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SESSION 1995

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HOUSE BILL 1084*
Committee Substitute Favorable 6/5/96
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Short Title: Annexation Changes/Smaller Cities.

(Public)

Sponsors:

Referred to:

May 14, 1996

1 A BILL TO BE ENTITLED
2 AN ACT TO CHANGE THE LAWS GOVERNING ANNEXATION BY CITIES WITH
3 A POPULATION OF LESS THAN FIVE THOUSAND.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 160A-35 reads as rewritten:

6 "**§ 160A-35. Prerequisites to annexation; ability to serve; report and plans.**

7 A municipality exercising authority under this Part shall make plans for the extension
8 of services to the area proposed to be annexed and shall, prior to the public hearing
9 provided for in G.S. 160A-37, prepare a report setting forth such plans to provide
10 services to such area. The report shall include:

11 (1) A map or maps of the municipality and adjacent territory to show the
12 following information:

- 13 a. The present and proposed boundaries of the municipality.
14 b. The proposed extensions of water mains and sewer outfalls to
15 serve the annexed area, if such utilities are operated by the
16 municipality. The water and sewer map must bear the seal of a
17 registered professional engineer or a licensed surveyor.

- 1 (2) A statement showing that the area to be annexed meets the requirements
2 of G.S. 160A-36.
- 3 (3) A statement setting forth the plans of the municipality for extending to
4 the area to be annexed each major municipal service performed within
5 the municipality at the time of annexation. Specifically, such plans
6 shall:
- 7 a. Provide for extending police protection, fire protection, solid
8 waste collection and street maintenance services to the area to be
9 annexed on the date of annexation on substantially the same basis
10 and in the same manner as such services are provided within the
11 rest of the municipality prior to annexation. A contract with a
12 rural fire department to provide fire protection shall be an
13 acceptable method of providing fire protection. If a water
14 distribution system is not available in the area to be annexed, the
15 plans must call for reasonably effective fire protection services
16 until such time as waterlines are made available in such area
17 under existing municipal policies for the extension of waterlines.
18 A contract with a private firm to provide solid waste collection
19 services shall be an acceptable method of providing solid waste
20 collection services.
- 21 b. Provide for extension of water mains and sewer lines into the
22 area to be annexed so that property owners in the area to be
23 annexed will be able to secure public water and sewer services
24 according to the policies in effect in such municipality for
25 extending water and sewer lines to individual lots or
26 subdivisions. If the municipality must, at its own expense,
27 extend water and/or sewer mains into the area to be annexed
28 before property owners in the area can, according to municipal
29 policies, make such connection to such lines, then the plans must
30 call for contracts to be let and construction to begin on such lines
31 within one year following the effective date of annexation.
- 32 c. Set forth the method under which the municipality plans to
33 finance extension of services into the area to be annexed.
- 34 d. Provide for street paving service on substantially the same basis
35 and in the same manner as that service is provided within the rest
36 of the municipality prior to the annexation.
- 37 e. Include a summary of city police, fire, solid waste, street
38 maintenance and paving, water and sewer services provided to
39 current city residents as of 90 days prior to the date set for the
40 public hearing.
- 41 (4) A statement of the impact of the annexation on any rural fire department
42 providing service in the area to be annexed and a statement of the
43 impact of the annexation on fire protection and fire insurance rates in

1 the area to be annexed, if the area where service is provided is in an
2 insurance district designated under G.S. 153A-233, a rural fire
3 protection district under Article 3A of Chapter 69 of the General
4 Statutes, or a fire service district under Article 16 of Chapter 153A of
5 the General Statutes. The rural fire department shall make available to
6 the city not later than 30 days following a written request from the city
7 all information in its possession or control, including but not limited to
8 operational, financial and budgetary information, necessary for
9 preparation of a statement of impact. The rural fire department forfeits
10 its rights under G.S. 160A-37.1 and G.S. 160A-37.2 if it fails to make a
11 good faith response within 45 days following receipt of the written
12 request for information from the city, provided that the city's written
13 request so states by specific reference to this section.

14 (5) A statement containing the classification as to use and size of each lot or
15 tract in the area to be annexed.

16 (6) A clear and easily understandable statement notifying persons affected
17 by the annexation of their right to appeal under G.S. 160A-38 and the
18 remedy under G.S. 160A-37(h) for failure of the city to provide
19 services.

20 (7) A statement showing how the proposed annexation will affect the city's
21 finances and services, including city revenue change estimates. This
22 statement shall be delivered to the clerk of the board of county
23 commissioners at least 30 days before the date of any public hearing on
24 any annexation under this Part."

25 Sec. 2. G.S. 160A-37(b) reads as rewritten:

26 "(b) Notice of Public Hearing. – The notice of public hearing shall:

27 (1) Fix the date, hour and place of the public hearing.

28 (2) Describe clearly the boundaries of the area under consideration, and
29 include a legible map of the area.

30 (3) Include a clear and easily understandable statement notifying persons
31 affected by the annexation of their right to appeal under G.S. 160A-38
32 and the remedy under G.S. 160A-37(h) for failure of the city to provide
33 services.

34 ~~(3)~~(4) State that the report required in G.S. 160A-35 will be available at the
35 office of the municipal clerk at least 30 days prior to the date of the
36 public hearing.

37 Such notice shall be given by publication once a week for at least two successive
38 weeks prior to the date of the hearing in a newspaper having general circulation in the
39 municipality and, in addition thereto, if the area to be annexed lies in a county containing
40 less than fifty percent (50%) of the land area of the municipality, in a newspaper having
41 general circulation in the area of proposed annexation. The period from the date of the
42 first publication to the date of the last publication, both dates inclusive, shall be not less
43 than eight days including Sundays, and the date of the last publication shall be not more

1 than seven days preceding the date of public hearing. If there be no such newspaper, the
2 municipality shall post the notice in at least five public places within the municipality and
3 at least five public places in the area to be annexed for 30 days prior to the date of public
4 hearing. In addition, notice shall be mailed at least four weeks prior to date of the hearing
5 by first class mail, postage prepaid to the owners as shown by the tax records of the
6 county of all freehold interests in real property located within the area to be annexed. The
7 person or persons mailing such notices shall certify to the governing board that fact, and
8 such certificate shall become a part of the record of the annexation proceeding and shall
9 be deemed conclusive in the absence of fraud. If the notice is returned to the city by the
10 postal service by the tenth day before the hearing, a copy of the notice shall be sent by
11 certified mail, return receipt requested, at least seven days before the hearing. Failure to
12 comply with the mailing requirement of this subsection shall not invalidate the
13 annexation unless it is shown that the requirements were not substantially complied with.

14 If the governing board by resolution finds that the tax records are not adequate to
15 identify the owners of some or all of the parcels of real property within the area it may in
16 lieu of the mail procedure as to those parcels where the owners could not be so identified,
17 post the notice at least 30 days prior to the date of public hearing on all buildings on such
18 parcels, and in at least five other places within the area to be annexed. In any case where
19 notices are placed on property, the person placing the notice shall certify that fact to the
20 governing board."

21 Sec. 3. G.S. 160A-37(d) reads as rewritten:

22 "(d) Public Hearing. – At the public hearing a representative of the municipality
23 shall first make an explanation of the report required in ~~G.S. 160A-35~~ G.S. 160A-35,
24 including appeal rights as summarized in G.S. 160A-35(6). Following such explanation,
25 all persons resident or owning property in the territory described in the notice of public
26 hearing, and all residents of the municipality, shall be given an opportunity to be heard."

27 Sec. 4. G.S. 160A-38 is amended by adding a new subsection to read:

28 "(1) In any proceeding related to an annexation ordinance appeal under this section,
29 a city shall not state a claim for lost property tax revenue caused by the appeal. Nothing
30 in this Article shall be construed to mean that as a result of an appeal a municipality may
31 assert a claim for property tax revenue lost during the pendency of the appeal."

32 Sec. 4.1. G.S. 160A-37 is amended by adding a new subsection to read:

33 "(k) Protest petition.

34 (1) Protest authorized. – Upon submission of a protest petition signed by
35 twenty percent (20%) or more of the landowners affected by a proposed
36 annexation, the annexation ordinance shall not become effective except
37 by favorable vote of three-fourths vote of the city council.

38 (2) Procedure. – No protest against any proposed annexation ordinance
39 shall be valid unless it be in the form of a written petition actually
40 bearing the signatures of the requisite number of property owners and
41 stating that the signers do protest the proposed annexation and unless it
42 shall have been received by the city clerk in sufficient time to allow the
43 city at least two normal work days, excluding Saturdays, Sundays and

1 legal holidays, before the date established for a public hearing on the
2 annexation ordinance to determine the sufficiency and accuracy of the
3 petition. The city council may by ordinance require that all protest
4 petitions be on a form prescribed and furnished by the city, and such
5 form may prescribe any reasonable information deemed necessary to
6 permit the city to determine the sufficiency and accuracy of the petition.

7 (3) Effect of failure of three-fourths vote after protest petition. – If the city
8 council fails to adopt the annexation ordinance by the required three-
9 fourths vote following submission of the protest petition, the city
10 council may not consider an annexation ordinance under this Part
11 affecting the same parcels of land for a period of one year from the date
12 of the submission of the protest petition."

13 Sec. 5. Section 4 of this act becomes effective on and after January 1, 1996.
14 All other sections of this act become effective December 1, 1996, and apply to
15 annexations for which the resolution of intent is adopted on or after that date.