once in the official journal of the parish of Orleans. The notice of the results of the  
7 election shall also state the name of the municipality, that the municipality will be  
8 legally incorporated thirty days from the date of the publication unless a legal action  
9 contesting the incorporation is filed within the thirty-day period, and that notice of  
10 such action must be served on a chairperson within the thirty-day period.

11 D. If a chairperson has not received notice within the prescribed period, the  
12 area proposed to be incorporated shall become a municipal corporation at the  
13 expiration of the prescribed period and shall have the municipal name set forth in the  
14 petition. A chairperson for the petition shall file the following documents in the  
15 office of the secretary of state: a copy of the petition, a certified copy of the results  
16 of the election, and a copy of each notice announcing the results of the election and  
17 stating the date on which the municipality would become legally incorporated  
18 barring the institution of legal action within the time specified in Subsection C of this  
19 Section.

20 §11.4. Legal action contesting an incorporation

21 A. Any elector residing in the fifteenth ward of the parish of Orleans or any  
22 person owning land in such area may file a petition contesting the incorporation.

23 B. The petition shall be filed and summons served on a chairperson of the  
24 petition within the times specified in R.S. 33:11.3(C). The petition shall be filed in  
25 the district court having jurisdiction over the area in which all or a majority of the  
26 electors eligible to have voted in the special election on incorporation reside. The  
27 petition shall set forth the reasons why the incorporation should not be approved,  
28 which may include the reason that the incorporation might adversely affect such

1 person. The procedures applicable to a civil action shall be applicable to these  
2 actions. If more than one petition is filed, the actions shall be consolidated for trial.

3 C. The district court may designate or appoint a commissioner who shall be  
4 a noninterested party to hold hearings on the petition. The designated or appointed  
5 commissioner, after holding such hearings, shall file a written report stating his  
6 findings of fact and conclusions of law concerning the petition and making a  
7 recommendation to the district court concerning whether the area should be  
8 incorporated.

9 D. The district court shall determine whether there has been full compliance  
10 with the provisions of this Subpart, including the accuracy of the statements in the  
11 petition and of the certification of the registrar of voters. The court shall also reach  
12 a determination as to whether the municipality can in all probability provide the  
13 proposed public services within a reasonable period of time.

14 E.(1) If the district court determines that the provisions of this Subpart have  
15 been complied with and that the municipality has the capacity to provide the  
16 proposed public services within a reasonable period of time, the district court shall  
17 enter an order declaring the date the municipality shall become incorporated. The  
18 order shall set forth the name and the boundaries of the municipality. Unless this  
19 order is vacated by a timely suspensive appeal, a copy of the order shall be filed in  
20 the office of the secretary of state.

21 (2) If the district court determines that the provisions of this Subpart have  
22 not been complied with and that the proposed municipality will not be able to  
23 provide the public services proposed in the petition within a reasonable period of  
24 time, or that the incorporation is unreasonable, the district court shall enter an order  
25 denying the incorporation.

26 §11.5. Appellate review

27 A. Any person that filed a petition contesting the proposed incorporation as  
28 provided in R.S. 33:11.4 may appeal a district court order granting the incorporation  
29 within the time and in the manner provided by law.

1           B. Any elector residing in the area proposed for incorporation or any person  
 2           owning land in the area proposed for incorporation may appeal a district court order  
 3           denying incorporation of the area within the time and in the manner provided by law.

4           §11.6. Officers of newly incorporated municipality

5           The governor shall appoint the initial officers of a newly incorporated  
 6           municipality, who shall give bond as required. Such officers shall hold office until  
 7           the next general municipal election and until their successors take their oaths of  
 8           office.

9           §11.7. Plan of government; newly created municipality

10           The municipal corporation created pursuant to the provisions of this Subpart  
 11           shall be governed by the provisions of Part I of Chapter 2 of Title 33 of the Louisiana  
 12           Revised Statutes of 1950 until such time of the adoption of a home rule charter  
 13           pursuant to Article VI, Section 5 of the Constitution of Louisiana.

14           §11.8. Boundaries; city of New Orleans

15           Upon incorporation as provided in this Subpart, the boundaries of the city of  
 16           New Orleans shall not include the territory included within the fifteenth ward of the  
 17           parish of Orleans.

18           Section 2. This Act shall take effect and become operative if and when the proposed  
 19 amendment of Article VI, Section 2 of the Constitution of Louisiana contained in the Act  
 20 which originated as House Bill No. \_\_\_\_ of this 2015 Regular Session of the Legislature is  
 21 adopted at a statewide election and becomes effective.

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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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HB 744 Original

2015 Regular Session

Arnold

**Abstract:** Relative to the parish of Orleans, provides for the incorporation of the 15th ward of the parish, provides for governance of newly created municipality, and changes the boundaries of the city of New Orleans.

Proposed law provides that residents of the 15th ward of the parish of Orleans may propose the incorporation of the area as a municipality within the parish of Orleans as provided by

proposed law. Provides that a petition proposing incorporation shall be prepared and shall contain the following:

- (1) A legal description of the territory included within the 15th ward of the parish of Orleans and a statement that all lands included in the area constitute a contiguous area.
- (2) A statement of the number of inhabitants residing in the 15th ward of the parish of Orleans 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 15th ward of the parish of Orleans.
- (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.

Proposed law requires the signatures of 10% of the electors residing in the 15th ward of the parish of Orleans in order to file the petition as provided by proposed law. Provides that all electors, whether or not they own land, shall be eligible to sign the petition and provides that the signatures must reasonably correspond with their signatures on file in the office of the registrar of voters.

Proposed law provides that more than one copy of the petition may be circulated and signatures of electors on any copy of the petition shall be counted as part of the required 10%.

Proposed law provides that any elector may withdraw his name from the petition in accordance with certain specified procedures.

Proposed law provides that when the proponents of the petition for incorporation believe they have the signatures of at least 10% of the electors residing in the 15th ward of the parish of Orleans, they shall file the petition with the registrar of voters for the parish of Orleans. Provides that the registrar of voters shall determine if 10% or more of the electors residing in the 15th ward of the parish of Orleans have signed the petition. Provides that the required percentage shall be determined on the basis of the number of electors on the rolls of the registrar of voters at the time the petition was filed with the registrar of voters.

Proposed law provides that if the registrar of voters determines that the required 10% of electors have signed the petition, the registrar of voters shall issue a certificate stating that 10% or more of the electors residing in the 15th ward of Orleans Parish have signed the petition and shall forward this certificate to the governor.

Proposed law provides that if the registrar of voters determines that less than 10% of the electors have signed the petition, the proponents of the incorporation shall have additional time in which to obtain additional signatures to the petition to meet the 10% requirement.

Proposed law provides that upon receipt of the certificate from the registrar of voters, the governor shall determine if the petition complies with the provisions of proposed law. Requires the governor, if he finds that there has been compliance with the provisions of proposed law, to call a special election to be held on the next possible date for special elections specified in present law.

Proposed law provides that the special election shall be for the purpose of determining whether the 15th ward of the parish of Orleans shall become a municipality. Provides that all qualified electors residing within the 15th ward of the parish of Orleans shall be entitled to vote in the special election and the election shall be held in accordance with the procedures specified in present law. Provides that the costs of the special election shall be borne by the parish of Orleans.

Proposed law provides that if a majority of electors voting in the special election approve the incorporation, a chairperson for the petition shall publish the results of the election once in the official journal of the parish of Orleans. Provides that the notice of the results of the election shall also state the name of the municipality, that the municipality will be legally incorporated 30 days from the date of the publication unless a legal action contesting the incorporation is filed within the 30-day period, and that notice of such action must be served on a chairperson within the 30-day period.

Proposed law provides that if a chairperson has not received notice within the prescribed period, the area proposed to be incorporated shall become a municipal corporation at the expiration of the prescribed period and shall have the municipal name set forth in the petition. Requires a chairperson for the petition to file the following documents in the office of the secretary of state: a copy of the petition, a certified copy of the results of the election, and a copy of the notice or notices announcing the results of the election and stating the date on which the municipality would become legally incorporated barring the institution of legal action within the time specified in proposed law.

Proposed law provides that any elector residing in the 15th ward of the parish of Orleans or any person owning land in such area may file a petition contesting the incorporation. Provides that the petition shall be filed and summons served on the chairperson of the petition within the times specified in proposed law.

Proposed law provides that the petition shall be filed in the district court having jurisdiction over the area in which all or a majority of the electors eligible to have voted in the special election on incorporation reside. Provides that the petition shall set forth the reasons why the incorporation should not be approved. Proposed law provides that the procedures applicable to a civil action shall be applicable to these actions. Provides that if more than one petition is filed, the actions shall be consolidated for trial.

Proposed law provides that the district court may designate or appoint a commissioner who shall be a noninterested party to hold hearings on the petition. Provides that the designated or appointed commissioner, after holding such hearings, shall file a written report stating his findings of fact and conclusions of law concerning the petition and making a recommendation to the district court concerning whether the area should be incorporated.

Proposed law provides that the district court shall determine whether there has been full compliance with the provisions of proposed law, including the accuracy of the statements in the petition and of the certification of the registrar of voters. Provides that the court shall also reach a determination as to whether the municipality can in all probability provide the proposed public services within a reasonable period of time.

Proposed law provides that if the district court determines that the provisions of proposed law have been complied with and that the municipality has the capacity to provide the proposed public services within a reasonable period of time the district court shall enter an order declaring the date the municipality shall become incorporated. Provides that the order shall set forth the name and the boundaries of the municipality. Provides that unless this order is vacated by a timely suspensive appeal, a copy of the order shall be filed in the office of the secretary of state.

Proposed law provides that if the district court determines that the provisions of proposed law have not been complied with, that the proposed municipality will not be able to provide



the public services proposed in the petition within a reasonable period of time, or that the incorporation is unreasonable, the district court shall enter an order denying the incorporation.

Proposed law provides that any person that filed a petition contesting the proposed incorporation as provided in proposed law may appeal a district court order granting the incorporation within the time and in the manner provided by law. Proposed law additionally provides that any elector residing in the area proposed for incorporation or any person owning land in the area proposed for incorporation may appeal a district court order denying incorporation of the area within the time and in the manner provided by law.

Proposed law provides that the governor shall appoint the initial officers of a newly incorporated municipality, who shall give bond as required. Provides that such officers shall hold office until the next general municipal election and until their successors take their oaths of office.

Proposed law provides that the municipal corporation created pursuant to the provisions of proposed law shall be governed by the provisions of the Lawrason Act (mayor-board of aldermen) until such time of the adoption of a home rule charter pursuant to present constitution.

Proposed law provides that upon incorporation of the 15th ward the boundaries of the city of New Orleans shall not include the territory included within the 15th ward of the parish of Orleans.

Effective if and when the proposed amendment of Article VI of the Constitution of La. contained in the Act which originated as House Bill No. \_\_\_ of this 2015 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Adds R.S. 33:11.1-11.8)