

Article 20.

Joint Legislative Committee on Local Government.

Part 1. Organization.

§ 120-157.1. Committee established.

(a) The Joint Legislative Committee on Local Government is established. The Committee shall consist of 14 members, appointed as follows:

- (1) Seven members of the Senate appointed by the President Pro Tempore of the Senate, at least two of whom shall be members of the minority party. At least one member shall be a former city or county commissioner, city or county manager, or other city or county elected official.
- (2) Seven members of the House of Representatives appointed by the Speaker of the House of Representatives, at least two of whom shall be members of the minority party. At least one member shall be a former city or county commissioner, city or county manager, or other city or county elected official.

(b) Terms on the Committee are for two years and begin on the convening of the General Assembly in each odd-numbered year. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

(c) A member continues to serve until a successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment. (2011-291, s. 1.8(a).)

§ 120-157.2. Purpose and powers of Committee.

(a) The Joint Legislative Committee on Local Government shall review and monitor local government capital projects that are required to go before the Local Government Commission and require debt to be issued over one million dollars (\$1,000,000), with the exception of schools, jails, courthouses, and administrative buildings. Any project that fits these criteria must be reported to the Committee Chairs, Committee Assistant, and the Fiscal Research Division at least 45 days prior to presentation before the Local Government Commission.

(b) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly shall include the purpose, scope, debt requirements, financing methods, and repayment plans of any local governmental capital project reviewed pursuant to subsection (a) of this section and may contain any legislation needed to implement a recommendation of the Committee. (2011-291, s. 1.8(a).)

§ 120-157.3. Organization of Committee.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Committee on Local Government. The Committee may meet on days when the members of the General Assembly are entitled to subsistence pursuant to G.S. 120-3.1 and may meet at other times upon the joint call of the cochairs.

(b) A quorum of the Committee is eight members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the power of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) Members of the Committee may receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee. (2011-291, s. 1.8(a).)

§ 120-157.4. Additional powers.

The Joint Legislative Committee on Local Government, while in discharge of official duties, shall have access to any paper or document, and may compel the attendance of any State official or employee before the Committee or secure any evidence under G.S. 120-19. In addition, G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Committee as if it were a joint committee of the General Assembly. (2011-291, s. 1.8(a).)

§ 120-158. Creation of Municipal Incorporations Subcommittee.

(a) There is created the Municipal Incorporations Subcommittee of the Joint Legislative Committee on Local Government.

(b) The Subcommittee shall consist of six members, appointed as follows:

- (1) Three Senators appointed by the President Pro Tempore of the Senate, at least one of whom shall be a former city or county commissioner, city or county manager, or other local elected official.
- (2) Three House members appointed by the Speaker of the House of Representatives, at least one of whom shall be a former city or county commissioner, city or county manager, or other local elected official.
- (3), (4) Repealed by Session Laws 2011-291, s. 1.8(a), effective June 24, 2011. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1991, c. 739, s. 17; 2011-291, s. 1.8(a).)

§ 120-159. Terms; meetings.

(a) Members shall be appointed for terms ending June 30, 1987, and subsequently for two-year terms beginning July 1, 1987, and biennially thereafter. A member eligible when appointed may continue for the remainder of the term regardless of the member's continued eligibility for the category. The Municipal Incorporations Subcommittee shall elect a chair from its membership for a one-year term.

(b) The Subcommittee may meet on days when the members of the General Assembly are entitled to subsistence pursuant to G.S. 120-3.1 and may meet at other times upon the joint call of the cochairs. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 2011-291, s. 1.8(a).)

§ 120-160: Repealed by Session Laws 2011-291, s. 1.8(a), effective June 24, 2011.

§ 120-161: Repealed by Session Laws 2011-291, s. 1.8(a), effective June 24, 2011.

§ 120-162. Reserved for future codification purposes.

Part 2. Procedure for Incorporation Review.

§ 120-163. Petition.

(a) The process of seeking the recommendation of the Municipal Incorporations Subcommittee is commenced by filing with the Municipal Incorporations Subcommittee a petition signed by fifteen percent (15%) of the registered voters of the area proposed to be incorporated, but by not less than 25 registered voters of that area, asking for incorporation. The voter shall sign the petition and also clearly print that voter's name adjacent to the signature. The petition must also contain the voter's residence address and date of birth.

(b) The petition must be verified by the county board of elections of the county where the voter is alleged to be registered. The board of elections shall cause to be examined the signature, shall place a check mark beside the name of each signer who is qualified and registered to vote in that county in the area proposed to be incorporated, and shall attach to the petition a certificate stating the number of voters registered in that county in the area proposed to be incorporated, and the total number of registered voters who have been verified. The county board of elections shall return the petition to the person who presented it within 15 working days of receipt. That period of 15 working days shall be tolled for any period of time that is also either two weeks before or one week after a primary or election being conducted by the county board of elections.

(c) The petition must include a proposed name for the city, a map of the city, a list of proposed services to be provided by the proposed municipality, the names of three persons to serve as interim governing board, a proposed charter, a statement of the estimated population, assessed valuation, degree of development, population density, and recommendations as to the form of government and manner of election. The petition must contain a statement that the proposed municipality will have a budget ordinance with an ad valorem tax levy of at least five cents (5¢) on the one hundred dollar (\$100.00) valuation upon all taxable property within its corporate limits. The petition must contain a statement that the proposed municipality will offer four of the following services no later than the first day of the third fiscal year following the effective date of the incorporation: (i) police protection; (ii) fire protection; (iii) solid waste collection or disposal; (iv) water distribution; (v) street maintenance; (vi) street construction or right-of-way acquisition; (vii) street lighting; and (viii) zoning. In order to qualify for providing police protection, the proposed municipality must propose either to provide police service or to have services provided by contract with a county or another municipality that proposes that the other government be compensated for providing supplemental protection. The petition must contain a statement from the Local Government Commission regarding the proposed municipality's prospects for financial viability and effective fiscal management. The proposed municipality may not contain any noncontiguous areas.

(d) The petitioners must present to the Municipal Incorporations Subcommittee the verified petition from the county board of elections.

(e) A petition must be submitted to the Municipal Incorporations Subcommittee at least 60 days prior to convening of the next regular session of the General Assembly in order for the Municipal Incorporations Subcommittee to make a recommendation to that session. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1999-458, s. 1; 2001-353, s. 6; 2011-291, s. 2.32; 2021-124, s. 2.)

§ 120-164. Notification.

(a) Not later than five days before submitting the petition to the Municipal Incorporations Subcommittee, the petitioners shall notify:

- (1) The board or boards of county commissioners of the county or counties where the proposed municipality is located;
- (2) All cities within that county or counties; and

- (3) All cities in any other county that are within five miles of the proposed municipality of the intent to present the petition to the Municipal Incorporations Subcommittee.

(b) The petitioners shall also publish, one per week for two consecutive weeks, with the second publication no later than seven days before submitting the petition to the Municipal Incorporations Subcommittee notice in a newspaper of general circulation in the area proposed to be incorporated of the intent to present the petition to the Municipal Incorporations Subcommittee. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 2011-291, s. 2.33.)

§ 120-165. Initial inquiry.

(a) The Municipal Incorporations Subcommittee shall, upon receipt of the petition, determine if the requirements of G.S. 120-163 and G.S. 120-164 have been met. If it determines that those requirements have not been met, it shall return the petition to the petitioners. The Municipal Incorporations Subcommittee shall also publish in the North Carolina Register notice that it has received the petition.

(b) If it determines that those requirements have been met, it shall conduct further inquiry as provided by this Part. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 2011-291, s. 2.34.)

§ 120-166. Additional criteria; nearness to another municipality.

(a) The Municipal Incorporations Subcommittee may not make a positive recommendation if the proposed municipality is located within one mile of a municipality of 5,000 to 9,999, within three miles of a municipality of 10,000 to 24,999, within four miles of a municipality of 25,000 to 49,999, or within five miles of a municipality of 50,000 or over, according to the most recent decennial federal census, or according to the most recent annual estimate of the Office of State Budget and Management if the municipality was incorporated since the return of that census. For purposes of this section, "municipality" means a city as defined by G.S. 160A-1(2) or a county that has exercised its authority under Article 24 of Chapter 153A of the General Statutes.

(b) Subsection (a) of this section does not apply in the case of proximity to a specific municipality if:

- (1) The proposed municipality is entirely on an island that the nearby city is not on;
- (2) The proposed municipality is separated by a major river or other natural barrier from the nearby city, such that provision of municipal services by the nearby city to the proposed municipality is infeasible or the cost is prohibitive, and the Municipal Incorporations Subcommittee shall adopt policies to implement this subdivision;
- (3) The municipalities within the distances described in subsection (a) of this section by resolution express their approval of the incorporation; or
- (4) An area of at least fifty percent (50%) of the proposed municipality has petitioned for annexation to the nearby city under G.S. 160A-31 within the previous 12 months before the incorporation petition is submitted to the Municipal Incorporations Subcommittee but the annexation petition was not approved. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1989 (Reg. Sess., 1990), c. 1024, s. 25; 1998-150, s. 2; 2000-140, s. 93.1(a); 2001-424, s. 12.2(b); 2005-35, s. 2; 2011-291, s. 2.35.)

§ 120-167. Additional criteria; population.

The Commission may not make a positive recommendation unless the proposed municipality has a permanent population of at least 100 and a population density (either permanent or seasonal) of at least 250 persons per square mile. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1999-458, s. 2.)

§ 120-168. Additional criteria; development.

The Municipal Incorporations Subcommittee may not make a positive recommendation unless forty percent (40%) of the area is developed for residential, commercial, industrial, institutional, or governmental uses, or is dedicated as open space under the provisions of a zoning ordinance, subdivision ordinance, conditional or special use permit, or recorded restrictive covenants. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 1999-458, s. 3; 2011-291, s. 2.36.)

§ 120-169. Additional criteria; area unincorporated.

The Municipal Incorporations Subcommittee may not make a positive recommendation if any of the proposed municipality is included within the boundary of another incorporated municipality, as defined by G.S. 153A-1(1), or if any of the proposed municipality is included within the boundary of a county that has exercised its authority under Article 24 of Chapter 153A of the General Statutes. (1985 (Reg. Sess., 1986), c. 1003, s. 1; 2005-35, s. 3; 2011-291, s. 2.37.)

§ 120-169.1. Additional criteria; level of development, services; financial impact on other local governments.

- (a) Repealed by Session Laws 1999-458, s. 4.
- (b) Services. – The Municipal Incorporations Subcommittee may not make a positive recommendation unless the area to be incorporated submits a plan for providing a reasonable level of municipal services. This plan shall be based on the proposed services stated in the petition under G.S. 120-163(c).
- (c) The Municipal Incorporations Subcommittee in its report shall indicate the impact on other municipalities and counties of diversion of already levied local taxes or State-shared revenues from existing local governments to support services in the proposed municipality. (1998-150, s. 3; 1999-458, s. 4; 2011-291, s. 2.38.)

§ 120-170. Findings as to services.

The Commission may not make a positive recommendation unless it finds that the proposed municipality can provide at a reasonable tax rate the services requested by the petition, and finds that the proposed municipality can provide at a reasonable tax rate the types of services usually provided by similar municipalities. In making findings under this section, the Commission shall take into account municipal services already being provided. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-171. Procedures if findings made.

- (a) If the Commission finds that it may not make a positive recommendation because of the provisions of G.S. 120-166 through G.S. 120-170, it shall make a negative recommendation to the General Assembly. The report to the General Assembly shall list the grounds on which a negative recommendation is made, along with specific findings. If a negative recommendation is made, the Commission shall notify the petitioners of the need for a legally sufficient description of the proposed municipality if the proposal is to be considered by the General Assembly. At the request

of a majority of the members of the interim board named in the petition, the Commission may conduct a public hearing and forward any comments or findings made as a result of that hearing along with the negative recommendation.

(b) If the Commission determines that it will not be barred from making a positive recommendation by G.S. 120-166 through G.S. 120-170, it shall require that petitioners have a legally sufficient description of the proposed municipality prepared at their expense as a condition of a positive recommendation.

(c) If the Commission determines that it is not barred from making a positive recommendation, it shall make a positive recommendation to the General Assembly for incorporation.

(d) The report of the Commission on a petition shall be in a form determined by the Commission to be useful to the General Assembly. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-172. Referendum.

Based on information received at the public hearing, the Commission may recommend that any incorporation act passed by the General Assembly shall be submitted to a referendum, except if the petition contained the signatures of fifty percent (50%) of registered voters the Commission shall not recommend a referendum. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-173. Modification of petition.

With the agreement of the majority of the persons designated by the petition as an interim governing board, the Commission may submit to the General Assembly recommendations based on deletion of areas from the petition, as long as there are no noncontiguous areas. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§ 120-174. Deadline for recommendations.

If the petition is timely received under G.S. 120-163(e), the Commission shall make its recommendation to the General Assembly no later than 60 days after convening of the next regular session after submission of the petition. (1985 (Reg. Sess., 1986), c. 1003, s. 1.)

§§ 120-175 through 120-179. Reserved for future codification purposes.