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SENATE BILL DRS25297-LMz-152C\* (04/04)

Short Title: Municipal Service Districts/Statutory Changes.

(Public)

Sponsors: Senators Wade, McKissick, and Hartsell (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT PROVIDING THAT (I) A MUNICIPAL SERVICE DISTRICT MAY BE DEFINED BY THE CITY COUNCIL UPON RECEIPT OF A PETITION FROM REAL PROPERTY OWNERS; (II) A CITY MAY EXCLUDE PROPERTY FROM A MUNICIPAL SERVICE DISTRICT PRIOR TO OR AFTER THE CREATION OF THE DISTRICT IF THE PROPERTY DOES NOT BENEFIT FROM THE SERVICES, FACILITIES, OR FUNCTIONS OF THE DISTRICT; (III) A MUNICIPAL SERVICE DISTRICT MAY BE DEFINED, EXTENDED, CONSOLIDATED, AND ABOLISHED ONLY BY ORDINANCE; AND (IV) A CONTRACT FOR SERVICES IN A MUNICIPAL SERVICE DISTRICT WITH A PRIVATE AGENCY SHALL INCLUDE A REQUIREMENT THAT THE AGENCY REPORT THE IDENTITY OF ANY SUBCONTRACTORS, AS RECOMMENDED BY THE LRC COMMITTEE ON MUNICIPAL SERVICE DISTRICTS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 160A-536 reads as rewritten:

"§ 160A-536. **Purposes for which districts may be established.**

...

(d) Contracts. – A city may provide services, facilities, functions, or promotional and developmental activities in a service district with its own forces, through a contract with another governmental agency, through a contract with a private agency, or by any combination thereof. Any contracts entered into pursuant to this subsection shall comply with all of the following criteria:

- (1) The contract shall specify the purposes for which city moneys are to be used for that service district.
- (2) The contract shall require an appropriate accounting for those moneys at the end of each fiscal year or other appropriate period. The appropriate accounting shall include the name, location, purpose, and amount paid to any person or persons with whom the private agency contracted to perform or complete any purpose for which the city moneys were used for that service district.

...."

**SECTION 2.** G.S. 160A-537 reads as rewritten:

"§ 160A-537. **Definition of service districts.**

(a) Standards. – The city council of any city may by ~~resolution~~ ordinance define a service district upon finding that a proposed district is in need of one or more of the services, facilities, or functions listed in G.S. 160A-536 to a demonstrably greater extent than the remainder of the city.

(a1) Petition to Define District. – The city council may also by ordinance define a service district if a petition submitted by a majority of the owners of real property in a defined area of the



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1 city establishes that the area is in need of one or more of the services, facilities, or functions listed  
2 in G.S. 160A-536 to a demonstrably greater extent than the remainder of the city. The petition  
3 shall contain the names, addresses, and signatures of the real property owners within the proposed  
4 district, describe the proposed district boundaries, and state in detail the services, facilities, or  
5 functions listed in G.S. 160A-536 which would serve as the basis for establishing the proposed  
6 district. The city council may establish a policy to hear all petitions submitted under this  
7 subsection at regular intervals, but no less than once per year.

8 (b) Report. – Before the public hearing required by subsection (c), the city council shall  
9 cause to be prepared a report containing:

- 10 (1) A map of the proposed district, showing its proposed boundaries;
- 11 (2) A statement showing that the proposed district meets the standards set out in  
12 subsection (a); and
- 13 (3) A plan for providing in the district one or more of the services listed in  
14 G.S. 160A-536.

15 The report shall be available for public inspection in the office of the city clerk for at least four  
16 weeks before the date of the public hearing.

17 (c) Hearing and Notice. – The city council shall hold a public hearing before adopting any  
18 ~~resolution~~ ordinance defining a new service district under this section. Notice of the hearing shall  
19 state the date, hour, and place of the hearing and its subject, and shall include a map of the  
20 proposed district and a statement that the report required by subsection (b) is available for public  
21 inspection in the office of the city clerk. The notice shall be published at least once not less than  
22 one week before the date of the hearing. In addition, it shall be mailed at least four weeks before  
23 the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by  
24 the county tax records as of the preceding January 1 (and at the address shown thereon) of all  
25 property located within the proposed district. The person designated by the council to mail the  
26 notice shall certify to the council that the mailing has been completed and his certificate is  
27 conclusive in the absence of fraud.

28 (c1) Exclusion From District. – An owner of a tract or parcel of land located within the  
29 proposed district may, at the public hearing or no later than five days after the date of the public  
30 hearing required by subsection (c) of this section, submit a written request to the city council for  
31 the exclusion of the tract or parcel from the proposed district. The owner shall specify the tract or  
32 parcel, state with particularity the reasons why the tract or parcel is not in need of the services,  
33 facilities, or functions of the proposed district to a demonstrably greater extent than the remainder  
34 of the city, and provide any other additional information the owner deems relevant. If the city  
35 council finds that the tract or parcel is not in need of the services, facilities, or functions of the  
36 proposed district to a demonstrably greater extent than the remainder of the city, the city council  
37 may exclude the tract or parcel from the proposed district.

38 (d) Effective Date. – Except as otherwise provided in this subsection, the ~~resolution~~  
39 ordinance defining a service district shall take effect at the beginning of a fiscal year commencing  
40 after its passage, as determined by the city council. If the governing body in the ~~resolution~~  
41 ordinance states that general obligation bonds or special obligation bonds are anticipated to be  
42 authorized for the project, it may make the ~~resolution~~ ordinance effective immediately upon its  
43 adoption or as otherwise provided in the ~~resolution~~ ordinance. However, no ad valorem tax may be  
44 levied for a partial fiscal year.

45 (e) ~~In the case of a resolution defining a service district, which is adopted during the~~  
46 ~~period beginning July 1, 1981, and ending July 31, 1981, and which district is for any purpose~~  
47 ~~defined in G.S. 160A-536(1), the city council may make the resolution effective for the fiscal year~~  
48 ~~beginning July 1, 1981. In any such case, the report under subsection (b) of this section need only~~  
49 ~~have been available for public inspection for at least two weeks before the date of the public~~  
50 ~~hearing, and the notice required by subsection (c) of this section need only have been mailed at~~  
51 ~~least two weeks before the date of the hearing.~~

1       (f) Passage of Ordinance. – No ordinance defining a service district as provided for in this  
2 section shall be finally adopted until it has been passed at two meetings of the city council by  
3 majority vote of the voting members present, and no service district shall be defined except by  
4 ordinance."

5               **SECTION 3.** G.S. 160A-538 reads as rewritten:

6       "**§ 160A-538. Extension of service districts.**

7       (a) Standards. – The city council may by ~~resolution~~ordinance annex territory to any  
8 service district upon finding that:

9               (1) The area to be annexed is contiguous to the district, with at least one eighth of  
10 the area's aggregate external boundary coincident with the existing boundary of  
11 the district;

12              (2) That the area to be annexed requires the services of the district.

13       (b) Annexation by Petition. – The city council may also by ~~resolution~~ordinance extend by  
14 annexation the boundaries of any service district when one hundred percent (100%) of the real  
15 property owners of the area to be annexed have petitioned the council for annexation to the service  
16 district.

17       (c) Report. – Before the public hearing required by subsection (d), the council shall cause  
18 to be prepared a report containing:

19              (1) A map of the service district and the adjacent territory, showing the present and  
20 proposed boundaries of the district;

21              (2) A statement showing that the area to be annexed meets the standards and  
22 requirements of subsections (a) or (b); and

23              (3) A plan for extending services to the area to be annexed.

24       The report shall be available for public inspection in the office of the city clerk for at least two  
25 weeks before the date of the public hearing.

26       (d) Hearing and Notice. – The council shall hold a public hearing before adopting any  
27 ~~resolution~~ordinance extending the boundaries of a service district. Notice of the hearing shall state  
28 the date, hour and place of the hearing and its subject, and shall include a statement that the report  
29 required by subsection (c) is available for inspection in the office of the city clerk. The notice shall  
30 be published at least once not less than one week before the date of the hearing. In addition, the  
31 notice shall be mailed at least four weeks before the date of the hearing to the owners as shown by  
32 the county tax records as of the preceding January 1 of all property located within the area to be  
33 annexed. The notice may be mailed by any class of U.S. mail which is fully prepaid. The person  
34 designated by the council to mail the notice shall certify to the council that the mailing has been  
35 completed, and his certificate shall be conclusive in the absence of fraud.

36       (e) Effective Date. – The ~~resolution~~ordinance extending the boundaries of the district shall  
37 take effect at the beginning of a fiscal year commencing after its passage, as determined by the  
38 council.

39       (e1) Passage of Ordinance. – No ordinance annexing territory to a service district as  
40 provided for in this section shall be finally adopted until it has been passed at two meetings of the  
41 city council by majority vote of the voting members present, and no territory shall be annexed to a  
42 service district except by ordinance.

43       (f) Historic District Boundaries Extension. – A service district which at the time of its  
44 creation had the same boundaries as an historic district created under Part 3A of Article 19 of this  
45 Chapter may only have its boundaries extended to include territory which has been added to the  
46 historic district."

47               **SECTION 4.** G.S. 160A-538.1 reads as rewritten:

48       "**§ 160A-538.1. Reduction of service districts.**

49       (a) Reduction by City Council. – Upon finding that there is no longer a need to include  
50 within a particular service district any certain tract or parcel of land, the city council may by  
51 ~~resolution~~ordinance redefine a service district by removing therefrom any tract or parcel of land

1 which it has determined need no longer be included in said district. The city council shall hold a  
2 public hearing before adopting ~~a resolution~~ an ordinance removing any tract or parcel of land from  
3 a district. Notice of the hearing shall state the date, hour and place of the hearing, and its subject,  
4 and shall be published at least once not less than one week before the date of the hearing.

5 (a1) Request for Reduction by Owner. – A property owner may submit a written request to  
6 the city council to remove the owner's tract or parcel of land from a service district. The owner  
7 shall specify the tract or parcel, state with particularity the reasons why the tract or parcel is not in  
8 need of the services, facilities, or functions of the proposed district to a demonstrably greater  
9 extent than the remainder of the city, and provide any other additional information the owner  
10 deems relevant. Upon receipt of the request, the city council shall hold a public hearing as required  
11 by subsection (a) of this section. If the city council finds that the tract or parcel is not in need of  
12 the services, facilities, or functions of the district to a demonstrably greater extent than the  
13 remainder of the city, the city council may, by ordinance, redefine the service district by removing  
14 therefrom the tract or parcel.

15 (b) Effective Date. – The removal of any tract or parcel of land from any service district  
16 shall take effect at the end of a fiscal year following passage of the ~~resolution~~, ordinance, as  
17 determined by the city council.

18 (b1) Passage of Ordinance. – No ordinance reducing a service district as provided for in this  
19 section shall be finally adopted until it has been passed at two meetings of the city council by  
20 majority vote of the voting members present, and no service district shall be reduced except by  
21 ordinance.

22 (c) Historic District Boundaries Reduction. – A service district which at the time of its  
23 creation had the same boundaries as an historic district created under Part 3A of Article 19 of this  
24 Chapter may only have its boundaries reduced to exclude territory which has been removed from  
25 the historic district."

26 **SECTION 5.** G.S. 160A-539 reads as rewritten:

27 **"§ 160A-539. Consolidation of service districts.**

28 (a) The city council may by ~~resolution~~ ordinance consolidate two or more service districts  
29 upon finding that:

- 30 (1) The districts are contiguous or are in a continuous boundary; and
- 31 (2) The services provided in each of the districts are substantially the same; or
- 32 (3) If the services provided are lower for one of the districts, there is a need to  
33 increase those services for that district to the level of that enjoyed by the other  
34 districts.

35 (b) Report. – Before the public hearing required by subsection (c), the city council shall  
36 cause to be prepared a report containing:

- 37 (1) A map of the districts to be consolidated;
- 38 (2) A statement showing the proposed consolidation meets the standards of  
39 subsection (a); and
- 40 (3) If necessary, a plan for increasing the services for one or more of the districts so  
41 that they are substantially the same throughout the consolidated district.

42 The report shall be available in the office of the city clerk for at least two weeks before the  
43 public hearing.

44 (c) Hearing and Notice. – The city council shall hold a public hearing before adopting any  
45 ~~resolution~~ ordinance consolidating service districts. Notice of the hearing shall state the date, hour,  
46 and place of the hearing and its subject, and shall include a statement that the report required by  
47 subsection (b) is available for inspection in the office of the city clerk. The notice shall be  
48 published at least once not less than one week before the date of the hearing. In addition, the  
49 notice shall be mailed at least four weeks before the hearing to the owners as shown by the county  
50 tax records as of the preceding January 1 of all property located within the consolidated district.  
51 The notice may be mailed by any class of U.S. mail which is fully prepaid. The person designated

1 by the council to mail the notice shall certify to the council that the mailing has been completed,  
2 and his certificate shall be conclusive in the absence of fraud.

3 (d) Effective Date. – The consolidation of service districts shall take effect at the beginning  
4 of a fiscal year commencing after passage of the ~~resolution~~ordinance of consolidation, as  
5 determined by the council.

6 (e) Passage of Ordinance. – No ordinance consolidating two or more service districts as  
7 provided for in subsection (a) of this section shall be finally adopted until it has been passed at two  
8 meetings of the city council by majority vote of the voting members present, and no service  
9 districts shall be consolidated except by ordinance."

10 **SECTION 6.** G.S. 160A-541 reads as rewritten:

11 "**§ 160A-541. Abolition of service districts.**

12 Upon finding that there is no longer a need for a particular service district, the city council may  
13 by ~~resolution~~ordinance abolish that district. The council shall hold a public hearing before  
14 adopting a ~~resolution~~an ordinance abolishing a district. Notice of the hearing shall state the date,  
15 hour and place of the hearing, and its subject, and shall be published at least once not less than one  
16 week before the date of the hearing. The abolition of any service district shall take effect at the end  
17 of a fiscal year following passage of the ~~resolution~~ordinance, as determined by the council."

18 **SECTION 7.** Section 1 of this act is effective when it becomes law and applies only  
19 to contracts entered into on or after the effective date of this act. The remainder of this act is  
20 effective when it becomes law.