

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1082*
Committee Substitute Favorable 6/5/96
Third Edition Engrossed 6/12/96

Short Title: Annexation Changes/Larger Cities.

(Public)

Sponsors:

Referred to:

May 14, 1996

A BILL TO BE ENTITLED
AN ACT TO CHANGE THE LAWS GOVERNING ANNEXATION BY CITIES WITH
A POPULATION OF FIVE THOUSAND OR MORE.

The General Assembly of North Carolina enacts:

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

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

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

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

- a. The present and proposed boundaries of the municipality.
- b. The present major trunk water mains and sewer interceptors and outfalls, and the proposed extensions of such mains and outfalls as required in subdivision (3) of this section. The water and sewer map must bear the seal of a registered professional engineer.

- 1 c. The general land use pattern in the area to be annexed.
2 (2) A statement showing that the area to be annexed meets the requirements
3 of G.S. 160A-48.
4 (3) A statement setting forth the plans of the municipality for extending to
5 the area to be annexed each major municipal service performed within
6 the municipality at the time of annexation. Specifically, such plans
7 shall:
8 a. Provide for extending police protection, fire protection, solid
9 waste collection and street maintenance services to the area to be
10 annexed on the date of annexation on substantially the same basis
11 and in the same manner as such services are provided within the
12 rest of the municipality prior to annexation. A contract with a
13 rural fire department to provide fire protection shall be an
14 acceptable method of providing fire protection. If a water
15 distribution system is not available in the area to be annexed, the
16 plans must call for reasonably effective fire protection services
17 until such time as waterlines are made available in such area
18 under existing municipal policies for the extension of waterlines.
19 A contract with a private firm to provide solid waste collection
20 services shall be an acceptable method of providing solid waste
21 collection services.
22 b. Provide for extension of major trunk water mains and sewer
23 outfall lines into the area to be annexed so that when such lines
24 are constructed, property owners in the area to be annexed will
25 be able to secure public water and sewer service, according to the
26 policies in effect in such municipality for extending water and
27 sewer lines to individual lots or subdivisions. If requested by the
28 owner of an occupied dwelling unit or an operating commercial
29 or industrial property in writing on a form provided by the
30 municipality, which form acknowledges that such extension or
31 extensions will be made according to the current financial
32 policies of the municipality for making such extensions, and if
33 such form is received by the city clerk not less than 30 days
34 before adoption of the annexation ordinance, provide for
35 extension of water and sewer lines to the property or to a point on
36 a public street or road right-of-way adjacent to the property
37 according to the financial policies in effect in such municipality
38 for extending water and sewer lines. If any such requests are
39 timely made, the municipality shall at the time of adoption of the
40 annexation ordinance amend its report and plan for services to
41 reflect and accommodate such requests.
42 c. If extension of major trunk water mains, sewer outfall lines,
43 sewer lines and water lines is necessary, set forth a proposed

- 1 timetable for construction of such mains, outfalls and lines as
2 soon as possible following the effective date of annexation. In
3 any event, the plans shall call for construction to be completed
4 within two years of the effective date of annexation.
- 5 d. Set forth the method under which the municipality plans to
6 finance extension of services into the area to be annexed.
- 7 e. Provide for street paving service on substantially the same basis
8 and in the same manner as that service is provided within the rest
9 of the municipality prior to the annexation.
- 10 f. Include a summary of city police, fire, solid waste, street
11 maintenance and paving, water and sewer services provided to
12 current city residents as of 90 days prior to the date set for the
13 public hearing.
- 14 (4) A statement of the impact of the annexation on any rural fire department
15 providing service in the area to be annexed and a statement of the
16 impact of the annexation on fire protection and fire insurance rates in
17 the area to be annexed, if the area where service is provided is in an
18 insurance district designated under G.S. 153A-233, a rural fire
19 protection district under Article 3A of Chapter 69 of the General
20 Statutes, or a fire service district under Article 16 of Chapter 153A of
21 the General Statutes. The rural fire department shall make available to
22 the city not later than 30 days following a written request from the city
23 all information in its possession or control, including but not limited to
24 operational, financial and budgetary information, necessary for
25 preparation of a statement of impact. The rural fire department forfeits
26 its rights under G.S. 160A-49.1 and G.S. 160A-49.2 if it fails to make a
27 good faith response within 45 days following receipt of the written
28 request for information from the city, provided that the city's written
29 request so states by specific reference to this section.
- 30 (5) If the lot or tract standard was used to qualify the area, the report shall
31 state the classification of each lot or tract in the area to be annexed as to
32 use and size. If a population standard was used to qualify the area, the
33 report shall state how the population estimate of the area was
34 determined.
- 35 (6) A clear and easily understandable statement notifying persons affected
36 by the annexation of their right to appeal under G.S. 160A-50, the right
37 to request water and sewer services under subdivision (3)b. of this
38 section, and the remedies under G.S. 160A-49(h) and (k) for failure of
39 the city to provide services.
- 40 (7) A statement showing how the proposed annexation will affect the city's
41 finances and services, including city revenue change estimates. This
42 statement shall be delivered to the clerk of the board of county

1 commissioners at least 30 days before the date of any public hearing on
2 any annexation under this Part."

3 Sec. 2. G.S. 160A-48(d) reads as rewritten:

4 "(d) In addition to areas developed for urban purposes, a governing board may
5 include in the area to be annexed any area which does not meet the requirements of
6 subsection (c) if such area either:

7 (1) Lies between the municipal boundary and an area developed for urban
8 purposes so that the area developed for urban purposes is either not
9 adjacent to the municipal boundary or cannot be served by the
10 municipality without extending services and/or water and/or sewer lines
11 through such sparsely developed area; or

12 (2) Is adjacent, on at least sixty percent (60%) of its external boundary, to
13 any combination of the municipal boundary and the boundary of an area
14 or areas developed for urban purposes as defined in subsection (c).

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

22 Sec. 3. G.S. 160A-49(b) reads as rewritten:

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

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

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

27 (3) Include a clear and easily understandable statement notifying persons
28 affected by the annexation of their right to appeal under G.S. 160A-50,
29 the right to request water and sewer services under G.S. 160A-47(3)b.,
30 and the remedies under G.S. 160A-49(h) and (k) for failure of the city to
31 provide services.

32 ~~(3)~~(4) State that the report required in G.S. 160A-47 will be available at the
33 office of the municipal clerk at least 30 days prior to the date of the
34 public hearing.

35 Such notice shall be given by publication once a week for at least two successive
36 weeks prior to the date of the hearing in a newspaper having general circulation in the
37 municipality and, in addition thereto, if the area to be annexed lies in a county containing
38 less than fifty percent (50%) of the land area of the municipality, in a newspaper having
39 general circulation in the area of proposed annexation. The period from the date of the
40 first publication to the date of the last publication, both dates inclusive, shall be not less
41 than eight days including Sundays, and the date of the last publication shall be not more
42 than seven days preceding the date of public hearing. If there be no such newspaper, the
43 municipality shall post the notice in at least five public places within the municipality and

1 at least five public places in the area to be annexed for 30 days prior to the date of public
2 hearing. In addition, notice shall be mailed at least four weeks prior to date of the
3 hearing by first class mail, postage prepaid to the owners as shown by the tax records of
4 the county of all freehold interests in real property located within the area to be annexed.
5 The person or persons mailing such notices shall certify to the governing board that fact,
6 and such certificate shall become a part of the record of the annexation proceeding and
7 shall be deemed conclusive in the absence of fraud. If the notice is returned to the city by
8 the postal service by the tenth day before the hearing, a copy of the notice shall be sent by
9 certified mail, return receipt requested, at least seven days before the hearing. Failure to
10 comply with the mailing requirements of this subsection shall not invalidate the
11 annexation unless it is shown that the requirements were not substantially complied with.
12 If the governing board by resolution finds that the tax records are not adequate to identify
13 the owners of some or all of the parcels of real property within the area it may in lieu of
14 the mail procedure as to those parcels where the owners could not be so identified, post
15 the notice at least 30 days prior to the date of public hearing on all buildings on such
16 parcels, and in at least five other places within the area to be annexed. In any case where
17 notices are placed on property, the person placing the notices shall certify that fact to the
18 governing board."

19 Sec. 4. G.S. 160A-49(d) reads as rewritten:

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

25 Sec. 5. G.S. 160A-50 is amended by adding a new subsection to read:

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

30 Sec. 5.1. G.S. 160A-49 is amended by adding a new subsection to read:

31 "(l) Protest petition.

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

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

1 petition. The city council may by ordinance require that all protest
2 petitions be on a form prescribed and furnished by the city, and such
3 form may prescribe any reasonable information deemed necessary to
4 permit the city to determine the sufficiency and accuracy of the petition.

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

11 Sec. 6. Section 5 of this act becomes effective on and after January 1, 1996.
12 All other sections of this act become effective December 1, 1996, and apply to
13 annexations for which the resolution of intent is adopted on or after that date. Section 5.1
14 of this act also applies to annexation ordinances adopted prior to the date of ratification of
15 this act where:

- 16 (1) The ordinance did not receive a three-fourths vote of the city council
17 upon its adoption;
18 (2) The ordinance is subject to litigation pending on the date of ratification
19 of this act; and
20 (3) The petition required by G.S. 160A-49(1) as enacted by Section 5.1 of
21 this act is received by the city clerk no later than 60 days after the date
22 of ratification of this act.

23 In such case, after the city has determined the petition to be sufficient, the court where the
24 litigation is pending shall upon motion remand the ordinance to the city council. In the
25 case of pending litigation covered by the previous sentence, if the city council requires
26 under G.S. 160A-49(1) as enacted by Section 5.1 of this act that the petitions be on a form
27 required by ordinance, that ordinance must be adopted within 14 days of ratification of
28 this act, and in such case the deadline for submitting the petition shall be 60 days after
29 adoption of the ordinance specifying the form.