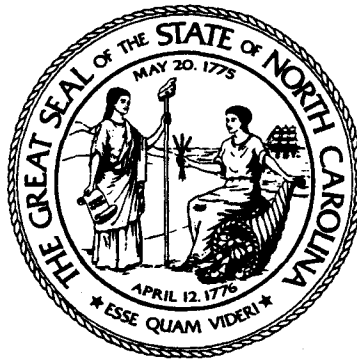


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1997

LEGISLATIVE RESEARCH COMMISSION

Property Issues



REPORT TO THE
1997 GENERAL ASSEMBLY
OF NORTH CAROLINA

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KFN 7831.9 .A5 A25 1997



STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611




January 15, 1997

TO THE MEMBERS OF THE 1997 GENERAL ASSEMBLY (REGULAR SESSION 1997):

The Legislative Research Commission herewith submits to you for your consideration its interim report on Property Issues. The report was prepared by the Legislative Research Commission's Committee on Property Issues pursuant to G.S. 120-30.17(1).

Respectfully submitted,



Harold I. Brubaker
Speaker of the House



Marc Basnight
President Pro Tempore

Cochairs
Legislative Research Commission



1995-1996
LEGISLATIVE RESEARCH COMMISSION
MEMBERSHIP

President Pro Tempore of
the Senate
Marc Basnight, Cochair

Senator Frank W. Ballance, Jr.
Senator R. L. Martin
Senator Henry McKoy
Senator J. K. Sherron, Jr.
Senator Ed N. Warren

Speaker of the House of
Representatives
Harold J. Brubaker, Cochair

Rep. Jerry C. Dockham
Rep. Larry Linney
Rep. Edd Nye
Rep. Gregory J. Thompson
Rep. Constance K. Wilson



PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is the general purpose study group in the Legislative Branch of State Government. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

The Legislative Research Commission, prompted by actions during the 1995 Session, has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Cochairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairs, one from each house of the General Assembly, were designated for each committee.

The study of Property Issues was authorized by Section 2.1(18) of Chapter 542 of the 1995 Session Laws. Part II of Chapter 542 allows for studies authorized by that Part for the Legislative Research Commission to consider House Bills 73, 539, 597, and 660 in determining the nature, scope and aspects of the study. The relevant portions of Chapter 542 are included in Appendix A. The Legislative Research Commission authorized this study under authority of G.S. 120-30.17(1) and grouped this study in its Property Issues Grouping under the direction of Representative Larry Linney. The Committee was chaired by Senator Fletcher L. Hartsell, Jr. and Representative J. Sam

Ellis. The full membership of the Committee is listed in Appendix B of this report. A committee notebook containing the committee minutes and all information presented to the committee will be filed in the Legislative Library at the conclusion of the committee's work.

COMMITTEE PROCEEDINGS

Please note: This section is intended to give a brief summary of the work of the Committee in November and December, 1996. More complete committee minutes are available from Committee Gail Stewart, (919) 733-5904 until late January, 1997. After that date, a permanent notebook recording the work of the committee will be deposited in the legislative library.

Meeting on November 14, 1996

The first fall meeting of the Committee was held November 14, 1996 in room 1124 of the Legislative Building. The Committee reviewed the disposition of the Committee's recommendations to the 1995 short session, heard a brief summary of the work of a joint League of Municipalities/Association of County Commissioners committee on annexation, and scheduled a December meeting to consider proposals from Committee members on annexation issues.

Meeting on December 12, 1996

The final meeting of the Committee was held December 12, 1996 in room 1124 of the Legislative Building. The Committee considered proposals on annexation from Mr. Clodfelter, Senator Hartsell, and Representative Sherrill. The Committee amended the proposals, and combined them into the attached recommended legislation. The Committee also recommended the attached statutory change concerning representation from ETJs on planning boards, and adopted the attached motions recommending further study of condemnation issues and structured annexation agreements.



RECOMMENDATIONS

Legislative proposals

The Committee recommends the following legislation to the 1997 General Assembly (Regular Session 1997), titled as follows. The texts of these proposals may be found in the appendix.

1. A BILL TO BE ENTITLED AN ACT TO AMEND THE ANNEXATION LAWS
2. A BILL TO BE ENTITLED AN ACT TO REQUIRE ALL MUNICIPAL SERVICES TO BE PROVIDED TO A NEWLY ANNEXED AREA ON THE DATE OF ANNEXATION
3. A BILL TO BE ENTITLED AN ACT TO REQUIRE AT LEAST TWO REPRESENTATIVES FROM A MUNICIPALITY'S EXTRATERRITORIAL PLANNING AND ZONING JURISDICTION ON THE PLANNING AGENCY

Other recommendations

1. **Condemnation.** The Committee finds that condemnation by local governments and by the State Department of Transportation is a complex issue worthy of further study. Due to lack of time, the Committee was unable to pursue this issue as fully as it wished to, and as a result recommends to the 1997 General Assembly that a future study committee be charged with pursuing reform in this important area of law and policy.

2. **Structured annexation agreements.** The Committee finds that many annexation disputes may be resolved by negotiation, and that the structured annexation agreement statutes and procedures of other states may provide valuable models for encouraging resolution of annexation disputes without the need for costly litigation. The Committee recommends to the 1997 General Assembly that a future study committee be charged with examining structured annexation agreements.



APPENDIX A

CHAPTER 542

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE AND CONTINUE VARIOUS COMMISSIONS, TO DIRECT STATE AGENCIES AND LEGISLATIVE OVERSIGHT COMMITTEES AND COMMISSIONS TO STUDY SPECIFIED ISSUES, TO MAKE VARIOUS STATUTORY CHANGES, AND TO MAKE TECHNICAL CORRECTIONS TO CHAPTER 507 OF THE 1995 SESSION LAWS.

The General Assembly of North Carolina enacts:

PART I.-----TITLE

Section 1. This act shall be known as "The Studies Act of 1995".

PART II.-----LEGISLATIVE RESEARCH COMMISSION

Sec. 2.1. The Legislative Research Commission may study the topics listed below. When applicable, the 1995 bill or resolution that originally proposed the issue or study and the name of the sponsor is listed. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study. The topics are:

- ...
- (18) Property issues.
 - a. Property rights (H.B. 597 - Nichols)
 - b. Extraterritorial jurisdiction representation (H.J.R. 73 - Ellis)
 - c. Annexation laws (H.B. 660 - Pulley; H.B. 539 - Sherrill)
 - d. Condemnation by government entities, including the condemnation process, fair market value for property, payment of condemnees' attorneys' fees and court costs, and related matters (Allred)

...

Sec. 2.9. Reporting Dates. For each of the topics the Legislative Research Commission decides to study under this act or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 1996 Regular Session of the 1995 General Assembly, if approved by the cochairs, or the 1997 General Assembly, or both.

Sec. 2.10. Bills and Resolution References. The listing of the original bill or resolution in this Part is for reference purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

Sec. 2.11. Funding. From the funds available to the General Assembly, the Legislative Services Commission may allocate additional monies to fund the work of the Legislative Research Commission.

PART XXVI.-----EFFECTIVE DATE

Sec. 26.1. This act is effective upon ratification.

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1995 - 1996**

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GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

D

97-DRW-008

THIS IS A DRAFT 18-DEC-96 15:13:16

Short Title: Annexation changes.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CHANGE THE ANNEXATION LAWS.
3 The General Assembly of North Carolina enacts:
4 Section 1. G.S. 160A-35 reads as rewritten:
5 "§160A-35. Prerequisites to annexation; ability to serve; report
6 and plans.
7 A municipality exercising authority under this Part shall make
8 plans for the extension of services to the area proposed to be
9 annexed and shall, prior to the public hearing provided for in
10 G.S. 160A-37, prepare a report setting forth such plans to
11 provide services to such area. The report shall include:
12 (1) A map or maps of the municipality and adjacent
13 territory to show the following information:
14 a. The present and proposed boundaries of the
15 municipality.
16 b. The proposed extensions of water mains and
17 sewer outfalls to serve the annexed area, if
18 such utilities are operated by the
19 municipality. The water and sewer map must

- 1 bear the seal of a registered professional
2 engineer or a licensed surveyor.
- 3 (2) A statement showing that the area to be annexed
4 meets the requirements of G.S. 160A-36.
- 5 (3) A statement setting forth the plans of the
6 municipality for extending to the area to be
7 annexed each major municipal service performed
8 within the municipality at the time of annexation.
9 Specifically, such plans shall:
- 10 a. Provide for extending police protection, fire
11 protection, solid waste collection and street
12 maintenance ~~services~~ services, including
13 street lighting, to the area to be annexed on
14 the date of annexation on ~~substantially~~ the
15 same basis and in the same manner as such
16 services are provided within the rest of the
17 municipality prior to annexation. A contract
18 with a rural fire department to provide fire
19 protection shall be an acceptable method of
20 providing fire protection. If a water
21 distribution system is not available in the
22 area to be annexed, the plans must call for
23 reasonably effective fire protection services
24 until such time as waterlines are made
25 available in such area under existing
26 municipal policies for the extension of
27 waterlines. A contract with a private firm to
28 provide solid waste collection services shall
29 be an acceptable method of providing solid
30 waste collection services.
- 31 b. Provide for extension of major water mains and
32 sewer outfall lines into the area to be
33 annexed so that property owners in the area to
34 be annexed will be able to secure public water
35 and sewer ~~services~~ services. The municipality
36 shall extend secondary water and sewer lines
37 and connector water and sewer lines according
38 to the financial policies in effect in such
39 municipality for extending water and sewer
40 lines to individual lots or subdivisions. If

- 1 the municipality must, at its own expense,
2 extend water and/or sewer mains into the area
3 to be annexed before property owners in the
4 area can, according to municipal policies,
5 make such connection to such lines, then the
6 plans must call for contracts to be let and
7 construction to begin on such lines within one
8 year following the effective date of
9 annexation.
- 10 c. Set forth the method under which the
11 municipality plans to finance extension of
12 services into the area to be annexed.
- 13 d. Provide for street paving service on
14 substantially the same basis and in the same
15 manner as that service is provided within the
16 rest of the municipality prior to the
17 annexation.
- 18 e. Include a summary of city police, fire, solid
19 waste, street maintenance and paving, water
20 and sewer services provided to current city
21 residents as of 90 days prior to the date set
22 for the public hearing. The summary shall
23 specify, at a minimum, the number of personnel
24 employed by the municipality for police and
25 fire protection, the services provided as part
26 of police and fire protection, the increase in
27 personnel or equipment, if any, planned as a
28 result of the annexation and the method the
29 municipality used to calculate present level
30 of service, including, if applicable,
31 personnel to population ratios and average
32 response times.
- 33 (4) A statement of the impact of the annexation on any
34 rural fire department providing service in the area
35 to be annexed and a statement of the impact of the
36 annexation on fire protection and fire insurance
37 rates in the area to be annexed, if the area where
38 service is provided is in an insurance district
39 designated under G.S. 153A-233, a rural fire
40 protection district under Article 3A of Chapter 69

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

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

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

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

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

32 "**§160A-36. Character of area to be annexed.**

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

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

39 (1) It must be adjacent or contiguous to the
40 municipality's boundaries at the time the

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

10 (2) At least one eighth of the aggregate external
11 boundaries of the area must coincide with the
12 municipal boundary.

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

15 (4) No part of the area to be annexed shall be located
16 in a county other than the county with a majority
17 of the municipality's residents, unless areas
18 previously added to the municipality in another
19 county include at least 1,000 persons.

20 (5) No lot or tract in the area to be annexed shall be
21 in use for bona fide farm purposes as defined in
22 G.S. 153A-340.

23 "(c) The area to be annexed must be developed for urban
24 ~~purposes~~ purposes at the time of the public hearing for the
25 annexation ordinance. For purposes of this section, area of
26 streets and rights-of-way shall not be used to determine total
27 acreage or acreage of lots and tracts under this section. For
28 purposes of this section, "right-of-way" means a recorded right-
29 of-way, or if none is recorded, a presumptive 60-foot right-of-
30 way. An area developed for urban purposes is defined as any as:

31 (1) Any area which is so developed that at least sixty
32 percent (60%) of the total number of lots and tracts in the area
33 at the time of annexation are used for residential, commercial,
34 industrial, institutional or governmental purposes, and is
35 subdivided into lots and tracts such that at least sixty percent
36 (60%) of the total acreage, not counting the acreage used at the
37 time of annexation for commercial, industrial, governmental or
38 institutional purposes, consists of lots and tracts five acres or
39 less in ~~size~~ size; or

1 (2) An area so developed that at the time of
 2 annexation, all tracts in the area to be annexed are used for
 3 commercial, industrial, governmental or institutional purposes;
 4 or

5 ~~(3) An area developed for urban purposes is also the~~
 6 The entire area of any county water and sewer district created
 7 under G.S. 162A-86(b1), but this sentence subsection only applies
 8 to annexation by a municipality if that:

9 ~~(1)~~ a. Municipality has provided in a contract
 10 with that district that the area is
 11 developed for urban purposes; and

12 ~~(2)~~ b. Contract provides for the municipality to
 13 operate the sewer system of that county
 14 water and sewer district;

15 provided that the special categorization provided by
 16 this ~~sentence~~ subsection only applies if the municipality is
 17 annexing in one proceeding the entire territory of the district
 18 not already within the corporate limits of a municipality.

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

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

29 Section 3. G.S. 160A-37(b) reads as rewritten:

30 "(b) Notice of Public Hearing. -- The notice of public hearing
 31 shall:

32 (1) Fix the date, hour and place of the public hearing.
 33 (2) Describe clearly the boundaries of the area under
 34 consideration, and include a legible map of the
 35 area.

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

1 ~~(3)~~ (4) State that the report required in G.S. 160A-35
2 will be available at the office of the municipal
3 clerk at least 30 days prior to the date of the
4 public hearing.

5 Such notice shall be given by publication once a week for at
6 least two successive weeks prior to the date of the hearing in a
7 newspaper having general circulation in the municipality and, in
8 addition thereto, if the area to be annexed lies in a county
9 containing less than fifty percent (50%) of the land area of the
10 municipality, in a newspaper having general circulation in the
11 area of proposed annexation. The period from the date of the
12 first publication to the date of the last publication, both dates
13 inclusive, shall be not less than eight days including Sundays,
14 and the date of the last publication shall be not more than seven
15 days preceding the date of public hearing. If there be no such
16 newspaper, the municipality shall post the notice in at least
17 five public places within the municipality and at least five
18 public places in the area to be annexed for 30 days prior to the
19 date of public hearing. In addition, notice shall be mailed at
20 least four weeks prior to date of the hearing by first class
21 mail, postage prepaid to the owners as shown by the tax records
22 of the county of all freehold interests in real property located
23 within the area to be annexed. The person or persons mailing such
24 notices shall certify to the governing board that fact, and such
25 certificate shall become a part of the record of the annexation
26 proceeding and shall be deemed conclusive in the absence of
27 fraud. If the notice is returned to the city by the postal
28 service by the tenth day before the hearing, a copy of the notice
29 shall be sent by certified mail, return receipt requested, at
30 least seven days before the hearing. Failure to comply with the
31 mailing requirement of this subsection shall not invalidate the
32 annexation unless it is shown that the requirements were not
33 substantially complied with.

34 If the governing board by resolution finds that the tax records
35 are not adequate to identify the owners of some or all of the
36 parcels of real property within the area it may in lieu of the
37 mail procedure as to those parcels where the owners could not be
38 so identified, post the notice at least 30 days prior to the date
39 of public hearing on all buildings on such parcels, and in at
40 least five other places within the area to be annexed. In any

1 case where notices are placed on property, the person placing the
2 notice shall certify that fact to the governing board."

3 Section 4. G.S. 160A-37(d) reads as rewritten:

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

11 Section 5. G.S. 160A-38 is amended by adding a new
12 subsection to read:

13 "(1) Any settlement reached by all parties in an appeal under
14 this section may be presented to the superior court in the county
15 in which the municipality is located. If the superior court, in
16 its discretion, approves the settlement, it shall be binding on
17 all parties without the need for approval by the General
18 Assembly."

19 Section 6. G.S. 160A-42 is rewritten to read:

20 "§160A-42. Land estimates.

21 In determining degree of land subdivision for purposes of
22 meeting the requirements of G.S. 160A-36, the municipality shall
23 use methods calculated to provide reasonably accurate results. In
24 determining whether the standards set forth in G.S. 160A-36 have
25 been met on appeal to the superior court under G.S. 160A-38, the
26 reviewing court shall accept the estimates of the ~~municipality.~~
27 municipality as provided in this section unless the actual total
28 area or degree of subdivision falls below the standards in G.S.
29 160A-36:

30 (1) As to total area if the estimate is based on an
31 actual survey, or on county tax maps or records, or on aerial
32 photographs, or on some other reasonably reliable map used for
33 official purposes by a governmental agency unless the petitioners
34 on appeal demonstrate that such estimates are in error in the
35 amount of five percent (5%) or more.

36 (2) As to degree of land subdivision, if the estimates
37 are based on an actual survey, or on county tax maps or records,
38 or on aerial photographs, or on some other reasonably reliable
39 source, unless the petitioners on appeal show that such estimates
40 are in error in the amount of five percent (5%) or more."

1 Section 7. G.S. 160A-47 reads as rewritten:

2 "§160A-47. Prerequisites to annexation; ability to serve; report
3 and plans.

4 A municipality exercising authority under this Part shall make
5 plans for the extension of services to the area proposed to be
6 annexed and shall, prior to the public hearing provided for in
7 G.S. 160A-49, prepare a report setting forth such plans to
8 provide services to such area. The report shall include:

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

11 a. The present and proposed boundaries of the
12 municipality.

13 b. The present major trunk water mains and sewer
14 interceptors and outfalls, and the proposed
15 extensions of such mains and outfalls as
16 required in subdivision (3) of this section.
17 The water and sewer map must bear the seal of
18 a registered professional engineer.

19 c. The general land use pattern in the area to be
20 annexed.

21 (2) A statement showing that the area to be annexed
22 meets the requirements of G.S. 160A-48.

23 (3) A statement setting forth the plans of the
24 municipality for extending to the area to be
25 annexed each major municipal service performed
26 within the municipality at the time of annexation.
27 Specifically, such plans shall:

28 a. Provide for extending police protection, fire
29 protection, solid waste collection and street
30 maintenance ~~services~~ services, including
31 street lighting, to the area to be annexed on
32 the date of annexation on ~~substantially~~ the
33 same basis and in the same manner as such
34 services are provided within the rest of the
35 municipality prior to annexation. A contract
36 with a rural fire department to provide fire
37 protection shall be an acceptable method of
38 providing fire protection. If a water
39 distribution system is not available in the
40 area to be annexed, the plans must call for

1 reasonably effective fire protection services
2 until such time as waterlines are made
3 available in such area under existing
4 municipal policies for the extension of
5 waterlines. A contract with a private firm to
6 provide solid waste collection services shall
7 be an acceptable method of providing solid
8 waste collection services.

- 9 b. Provide for extension of major trunk water
10 mains and sewer outfall lines into the area to
11 be annexed so that when such lines are
12 constructed, property owners in the area to be
13 annexed will be able to secure public water
14 and sewer ~~service,~~ service. The municipality
15 shall extend secondary water and sewer lines
16 and connector water and sewer lines according
17 to the financial policies in effect in such
18 municipality for extending water and sewer
19 lines to individual lots or subdivisions. If
20 requested by the owner of an occupied dwelling
21 unit or an operating commercial or industrial
22 property in writing on a form provided by the
23 municipality, which form acknowledges that
24 such extension or extensions will be made
25 according to the current financial policies of
26 the municipality for making such extensions,
27 and if such form is received by the city clerk
28 not less than 30 days before adoption of the
29 annexation ordinance, provide for extension of
30 water and sewer lines to the property or to a
31 point on a public street or road right-of-way
32 adjacent to the property according to the
33 financial policies in effect in such
34 municipality for extending water and sewer
35 lines. If any such requests are timely made,
36 the municipality shall at the time of adoption
37 of the annexation ordinance amend its report
38 and plan for services to reflect and
39 accommodate such requests.

- 1 c. If extension of major trunk water mains, sewer
2 outfall lines, sewer lines and water lines is
3 necessary, set forth a proposed timetable for
4 construction of such mains, outfalls and lines
5 as soon as possible following the effective
6 date of annexation. In any event, the plans
7 shall call for construction to be completed
8 within two years of the effective date of
9 annexation.
- 10 d. Set forth the method under which the
11 municipality plans to finance extension of
12 services into the area to be annexed.
- 13 e. Provide for street paving service on
14 substantially the same basis and in the same
15 manner as that service is provided within the
16 rest of the municipality prior to the
17 annexation.
- 18 f. Include a summary of city police, fire, solid
19 waste, street maintenance and paving, water
20 and sewer services provided to current city
21 residents as of 90 days prior to the date set
22 for the public hearing. The summary shall
23 specify, at a minimum, the number of personnel
24 employed by the municipality for police and
25 fire protection, the services provided as part
26 of police and fire protection, the increase in
27 personnel or equipment, if any, planned as a
28 result of the annexation and the method the
29 municipality used to calculate present level
30 of service, including, if applicable,
31 personnel to population ratios and average
32 response times.
- 33 (4) A statement of the impact of the annexation on any
34 rural fire department providing service in the area
35 to be annexed and a statement of the impact of the
36 annexation on fire protection and fire insurance
37 rates in the area to be annexed, if the area where
38 service is provided is in an insurance district
39 designated under G.S. 153A-233, a rural fire
40 protection district under Article 3A of Chapter 69

1 of the General Statutes, or a fire service district
2 under Article 16 of Chapter 153A of the General
3 Statutes. The rural fire department shall make
4 available to the city not later than 30 days
5 following a written request from the city all
6 information in its possession or control, including
7 but not limited to operational, financial and
8 budgetary information, necessary for preparation of
9 a statement of impact. The rural fire department
10 forfeits its rights under G.S. 160A-49.1 and G.S.
11 160A-49.2 if it fails to make a good faith response
12 within 45 days following receipt of the written
13 request for information from the city, provided
14 that the city's written request so states by
15 specific reference to this section.

16 (5) If the lot or tract standard was used to qualify
17 the area, the report shall state the classification
18 of each lot or tract in the area to be annexed as
19 to use and size. If a population standard was used
20 to qualify the area, the report shall state how the
21 population estimate of the area was determined.

22 (6) A clear and easily understandable statement
23 notifying persons affected by the annexation of
24 their right to appeal under G.S. 160A-50, the right
25 to request water and sewer services under
26 subdivision (3)b. of this section, and the remedies
27 under G.S. 160A-49(h) and (k) for failure of the
28 city to provide services.

29 (7) A statement showing how the proposed annexation
30 will affect the city's finances and services,
31 including city revenue change estimates. This
32 statement shall be delivered to the clerk of the
33 board of county commissioners at least 30 days
34 before the date of any public hearing on any
35 annexation under this Part at the time of the
36 public hearing for the annexation ordinance."

37 Section 8. G.S. 160A-48 reads as rewritten:

38 "§ 160A-48. Character of area to be annexed.

39 (a) A municipal governing board may extend the municipal
40 corporate limits to include any area

- 1 (1) Which meets the general standards of subsection
2 (b), and
- 3 (2) Every part of which meets the requirements of
4 either subsection (c) or subsection (d).
- 5 (b) The total area to be annexed must meet the following
6 standards:
- 7 (1) It must be adjacent or contiguous to the
8 municipality's boundaries at the time the
9 annexation proceeding is begun, except if the
10 entire territory of a county water and sewer
11 district created under G.S. 162A-86(b1) is being
12 annexed, the annexation shall also include any
13 noncontiguous pieces of the district as long as the
14 part of the district with the greatest land area is
15 adjacent or contiguous to the municipality's
16 boundaries at the time the annexation proceeding is
17 begun.
- 18 (2) At least one eighth of the aggregate external
19 boundaries of the area must coincide with the
20 municipal boundary.
- 21 (3) No part of the area shall be included within the
22 boundary of another incorporated municipality.
- 23 (4) No part of the area to be annexed shall be located
24 in a county other than the county with a majority
25 of the municipality's residents, unless areas
26 previously added to the municipality in another
27 county include at least 1,000 persons.
- 28 (5) No lot or tract in the area to be annexed shall be
29 in use for bona fide farm purposes as defined in
30 G.S. 153A-340.
- 31 (c) Part or all of the area to be annexed must be developed
32 for urban ~~purposes~~ purposes at the time of the public hearing
33 for the annexation ordinance. Area of streets and rights-of-way
34 shall be used only to determine total resident population per
35 acre of land in this section. An area developed for urban
36 purposes is defined as any area which meets any one of the
37 following standards:
- 38 (1) Has a total resident population equal to at least
39 two persons for each acre of land included within
40 its boundaries; or

- 1 (2) Has a total resident population equal to at least
2 one person for each acre of land included within
3 its boundaries, and is subdivided into lots and
4 tracts such that at least sixty percent (60%) of
5 the total acreage consists of lots and tracts five
6 acres or less in size and such that at least sixty-
7 five percent (65%) of the total number of lots and
8 tracts are one acre or less in size; or
9 (3) Is so developed that at least sixty percent (60%)
10 of the total number of lots and tracts in the area
11 at the time of annexation are used for residential,
12 commercial, industrial, institutional or
13 governmental purposes, and is subdivided into lots
14 and tracts such that at least sixty percent (60%)
15 of the total acreage, not counting the acreage used
16 at the time of annexation for commercial,
17 industrial, governmental or institutional purposes,
18 consists of lots and tracts five acres or less in
19 size; or
20 (4) Is the entire area of any county water and sewer
21 district created under G.S. 162A-86(b1), but this
22 subdivision only applies to annexation by a
23 municipality if that:
24 a. Municipality has provided in a contract with
25 that district that the area is developed for
26 urban purposes; and
27 b. Contract provides for the municipality to
28 operate the sewer system of that county water
29 and sewer district;
30 provided that the special categorization provided
31 by this subdivision only applies if the
32 municipality is annexing in one proceeding the
33 entire territory of the district not already within
34 the corporate limits of a municipality; or
35 (5) Is so developed that at the time of annexation, all
36 tracts in the area to be annexed are used for
37 commercial, industrial, governmental or
38 institutional purposes.
39 (d). In addition to areas developed for urban purposes, a
40 governing board may include in the area to be annexed any area

1 which does not meet the requirements of subsection (c) if such
2 area either:

- 3 (1) Lies between the municipal boundary and an area
4 developed for urban purposes so that the area
5 developed for urban purposes is either not adjacent
6 to the municipal boundary or cannot be served by
7 the municipality without extending services and/or
8 water and/or sewer lines through such sparsely
9 developed area; or
- 10 (2) Is adjacent, on at least sixty percent (60%) of its
11 external boundary, to any combination of the
12 municipal boundary and the boundary of an area or
13 areas developed for urban purposes as defined in
14 subsection (c).

15 The purpose of this subsection is to permit municipal governing
16 boards to extend corporate limits to include all nearby areas
17 developed for urban purposes and where necessary to include areas
18 which at the time of annexation are not yet developed for urban
19 purposes but which constitute necessary land connections between
20 the municipality and areas developed for urban purposes or
21 between two or more areas developed for urban purposes. For
22 purposes of this subsection, 'necessary land connection' means an
23 area which does not exceed twenty-five percent (25%) of the total
24 area to be annexed.

25 (e) In fixing new municipal boundaries, a municipal governing
26 board shall, wherever practical, use natural topographic features
27 such as ridge lines and streams and creeks as boundaries, and may
28 use streets as boundaries. Some or all of the boundaries of a
29 county water and sewer district may also be used when the entire
30 district not already within the corporate limits of a
31 municipality is being annexed.

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

35 Section 9. G.S. 160A-49(b) reads as rewritten:

36 "(b) Notice of Public Hearing. -- The notice of public hearing
37 shall:

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

- 1 (2) Describe clearly the boundaries of the area under
2 consideration, and include a legible map of the
3 area.
- 4 (3) State that the report required in G.S. 160A-47 will
5 be available at the office of the municipal clerk
6 at least 30 days prior to the date of the public
7 hearing.
- 8 (4) Include a clear and easily understandable statement
9 notifying persons affected by the annexation of
10 their right to appeal under G.S. 160A-50, the right
11 to request water and sewer services under G.S.
12 160A-47(3)b., and the remedies under G.S. 160A-
13 49(h) and (k) for failure of the city to provide
14 services.

15 Such notice shall be given by publication once a week for at
16 least two successive weeks prior to the date of the hearing in a
17 newspaper having general circulation in the municipality and, in
18 addition thereto, if the area to be annexed lies in a county
19 containing less than fifty percent (50%) of the land area of the
20 municipality, in a newspaper having general circulation in the
21 area of proposed annexation. The period from the date of the
22 first publication to the date of the last publication, both dates
23 inclusive, shall be not less than eight days including Sundays,
24 and the date of the last publication shall be not more than seven
25 days preceding the date of public hearing. If there be no such
26 newspaper, the municipality shall post the notice in at least
27 five public places within the municipality and at least five
28 public places in the area to be annexed for 30 days prior to the
29 date of public hearing. In addition, notice shall be mailed at
30 least four weeks prior to date of the hearing by first class
31 mail, postage prepaid to the owners as shown by the tax records
32 of the county of all freehold interests in real property located
33 within the area to be annexed. The person or persons mailing such
34 notices shall certify to the governing board that fact, and such
35 certificate shall become a part of the record of the annexation
36 proceeding and shall be deemed conclusive in the absence of
37 fraud. If the notice is returned to the city by the postal
38 service by the tenth day before the hearing, a copy of the notice
39 shall be sent by certified mail, return receipt requested, at
40 least seven days before the hearing. Failure to comply with the

1 mailing requirements of this subsection shall not invalidate the
2 annexation unless it is shown that the requirements were not
3 substantially complied with. If the governing board by resolution
4 finds that the tax records are not adequate to identify the
5 owners of some or all of the parcels of real property within the
6 area it may in lieu of the mail procedure as to those parcels
7 where the owners could not be so identified, post the notice at
8 least 30 days prior to the date of public hearing on all
9 buildings on such parcels, and in at least five other places
10 within the area to be annexed. In any case where notices are
11 placed on property, the person placing the notices shall certify
12 that fact to the governing board."

13 Section 10. G.S. 160A-49(d) reads as rewritten:

14 "(d) Public Hearing. -- At the public hearing a representative
15 of the municipality shall first make an explanation of the report
16 required in ~~G.S. 160A-47~~, G.S. 160A-47, including appeal rights
17 as summarized in G.S. 160A-47(6). Following such explanation, all
18 persons resident or owning property in the territory described in
19 the notice of public hearing, and all residents of the
20 municipality, shall be given an opportunity to be heard."

21 Section 11. G.S. 160A-50 is amended by adding a new
22 subsection to read:

23 "(m) Any settlement reached by all parties in an appeal under
24 this section may be presented to the superior court in the county
25 in which the municipality is located. If the superior court, in
26 its discretion, approves the settlement, it shall be binding on
27 all parties without the need for approval by the General
28 Assembly."

29 Section 12. G.S. 160A-54 is rewritten to read:

30 "§160A-54. Population and land estimates.

31 In determining population and degree of land subdivision for
32 purposes of meeting the requirements of G.S. 160A-48, the
33 municipality shall use methods calculated to provide reasonably
34 accurate results. In determining whether the standards set forth
35 in G.S. 160A-48 have been met on appeal to the superior court
36 under G.S. 160A-50, the reviewing court shall accept the
37 estimates of the ~~municipality~~ municipality unless the actual
38 population, total area, or degree of land subdivision falls below
39 the standards in G.S. 160A-48:

1 (1) As to population, if the estimate is based on the number of
2 dwelling units in the area multiplied by the average family size
3 in such area, or in the township or townships of which such area
4 is a part, as determined by the last preceding federal decennial
5 census; or if it is based on a new enumeration carried out under
6 reasonable rules and regulations by the annexing municipality;
7 provided, that the court shall not accept such estimates if the
8 petitioners demonstrate that such estimates are in error in the
9 amount of ten percent (10%) or more.

10 (2) As to total area if the estimate is based on an actual
11 survey, or on county tax maps or records, or on aerial
12 photographs, or on some other reasonably reliable map used for
13 official purposes by a governmental agency, unless the
14 petitioners on appeal demonstrate that such estimates are in
15 error in the amount of five percent (5%) or more.

16 (3) As to degree of land subdivision, if the estimates are
17 based on an actual survey, or on county tax maps or records, or
18 on aerial photographs, or on some other reasonably reliable
19 source, unless the petitioners on appeal show that such estimates
20 are in error in the amount of five percent (5%) or more."

21 Section 13. This bill is effective upon ratification.

SUMMARY OF LEGISLATIVE PROPOSAL I
Short title: Annexation changes
97-DRW-008

Legislative Proposal I makes numerous changes to the State's annexation laws, as summarized below:

Section 1 of the proposal amends G.S. 160A-35 to clarify that municipalities or less than 5,000 preparing to annex must include in their annexation plan: provision for street lighting services as a part of any street maintenance services offered; provision for trunk water mains and sewer outfall lines in the area to be annexed; provision for street paving services in the area to be annexed; a detailed service statement; classification as to use and size of each lot or tract to be annexed, a notice of the right to appeal, and a statement showing how the proposed annexation will affect the municipality's finances and services.

Section 2 of the proposal amends G.S. 160A-36 to provide that any area annexed by a municipality of less than 5,000 shall not be located in another county, unless at least 1,000 residents of the annexing municipality already reside in another county; and no lot or tract in use for bona fide farm purposes may be annexed. In addition, Section 2 forbids use of the area of streets and rights-of-way (defined) to be used to determine the "area developed for urban purposes;" and authorizes annexation of tracts exclusively in use for commercial, industrial, governmental, or institutional use that meet the other requirements of G.S. 160A-36.

Section 3 of the proposal amends G.S. 160A-37(b) to require that notice of a public hearing for an annexation by a municipality of less than 5,000 include a notice of appeal rights.

Section 4 of the proposal amends G.S. 160A-37(d) to require an oral explanation of appeal rights at the public hearing for an annexation by a municipality of less than 5,000.

Section 5 of the proposal amends G.S. 160A-38 to authorize the superior court to approve a binding negotiated settlement of an annexation dispute involving a municipality of less than 5,000.

Section 6 of the bill amends G.S. 160A-42 to eliminate statutory allowances for area and land subdivision estimates used by municipalities of less than 5,000 cities in annexation proceedings, if the estimates fall below the statutory minimum standards.

Section 7 of the bill of the proposal amends G.S. 160A-47 to clarify that municipalities of 5,000 or more preparing to annex must include in their annexation plan: provision for street lighting services as a part of any street maintenance services offered; provision for trunk water mains and sewer outfall lines in the area to be annexed; provision for street paving services in the area to be annexed; a detailed service statement; classification as to use and size of each lot or tract to be annexed, a

notice of the right to appeal, and a statement showing how the proposed annexation will affect the municipality's finances and services.

Section 8 of the proposal amends G.S. 160A-48 to provide that any area annexed by a municipality of 5,000 or more shall not be located in another county, unless at least 1,000 residents of the annexing municipality already reside in another county; and no lot or tract in use for bona fide farm purposes may be annexed. In addition, Section 8 forbids use of the area of streets and rights-of-way (defined) to be used to determine the "area developed for urban purposes, but requires use of the area of streets and rights-of-way to determine total resident population per acre of land. Section 8 also authorizes annexation of tracts exclusively in use for commercial, industrial, governmental, or institutional use that meet the other requirements of G.S. 160A-48.

Section 9 of the proposal amends G.S. 160A-49(b) to require that notice of a public hearing for an annexation by a municipality of 5,000 or more include a notice of appeal rights.

Section 10 of the proposal amends G.S. 160A-49(d) to require an oral explanation of appeal rights at the public hearing for an annexation by a municipality of 5,000 or more.

Section 11 of the proposal amends G.S. 160A-50 to authorize the superior court to approve a binding negotiated settlement of an annexation dispute involving a municipality of 5,000 or more.

Section 12 of the bill amends G.S. 160A-54 to eliminate statutory allowances for population, area and land subdivision estimates used by larger cities in annexation proceedings, if the estimates fall below the statutory minimum standards.

Section 13 of the bill provides that it would become effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

D

97-DRW-009

THIS IS A DRAFT 18-DEC-96 15:20:47

Short Title: Annexation/Municipal Services

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE ALL MUNICIPAL SERVICES TO BE PROVIDED TO A
3 NEWLY ANNEXED AREA ON THE DATE OF ANNEXATION.
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;
7 report and plans.
8 A municipality exercising authority under this Part shall make
9 plans for the extension of services to the area proposed to be
10 annexed and shall, prior to the public hearing provided for in
11 G.S. 160A-37, prepare a report setting forth such plans to
12 provide services to such area. The report shall include:
13 (1) A map or maps of the municipality and adjacent
14 territory to show the following information:
15 a. The present and proposed boundaries of the
16 municipality.
17 b. The proposed extensions of water mains and
18 sewer outfalls to serve the annexed area, if
19 such utilities are operated by the
20 municipality. The water and sewer map must

- 1 bear the seal of a registered professional
2 engineer or a licensed surveyor.
- 3 (2) A statement showing that the area to be annexed
4 meets the requirements of G.S. 160A-36.
- 5 (3) A statement setting forth the plans of the
6 municipality for extending to the area to be
7 annexed each major municipal service performed
8 within the municipality at the time of annexation.
9 Specifically, such plans shall:
- 10 a. Provide for extending police protection, fire
11 protection, solid waste collection and street
12 maintenance services to the area to be annexed
13 on the date of ~~annexation on substantially the~~
14 ~~same basis and in the same manner as such~~
15 ~~services are provided within the rest of the~~
16 ~~municipality prior to annexation.~~ annexation.
17 A contract with a rural fire department to
18 provide fire protection shall be an acceptable
19 method of providing fire protection. If a
20 water distribution system is not available in
21 the area to be annexed, the plans must call
22 for reasonably effective fire protection
23 services until such time as waterlines are
24 made available in such area under existing
25 municipal policies for the extension of
26 waterlines. A contract with a private firm to
27 provide solid waste collection services shall
28 be an acceptable method of providing solid
29 waste collection services.
- 30 b. Provide for extension of water mains and sewer
31 lines into the area to be annexed so that
32 property owners in the area to be annexed will
33 be able to secure public water and sewer
34 ~~services according to the policies in effect~~
35 ~~in such municipality for extending water and~~
36 ~~sewer lines to individual lots or~~
37 ~~subdivisions.~~ services. If the municipality
38 must, at its own expense, extend water and/or
39 sewer mains into the area to be annexed before
40 property owners in the area can, according to

1 municipal policies, make such connection to
2 such lines, then the plans must call for
3 contracts to be let and construction to begin
4 on such lines within one year following the
5 effective date of annexation.

6 c. Set forth the method under which the
7 municipality plans to finance extension of
8 services into the area to be annexed.

9 (4) A statement of the impact of the annexation on any
10 rural fire department providing service in the area
11 to be annexed and a statement of the impact of the
12 annexation on fire protection and fire insurance
13 rates in the area to be annexed, if the area where
14 service is provided is in an insurance district
15 designated under G.S. 153A-233, a rural fire
16 protection district under Article 3A of Chapter 69
17 of the General Statutes, or a fire service district
18 under Article 16 of Chapter 153A of the General
19 Statutes. The rural fire department shall make
20 available to the city not later than 30 days
21 following a written request from the city all
22 information in its possession or control, including
23 but not limited to operational, financial and
24 budgetary information, necessary for preparation of
25 a statement of impact. The rural fire department
26 forfeits its rights under G.S. 160A-37.1 and G.S.
27 160A-37.2 if it fails to make a good faith response
28 within 45 days following receipt of the written
29 request for information from the city, provided
30 that the city's written request so states by
31 specific reference to this section."

32 Section 2. G.S. 160A-47 reads as rewritten:
33 "§ 160A-47. Prerequisites to annexation; ability to serve;
34 report and plans.

35 A municipality exercising authority under this Part shall make
36 plans for the extension of services to the area proposed to be
37 annexed and shall, prior to the public hearing provided for in
38 G.S. 160A-49, prepare a report setting forth such plans to
39 provide services to such area. The report shall include:

- 1 (1) A map or maps of the municipality and adjacent
2 territory to show the following information:
3 a. The present and proposed boundaries of the
4 municipality.
5 b. The present major trunk water mains and sewer
6 interceptors and outfalls, and the proposed
7 extensions of such mains and outfalls as
8 required in subdivision (3) of this section.
9 The water and sewer map must bear the seal of
10 a registered professional engineer.
11 c. The general land use pattern in the area to be
12 annexed.
- 13 (2) A statement showing that the area to be annexed
14 meets the requirements of G.S. 160A-48.
- 15 (3) A statement setting forth the plans of the
16 municipality for extending to the area to be
17 annexed each major municipal service performed
18 within the municipality at the time of annexation.
19 Specifically, such plans shall:
20 a. Provide for extending police protection, fire
21 protection, solid waste collection and street
22 maintenance services to the area to be annexed
23 on the date of ~~annexation on substantially the~~
24 ~~same basis and in the same manner as such~~
25 ~~services are provided within the rest of the~~
26 ~~municipality prior to annexation.~~ annexation.
27 A contract with a rural fire department to
28 provide fire protection shall be an acceptable
29 method of providing fire protection. If a
30 water distribution system is not available in
31 the area to be annexed, the plans must call
32 for reasonably effective fire protection
33 services until such time as waterlines are
34 made available in such area under existing
35 municipal policies for the extension of
36 waterlines. A contract with a private firm to
37 provide solid waste collection services shall
38 be an acceptable method of providing solid
39 waste collection services.

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b. Provide for extension of major trunk water mains and sewer outfall lines into the area to be annexed so that when such lines are constructed, property owners in the area to be annexed will be able to secure public water and ~~sewer service, according to the policies in effect in such municipality for extending water and sewer lines to individual lots or subdivisions.~~ service. If requested by the owner of an occupied dwelling unit or an operating commercial or industrial property in writing on a form provided by the municipality, which form acknowledges that such extension or extensions will be made according to the current financial policies of the municipality for making such extensions, and if such form is received by the city clerk not less than 30 days before adoption of the annexation ordinance, provide for extension of water and sewer lines to the property or to a point on a public street or road right-of-way adjacent to the property according to the financial policies in effect in such municipality for extending water and sewer lines. If any such requests are timely made, the municipality shall at the time of adoption of the annexation ordinance amend its report and plan for services to reflect and accommodate such requests.

c. If extension of major trunk water mains, sewer outfall lines, sewer lines and water lines is necessary, set forth a proposed timetable for construction of such mains, outfalls and lines as soon as possible following the effective date of annexation. In any event, the plans shall call for construction to be completed within two years of the effective date of annexation.

1 d. Set forth the method under which the
2 municipality plans to finance extension of
3 services into the area to be annexed.
4 (4) A statement of the impact of the annexation on any
5 rural fire department providing service in the area
6 to be annexed and a statement of the impact of the
7 annexation on fire protection and fire insurance
8 rates in the area to be annexed, if the area where
9 service is provided is in an insurance district
10 designated under G.S. 153A-233, a rural fire
11 protection district under Article 3A of Chapter 69
12 of the General Statutes, or a fire service district
13 under Article 16 of Chapter 153A of the General
14 Statutes. The rural fire department shall make
15 available to the city not later than 30 days
16 following a written request from the city all
17 information in its possession or control, including
18 but not limited to operational, financial and
19 budgetary information, necessary for preparation of
20 a statement of impact. The rural fire department
21 forfeits its rights under G.S. 160A-49.1 and G.S.
22 160A-49.2 if it fails to make a good faith response
23 within 45 days following receipt of the written
24 request for information from the city, provided
25 that the city's written request so states by
26 specific reference to this section."
27 Section 3. This act is effective upon ratification.

SUMMARY OF LEGISLATIVE PROPOSAL II
Short title: Annexation/Municipal Services
97-DRW-009

Legislative Proposal II amends the State's annexation laws to require provision of major municipal services to areas annexed under the "involuntary" or "standards and services" annexation provisions of Parts 2 and 3 of Article 4A of Chapter 160A of the General Statutes.

Legislative Proposal II would become effective upon ratification.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

D

97-DRW-010

THIS IS A DRAFT 18-DEC-96 15:10:00

Short Title: ETJ Changes

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE AT LEAST TWO REPRESENTATIVES FROM A
3 MUNICIPALITY'S EXTRATERRITORIAL PLANNING AND ZONING
4 JURISDICTION ON THE PLANNING AGENCY.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 160A-362 reads as rewritten:
7 "**\$160A-362. Extraterritorial representation.**
8 When a city elects to exercise extraterritorial zoning or
9 subdivision-regulation powers under G.S. 160A-360, it shall in
10 the ordinance creating or designating its planning agency or
11 agencies provide a means of proportional representation based on
12 population for residents of the extraterritorial area to be
13 regulated. Representation shall be provided by appointing at
14 least ~~one resident~~ two residents of the entire extraterritorial
15 zoning and subdivision regulation area to the planning agency and
16 the board of adjustment that makes recommendations or grants
17 relief in these matters. For purposes of this section, an
18 additional member must be appointed to the planning agency or
19 board of adjustment to achieve proportional representation only
20 when the population of the entire extraterritorial zoning and

1 subdivision area constitutes a full fraction of the
2 municipality's population divided by the total membership of the
3 planning agency or board of adjustment. Membership of joint
4 municipal county planning agencies or boards of adjustment may be
5 appointed as agreed by counties and municipalities. Any advisory
6 board established prior to July 1, 1983, to provide the required
7 extraterritorial representation shall constitute compliance with
8 this section until the board is abolished by ordinance of the
9 city. The representatives on the planning agency and the board of
10 adjustment shall be appointed by the board of county
11 commissioners with jurisdiction over the area. When selecting a
12 new representative to the planning agency or to the board of
13 adjustment as a result of an extension of the extraterritorial
14 jurisdiction, the board of county commissioners shall hold a
15 public hearing on the selection. A notice of the hearing shall
16 be given once a week for two successive calendar weeks in a
17 newspaper having general circulation in the area. The board of
18 county commissioners shall select appointees only from those who
19 apply at or before the public hearing. The county shall make the
20 appointments within 45 days following the public hearing. Once a
21 city provides proportional representation, no power available to
22 a city under G.S. 160A-360 shall be ineffective in its
23 extraterritorial area solely because county appointments have not
24 yet been made. If there is an insufficient number of qualified
25 residents of the area to meet membership requirements, the board
26 of county commissioners may appoint as many other residents of
27 the county as necessary to make up the requisite number. When the
28 extraterritorial area extends into two or more counties, each
29 board of county commissioners concerned shall appoint
30 representatives from its portion of the area, as specified in the
31 ordinance. If a board of county commissioners fails to make these
32 appointments within 90 days after receiving a resolution from the
33 city council requesting that they be made, the city council may
34 make them. If the ordinance so provides, the outside
35 representatives may have equal rights, privileges, and duties
36 with the other members of the agency to which they are appointed,
37 regardless of whether the matters at issue arise within the city
38 or within the extraterritorial area; otherwise they shall
39 function only with respect to matters within the
40 extraterritorial area."

1 Section 2. This act is effective upon ratification.



SUMMARY OF LEGISLATIVE PROPOSAL III
Short title: ETJ changes
97-DRW-010

Legislative Proposal III amends G.S. 160A-360 to require at least two representatives from the extraterritorial planning and zoning jurisdiction of a municipality to be appointed to the planning agency of a municipality.

Legislative Proposal III would become effective upon ratification.

