

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1084*
Committee Substitute Favorable 6/5/96

Short Title: Annexation Changes/Smaller Cities.

(Public)

Sponsors:

Referred to:

May 14, 1996

1 A BILL TO BE ENTITLED
2 AN ACT TO CHANGE THE LAWS GOVERNING ANNEXATION BY CITIES WITH
3 A POPULATION OF LESS THAN FIVE THOUSAND.

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; report and plans.**

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

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

- 13 a. The present and proposed boundaries of the municipality.
- 14 b. The proposed extensions of water mains and sewer outfalls to
15 serve the annexed area, if such utilities are operated by the
16 municipality. The water and sewer map must bear the seal of a
17 registered professional engineer or a licensed surveyor.

18 (2) A statement showing that the area to be annexed meets the requirements
19 of G.S. 160A-36.

- 1 (3) A statement setting forth the plans of the municipality for extending to
2 the area to be annexed each major municipal service performed within
3 the municipality at the time of annexation. Specifically, such plans
4 shall:
- 5 a. Provide for extending police protection, fire protection, solid
6 waste collection and street maintenance services to the area to be
7 annexed on the date of annexation on substantially the same basis
8 and in the same manner as such services are provided within the
9 rest of the municipality prior to annexation. A contract with a
10 rural fire department to provide fire protection shall be an
11 acceptable method of providing fire protection. If a water
12 distribution system is not available in the area to be annexed, the
13 plans must call for reasonably effective fire protection services
14 until such time as waterlines are made available in such area
15 under existing municipal policies for the extension of waterlines.
16 A contract with a private firm to provide solid waste collection
17 services shall be an acceptable method of providing solid waste
18 collection services.
- 19 b. Provide for extension of water mains and sewer lines into the
20 area to be annexed so that property owners in the area to be
21 annexed will be able to secure public water and sewer services
22 according to the policies in effect in such municipality for
23 extending water and sewer lines to individual lots or
24 subdivisions. If the municipality must, at its own expense,
25 extend water and/or sewer mains into the area to be annexed
26 before property owners in the area can, according to municipal
27 policies, make such connection to such lines, then the plans must
28 call for contracts to be let and construction to begin on such lines
29 within one year following the effective date of annexation.
- 30 c. Set forth the method under which the municipality plans to
31 finance extension of services into the area to be annexed.
- 32 d. Provide for street paving service on substantially the same basis
33 and in the same manner as that service is provided within the rest
34 of the municipality prior to the annexation.
- 35 e. Include a summary of city police, fire, solid waste, street
36 maintenance and paving, water and sewer services provided to
37 current city residents as of 90 days prior to the date set for the
38 public hearing.
- 39 (4) A statement of the impact of the annexation on any rural fire department
40 providing service in the area to be annexed and a statement of the
41 impact of the annexation on fire protection and fire insurance rates in
42 the area to be annexed, if the area where service is provided is in an
43 insurance district designated under G.S. 153A-233, a rural fire

1 protection district under Article 3A of Chapter 69 of the General
2 Statutes, or a fire service district under Article 16 of Chapter 153A of
3 the General Statutes. The rural fire department shall make available to
4 the city not later than 30 days following a written request from the city
5 all information in its possession or control, including but not limited to
6 operational, financial and budgetary information, necessary for
7 preparation of a statement of impact. The rural fire department forfeits
8 its rights under G.S. 160A-37.1 and G.S. 160A-37.2 if it fails to make a
9 good faith response within 45 days following receipt of the written
10 request for information from the city, provided that the city's written
11 request so states by specific reference to this section.

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

14 (6) A clear and easily understandable statement notifying persons affected
15 by the annexation of their right to appeal under G.S. 160A-38 and the
16 remedy under G.S. 160A-37(h) for failure of the city to provide
17 services.

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

23 Sec. 2. G.S. 160A-37(b) reads as rewritten:

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

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

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

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

32 ~~(3)~~(4) State that the report required in G.S. 160A-35 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 hearing
3 by first class mail, postage prepaid to the owners as shown by the tax records of the
4 county of all freehold interests in real property located within the area to be annexed. The
5 person or persons mailing such notices shall certify to the governing board that fact, and
6 such certificate shall become a part of the record of the annexation proceeding and shall
7 be deemed conclusive in the absence of fraud. If the notice is returned to the city by the
8 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 requirement 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
13 identify the owners of some or all of the parcels of real property within the area it may in
14 lieu of the mail procedure as to those parcels where the owners could not be so identified,
15 post 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 notice shall certify that fact to the
18 governing board."

19 Sec. 3. G.S. 160A-37(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-35.~~ G.S. 160A-35,
22 including appeal rights as summarized in G.S. 160A-35(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. 4. G.S. 160A-38 is amended by adding a new subsection to read:

26 "(1) 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. Section 4 of this act becomes effective on and after January 1, 1996.
31 All other sections of this act become effective December 1, 1996, and apply to
32 annexations for which the resolution of intent is adopted on or after that date.