**South Carolina General Assembly**

121st Session, 2015-2016

**H. 3714**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Duckworth, Clemmons, Hardwick, Hardee, H.A. Crawford, Kennedy, Johnson, Goldfinch, Erickson, Allison, Lucas, Bowers, Collins, Gagnon, Herbkersman, Hixon, Long, Lowe, Pope and Rivers

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Companion/Similar bill(s): 163

Introduced in the House on February 25, 2015

Currently residing in the House Committee on **Medical, Military, Public and Municipal Affairs**

Summary: Incorporation of municipalities

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/25/2015 House Introduced and read first time ([House Journal‑page 7](file:///h:\HJ%20Archive\2015\02-25-15.docx))

2/25/2015 House Referred to Committee on **Medical, Military, Public and Municipal Affairs** ([House Journal‑page 7](file:///h:\HJ%20Archive\2015\02-25-15.docx))

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=3714&session=121&summary=B) at the website

**VERSIONS OF THIS BILL**

[2/25/2015](file:///p:\pprever\2015-16\3714_20150225.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 3 TO CHAPTER 1, TITLE 5 SO AS TO PROVIDE THAT A MUNICIPALITY WHOSE POPULATION DROPS BELOW THREE HUNDRED MUST SHOW THAT IT IS MAINTAINING MUNICIPAL SERVICES AT AN ADEQUATE LEVEL TO MAINTAIN ITS CERTIFICATE OF INCORPORATION, TO PROVIDE THAT A REVIEW OF A MUNICIPALITY’S CERTIFICATE OF INCORPORATION MAY BE INITIATED BY THE COUNTY LEGISLATIVE DELEGATION, AND TO PROVIDE FOR THE REVIEW AND DETERMINATION PROCESS; AND TO AMEND SECTION 5‑1‑26, RELATING TO THE DUTIES OF THE JOINT LEGISLATIVE COMMITTEE ON MUNICIPAL INCORPORATION, SO AS TO PROVIDE THE COMMITTEE WITH ADDITIONAL DUTIES RELATED TO THE REVIEW OF MUNICIPAL CERTIFICATES OF INCORPORATION; AND TO DESIGNATE SECTIONS 5-1-10 THROUGH 5-1-110 AS ARTICLE 1, CHAPTER 1, TITLE 5, ENTITLED “THE MUNICIPAL INCORPORATION PROCESS”.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 5 of the 1976 Code is amended by adding:

“Article 3

Municipal Certificate of Incorporation Review

Section 5‑1‑300. (A) When following its incorporation, a municipality’s population has decreased to less than three hundred inhabitants according to the latest official United States Census, a municipality must file with the Secretary of State an application for the continuance of the municipality’s certificate of incorporation. The application with the Secretary of State must be filed no later than ninety days after the official release date of the latest official United States Census and must contain:

(1) the municipality’s population density per square mile according to the latest official United States Census;

(2) documentation concerning the municipality’s fulfillment of the law enforcement requirement contained in Section 5‑1‑30(5);

(3) a complete list of the municipal services provided by the municipality, including, but not limited to, those identified in Section 5‑1‑30(6) and documentation relating to delivery of those services; and

(4) the results of the independent annual audit required pursuant to Section 5‑7‑240 for the previous ten years.

(B) Upon receipt of an application filed pursuant to this section, the Secretary of State shall transfer a copy of the application to the Joint Legislative Committee on Municipal Incorporation for review.

(C) A municipality that fails to timely file an application for continuance of its certificate of incorporation shall have its certificate of incorporation automatically suspended. A certificate suspended under this subsection shall remain suspended until the municipality undergoes a review as provided in this article.

Section 5‑1‑310. (A) Regardless of a municipality’s population, the county legislative delegation of the county in which a municipality is located also may initiate a review of the municipality’s certificate of incorporation upon the weighted majority vote of the delegation. Upon voting to initiate a review, the delegation shall provide the Secretary of State, the municipality’s governing body, and the Joint Legislative Committee on Municipal Incorporation with written notice of its action.

(B) Upon receiving notice of the action of the legislative delegation to initiate a review of the municipality’s certificate of incorporation, within ninety days the municipality must transmit to the Secretary of State and the joint legislative committee the information required in Section 5‑1‑300(A)(1), (2), and (3).

Section 5‑1‑320. (A) Upon receiving notice that a review is being initiated, the joint legislative committee shall meet to consider the information provided by the municipality. The joint legislative committee also may receive and consider testimony and other evidence or information related to the municipality’s provision of law enforcement and municipal services.

(B) The joint legislative committee shall make a written recommendation to the Secretary of State concerning the continuation of the municipality’s certificate of incorporation.

(C) The Secretary of State shall provide the governing body of the municipality with a copy of the committee’s written decision.

Section 5‑1‑330. (A) After receipt of a recommendation from the joint legislative committee, the Secretary of State shall determine whether the municipality is adequately providing the services identified by the municipality as being met in Section 5‑1‑300(A)(1), (2), and (3).

(B)(1) Upon a determination that the level of services provided are not adequate, then the certificate of incorporation is forfeited and void.

(2) Upon a determination that the level of services provided are adequate, the certificate of incorporation shall be continued with the same rights, privileges, duties, and responsibilities of all other certificates of incorporation.”

SECTION 2. Section 5‑1‑26(A) of the 1976 Code, as added by Act 77 of 2005, is amended to read:

“Section 5‑1‑26. (A) The Joint Legislative Committee on Municipal Incorporation is created to review the:

(1) petition and documentation submitted by an area seeking municipal incorporation and to make a recommendation to the Secretary of State whether the area meets the minimum service standard incorporation requirements as provided in Section 5‑1‑30~~.~~; and

(2) documentation submitted concerning the continuation of a municipality’s certificate of incorporation and to make a recommendation to the Secretary of State whether the municipality is providing an adequate level of municipal services to warrant the continuation of its certificate of incorporation.”

SECTION 3. Sections 5‑1‑10 through 5‑1‑110 of the 1976 Code are designated as Article 1, Chapter 1, Title 5 entitled “The Municipal Incorporation Process”. The Code Commissioner is directed to change references from “chapter” to “article” as appropriate to reflect the redesignated provisions.

SECTION 4. This act takes effect upon approval by the Governor.

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