

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S

1

SENATE BILL 1184*

Short Title: Annexation Changes/Smaller Cities.

(Public)

Sponsors: Senators Hartsell; Odom, Carrington, and Foxx.

Referred to: Judiciary II/ Election Laws.

May 15, 1996

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE LAWS GOVERNING ANNEXATION BY CITIES WITH
A POPULATION OF LESS THAN FIVE THOUSAND.

The General Assembly of North Carolina enacts:

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

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

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

- (1) A map or maps of the municipality and adjacent territory to show the following information:
 - a. The present and proposed boundaries of the municipality.
 - b. The proposed extensions of water mains and sewer outfalls to serve the annexed area, if such utilities are operated by the municipality. The water and sewer map must bear the seal of a registered professional engineer or a licensed surveyor.
- (2) A statement showing that the area to be annexed meets the requirements of G.S. 160A-36.

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

1 e. Provide a specific statement as to how the city plans to provide
2 the required services.

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

19 (5) A detailed statement as to how the city classified each lot or tract in the
20 area to be annexed as to use and size.

21 (6) A statement notifying persons affected by the annexation of their right
22 to appeal under G.S. 160A-38.

23 (7) A statement showing how the proposed annexation will affect the
24 county's financing and services. This statement shall include changes in
25 county revenues: local sales taxes, shares of beverage taxes, inspection
26 fees, real estate transfer taxes, hotel occupancy taxes, water and sewer
27 revenues, solid waste revenues, and any district property tax revenues
28 where the county board of commissioners levies the tax. The statement
29 shall also include changes in county services: water, sewer, law
30 enforcement, fire, parks and recreation, inspections, land-use regulation,
31 animal control, solid waste collection and disposal, solid waste
32 franchises, rescue services, and emergency medical services. This
33 statement shall be delivered to the clerk of the board of county
34 commissioners at least 60 days before the date of any public hearing on
35 any annexation under this Part."

36 Sec. 2. G.S. 160A-36 reads as rewritten:

37 **"§ 160A-36. Character of area to be annexed.**

38 (a) A municipal governing board may extend the municipal corporate limits to
39 include any area which meets the general standards of subsection (b), and which meets
40 the requirements of subsection (c).

41 (b) The total area to be annexed must meet the following standards:

42 (1) It must be adjacent or contiguous to the municipality's boundaries at the
43 time the annexation proceeding is begun, except if the entire territory of

1 a county water and sewer district created under G.S. 162A-86(b1) is
2 being annexed, the annexation shall also include any noncontiguous
3 pieces of the district as long as the part of the district with the greatest
4 land area is adjacent or contiguous to the municipality's boundaries at
5 the time the annexation proceeding is begun.

6 (2) At least one eighth of the aggregate external boundaries of the area must
7 coincide with the municipal boundary.

8 (3) No part of the area shall be included within the boundary of another
9 incorporated municipality.

10 (c) The area to be annexed must be developed for urban purposes. An area
11 developed for urban purposes is defined as any area which is so developed that at least
12 sixty percent (60%) of the total number of lots and tracts in the area at the time of
13 annexation are used for residential, commercial, industrial, institutional or governmental
14 purposes, and is subdivided into lots and tracts such that at least ~~sixty percent (60%)~~
15 seventy percent (70%) of the total acreage, not counting the acreage used at the time of
16 annexation for commercial, industrial, governmental or institutional purposes, consists of
17 lots and tracts ~~five-three~~ acres or less in size. An area developed for urban purposes is also
18 the entire area of any county water and sewer district created under G.S. 162A-86(b1),
19 but this sentence only applies to annexation by a municipality if that:

20 (1) Municipality has provided in a contract with that district that the area is
21 developed for urban purposes; and

22 (2) Contract provides for the municipality to operate the sewer system of
23 that county water and sewer district;

24 provided that the special categorization provided by this sentence only applies if the
25 municipality is annexing in one proceeding the entire territory of the district not already
26 within the corporate limits of a municipality. Any contiguous land in common ownership
27 and common use shall be deemed to be one 'lot or tract' as the term is used in this
28 subsection. An easement for public utility or railroad purposes may be classified as an
29 industrial, commercial, or governmental use, as appropriate, buy only as to the extent of
30 the easement, and such classification does not extend to the remainder of the tract solely
31 because of the easement.

32 (d) In fixing new municipal boundaries, a municipal governing board shall,
33 wherever practical, use natural topographic features such as ridge lines and streams and
34 creeks as boundaries, and may use streets and municipal or county limits as boundaries.
35 Some or all of the boundaries of a county water and sewer district may also be used when
36 the entire district not already within the corporate limits of a municipality is being
37 annexed.

38 (e) The area of an abolished water and sewer district shall be considered to be a
39 water and sewer district for the purpose of this section even after its abolition under G.S.
40 162A-87.2(b)."

41 Sec. 3. G.S. 160A-37(j) is repealed.

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

1 "(k) Prior to filing an appeal under this section, a person eligible to appeal must
2 first present a request to the Local Government Commission for an analysis of the
3 municipal governing board's actions under this Part and have received the analysis. Filing
4 of such request tolls any applicable deadlines under this Part until the analysis is
5 delivered. The Local Government Commission shall deliver to the municipal governing
6 board and the requester within 90 days of the request its analysis, and if it finds any
7 defect in the procedure, it may remand the ordinance to the municipal governing board
8 which may correct any defect."

9 Sec. 5. G.S. 160A-38 is amended by adding a new subsection to read:

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

14 Sec. 6. G.S. 160A-41(2) reads as rewritten:

15 "(2) 'Used for residential purposes' shall mean any lot or tract ~~five~~three acres
16 or less in size on which is constructed a habitable dwelling unit."

17 Sec. 7. G.S. 160A-42 is repealed.

18 Sec. 8. This act becomes effective October 1, 1996. Section 5 of this act is
19 effective on and after January 1, 1996.